



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

**TUESDAY 12 JUNE 2018  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor J Henderson (Convener)  
Councillor S Currie  
Councillor F Dugdale  
Councillor K Mackie (Items 4 – 19)  
Councillor K McLeod  
Councillor B Small  
Councillor J Williamson

**Other Councillors Present:**

Councillor J Goodfellow (Items 5 - 6)  
Councillor J McMillan (Items 4 – 19)

**Council Officials Present:**

Mrs A Leitch, Chief Executive  
Mr A McCrorie, Depute Chief Executive – Resources and People Services  
Mr D Proudfoot, Head of Development  
Mr J Lamond, Head of Council Resources  
Mr T Shearer, Head of Infrastructure  
Ms S Saunders, Head of Communities & Partnerships  
Mr P Vestri, Service Manager – Corporate Policy & Improvement  
Ms M Garden, Internal Audit Manager  
Mr S Allan, Senior Auditor  
Mr A Steven, Senior Auditor  
Mr C Grilli, Service Manager – Legal & Procurement  
Ms S Fortune, Service Manager – Business Finance  
Mrs L Denovan, Corporate Finance Manager  
Mr R Baty, Team Leader - Business Development  
Ms A Stewart, Rent Income Team Leader  
Ms J Mackay, Media Manager

**Clerk:**

Ms F Currie

**Visitors Present:**

Ms E Scoburgh, Audit Scotland

**Apologies:**

Councillor J Findlay

**Declarations of Interest:**

None

**1. MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING ON 20 FEBRUARY 2018**

The minutes of the Audit and Governance Committee meeting held on 20 February 2018 were approved as a true record.

**2. MUSSELBURGH RACECOURSE - UPDATE**

A report was submitted by the Depute Chief Executive (Resources & People Services) providing an update to the Committee on Musselburgh Racecourse.

Carlo Grilli, Service Manager – Legal & Procurement, presented the report outlining the background to the governance review and recent developments including amendments to the Minute of Agreement and the setting up of a working group to consider and recommend the best operating model for the Racecourse. He advised Members that the determination of the working group would be reported in the Members Library prior to the Council meeting on 26 June.

Responding to a question from Councillor McLeod, Mr Grilli said that relationships between the Councillors and Lothian Racing Syndicate members on the Committee had improved and both sides were now working well together.

**Decision**

The Committee agreed to note the current position and progress following the Independent Governance review by Pinsent Masons LLP.

**3. REVIEW OF INTERNAL CONTROLS IN KEY FINANCIAL STATEMENTS 2017/18**

A report was submitted by Audit Scotland setting out the results of their assessment of the systems of internal control put in place by management within East Lothian Council.

Esther Scoburgh, Audit Scotland, presented the report summarising the key systems which were tested and the overall findings, including those areas where existing controls could be improved and the actions agreed with management. She stated that, on the basis of the findings, no additional audit work was required and Audit Scotland were satisfied that appropriate and effective internal controls were in place for those key financial systems which had been reviewed.

In response to questions from Councillor Small and the Convener, Ms Scoburgh explained how the auditors identified the areas and systems on which to focus their attention. She said that she and her colleagues met regularly with members of the Council's Internal Audit Team to ensure that there was no duplication of work.

Councillor Small commented on the importance of Members receiving the necessary assurance that controls were working effectively and that the officers involved in audit

work avoided duplication of effort. He noted that Section 9 of the report provided the necessary assurance and he also welcomed the confirmation that both audit teams co-ordinated their work to avoid any duplication.

### **Decision**

The Committee agreed to note the contents of the report.

## **4. ANNUAL TREASURY MANAGEMENT REVIEW 2017/18**

A report was submitted by the Depute Chief Executive (Resources & People Services) providing an update to the Committee on treasury management activity during 2017/18.

Liz Denovan, Corporate Finance Manager, presented the report. She outlined the purpose of the Treasury Management function within the Council and explained that the report fulfilled obligations under both the Local Government (Scotland) Act 2003 and the Chartered Institute of Public Finance and Accountancy (CIPFA) accounting code of practice.

Mrs Denovan summarised the contents of the report. She advised Members that the Council continued to postpone some of its borrowing requirement by calling upon cash reserves and when necessary, taking advantage of cheaper short term borrowing to manage cash flows. In doing so, the Council had used £30M of reserves and working capital instead of borrowing. She also reported that the Council currently had no internally managed investment funds but did maintain a number of loans to third parties that fell within the scope of “permitted investments”.

Councillor McLeod asked about third party loans to East Lothian Housing Association (ELHA) and about the maturity structure of the debt portfolio.

Mrs Denovan advised that this loan facility had been provided to encourage house building at a time when prevailing market conditions were difficult and had been subject to specific Ministerial consent. Mr Lamond added that the process effectively allowed the housing association to access lower cost funding enabling them to carry out new build programmes that might not otherwise proceed. The arrangements were subject to Government consent, and the facility had been available for an extended number of years but had since expired.

Mrs Denovan provided further details on the profiling of the debt portfolio.

Councillor Currie also queried the loan to ELHA and the conditions attached to that type of borrowing. He said that his understanding of Ministerial consent for such borrowing was that it could only be granted if the organisation demonstrated that properties would not otherwise come forward.

Mr Lamond recalled the discussions which had taken place on this issue seven years ago. He agreed that in order to access this borrowing ELHA had had to demonstrate the added value by obtaining the funds and that this would have been subject to Ministerial agreement at the time of the loan. He explained that the time limit had expired for ELHA to draw down further funds on that agreement. Any request for a further loan would be subject to a new Ministerial agreement and potentially tighter conditions. However, he reminded Members that the borrowing provided to ELHA had

allowed projects to be delivered over the last seven years which may not have happened otherwise.

Mrs Denovan responded to further questions from Councillor Small and Councillor Dugdale on fixed rate borrowing and common good funds.

### **Decision**

The Committee agreed to note the report.

## **5. 2018 CORPORATE GOVERNANCE SELF-EVALUATION / ANNUAL GOVERNANCE STATEMENT**

A report was submitted by the Depute Chief Executive (Partnerships & Community Services) advising the Committee of the outcome of the 2018 Corporate Governance Self-evaluation and seeking approval for the content of the Annual Governance Statement for presentation to Audit & Governance Committee.

Paolo Vestri, Service Manager – Corporate Policy & Improvement, presented the report referring to the outcome of the self-evaluation exercise which had identified eight areas of development building on existing good practice and improvement actions already being implemented. He also referred to the Best Value Assurance Review being carried out by Audit Scotland and advised that the findings of this review, when published in October 2018, and the areas for improvement identified in the self-evaluation exercise would be incorporated into the 2018/19 Council Improvement Plan.

Mr Vestri responded to questions from Members regarding the detailed actions to address the areas of development and improvement, the overlap between the self-evaluation exercise and the Best Value Review and the possibility of having a pictorial view of the results which included the areas of overlap between different assessments.

Angela Leitch, Chief Executive, welcomed the external evaluation provided by the Best Value Review. However, she said that the emphasis continued to be on self-evaluation through tools such as How Good Is Our Council? (HGIOC) and Recognised for Excellence which allowed the Council to identify the areas for improvement.

Mr Lamond added that the Corporate Governance self-evaluation exercise helped to ensure the Council's compliance with the principles and requirements of good governance, as set out by the relevant CiPFA Code of Practice, as well as fulfilling the remit to include an Annual Governance Statement in the Council's Annual Accounts.

### **Decision**

The Committee agreed to:

- (i) Consider and comment on the self-evaluation and to approve the summary for inclusion in the Annual Governance Statement that will form part of the Council's 2017/18 Annual Accounts; and
- (ii) Note that the improvement actions identified through the Corporate Governance Self-evaluation will be incorporated into the 2018/19 Corporate Improvement Plan along with any actions arising from the Best Value Assurance report which will be published by Audit Scotland in October 2018.

## **6. EAST LoTHIAN INVESTMENTS LTD 2017/18**

A report was submitted by the Depute Chief Executive (Resources & People Services) informing the Committee of the work undertaken by East Lothian Investments Ltd (ELI) in 2017/18.

Richard Baty, Team Leader – Business Development, presented the report detailing the background to ELI, its governance arrangements and lending activity. He responded to a number of questions from Members relating to job creation, bad debt, management of loans, governance roles and proposals to address the current gap in funding.

Councillor Currie welcomed the report commenting on the diligence given to the consideration of loan applications which was reflected in the consistently low level of bad debt. However, he expressed concern about the current gap in funding and that the ELI was not being used to its full potential.

Councillor McMillan referred to recent recognition for ELI by the East Lothian and Midlothian Chambers of Commerce and said that it was a unique scheme which had attracted national praise. He commented that ELI was fortunate in its Board members who ensured rigorous scrutiny of applications while also offering support to businesses to help them achieve their potential. He confirmed that a request for further funding had recently been submitted to the Council and concluded that, in the absence of funding from banks for new businesses, this scheme was needed in East Lothian.

Mr Lamond welcomed the positive remarks from Members and said he was reassured by these and the information provided in the report. While he acknowledged the positive role carried out by ELI, he reminded the Committee that the Council was not a bank and that it operates strictly within the terms of our approved Treasury Management Strategy. This strategy requires careful consideration of the risks and rewards associated with all investment loans. He confirmed that a request for further Council funding was being considered and, in the event that this should be considered appropriate, a report would be presented to Cabinet.

The Convener observed that there was a well-documented and historic link between good governance and success and that ELI seemed to be an example of that. She also thanked Mr Lamond for his comments.

### **Decision**

The Committee agreed to note the contents of the report.

## **7. LOCAL GOVERNMENT IN SCOTLAND: CHALLENGES AND PERFORMANCE 2018 (ACCOUNTS COMMISSION, APRIL 2018)**

A report was submitted by the Depute Chief Executive (Partnerships & Community Services) reviewing East Lothian Council's position in relation to the findings of the Accounts Commission report, '*Local Government in Scotland: Challenges and Performance 2018*'.

Mr Vestri presented the report explaining the background to the production of the Audit Scotland report and outlining the key challenges, the responses from local authorities

and the impact on services. He advised that some of the recommendations had already been implemented and that the Best Value Assurance Review would consider many of the issues raised by the recommendations.

In reply to a question from Councillor Currie, Mrs Leitch advised that she had recently raised the issue of a review of the specific distribution formula with CoSLA as part of the Council's work on the expansion of early learning and childcare to 1140 hours per week. She said that the capping of population based upon the GRO census in 2014 had had a flattening effect on funding made available to East Lothian Council also noting that any change to the formula that which would benefit one authority would disadvantage another.

Mr Lamond observed that the multi-formula based approach was incredibly complex and that although in broad terms it sought to move with any increase in population there was always a time lag due to the gathering and testing of datasets; this could be up to 5 years depending on the area. In addition, there was often a focus on incremental movements in new funding and it did not always work as well for core funding that was currently in decline.

Councillor Currie also asked about the tracking and reporting of the transformation programme to show whether it was delivering the expected efficiencies. He referred to health and social care as an example.

Mrs Leitch advised that the transformation programme was regularly reported to the Policy & Performance Review Committee (PPRC) and reviewed by CMT. In addition to an agreed programme of activity which the Transformation Team is responsible for leading, the team also provides support to service areas to bring about improvement and efficiency. In relation to health and social care, she said that a significant amount of time had been spent on integrating both services and East Lothian was further advanced than many other local authorities although there was still work to do.

Sarah Fortune, Service Manager – Business Finance, added that with a requirement for £12.5M of efficiencies over the next 3 years, there needed to be a robust monitoring mechanism in place involving regular updates to CMT and Members and as part of the quarterly financial reporting cycle – such a mechanism had been developed and this would help inform the quarterly financial reviews to members throughout the year.

Mr Vestri said that the transformation programme was regularly reviewed and reported to the Programme Board and the Chief Executive.

Councillor McMillan asked if there had been any work done within individual local authorities on the other challenges and costs they faced and how this compared between authorities.

Mr Lamond advised that local authorities had informed some of the work done through CoSLA in advance of the financial settlement from the Scottish Government, including demand drivers such as policy changes.

Mr Vestri added that the Improvement Service had done some work on increases in the older and younger populations and how this impacted on demand for services.

Councillor Small commented that the report did not offer any new insights but he was reassured that the Members were asking the questions that needed to be asked. He emphasised the importance of ensuring that the public understood the challenges the

Council was facing. He also commended the Waste Services Team for their excellent performance on waste recycling.

Councillor Currie said that the report highlighted a number of key issues including the impact of digital transformation, not attempting to transform all services at the same time, ensuring that the public understood the purpose of any changes to services and the importance of tracking progress and identifying at an early stage if a strategy is not working.

Councillor Dugdale welcomed the report which she said was very readable. It showed clearly where East Lothian Council sat alongside other authorities and the challenges it faced from its fast growing population.

The Convener referred to the list of 12 implications for local authorities set out in the report and remarked on the number of significant changes all happening at the same time. She suggested that the report should have a broader audience than just the members of the Committee and asked that it be circulated to all Councillors.

### **Decision**

The Committee agreed to:

- (i) Note the position of East Lothian Council in regard to the key messages and recommendations in the Accounts Commission report, 'Local Government in Scotland: Challenges and Performance 2018'; and
- (ii) Use the recommendations in the Accounts Commission report and the questions it poses to elected members to identify any further information or scrutiny activity it would wish to have reported back to future meetings of the Audit & Governance Committee.

## **8. INTERNAL AUDIT REPORT – PERFORMANCE INDICATORS**

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

Stuart Allan, Senior Auditor, presented the report outlining some of the key findings and referring Members to the recommendations contained in the Action Plan which had been agreed by Management.

The Convener enquired about the accuracy of the costings figures for other local authorities and, if there were similar errors elsewhere, whether this might affect the validity of the performance indicator results.

Mrs Leitch advised that the Local Government Benchmarking Framework was never intended to be so precise a measure but rather to act as a way of identifying areas where improvements were required. She added that reports would be presented to the PPRC at its meeting on 20 June to review these areas in more detail.

Councillor McMillan asked about the choice of the indicators for the audit review and whether managers should have picked up on the figures at an earlier stage. Mr Vestri explained the process for monitoring the indicators and the roles of PPRC, CMT and managers.

Mala Garden, Internal Audit Manager, advised that her team had undertaken an analytical review to identify the sample of indicators. She added that the purpose of the audit was to ensure that the Council had accurate and complete information.

### **Decision**

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

## **9. INTERNAL AUDIT REPORT – HOUSING RENT ARREARS**

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

Andrew Steven, Senior Auditor, presented the report. He outlined the purpose of the audit and summarised the areas where controls had been met, those with scope for improvement and the recommendations contained in the Action Plan.

In reply to questions from Councillor Currie, Mr Steven indicated that the Rent Income Team had already begun reviewing their current processes. He also referred to the impact of the roll-out of Universal Credit and that the resulting increase in rent arrears had begun to ease in 2017/18.

Mr Lamond acknowledged the potentially serious consequences for tenants as a result of rent arrears. However, he pointed out that the review was a significant piece of work and therefore a completion date of October 2018 was not unreasonable.

Alison Stewart, Rent Income Team Leader, explained that procedures were being reviewed on a daily basis and she outlined the current case management systems. She said that the Team were keen to make their procedures as streamlined and effective as possible and that joint working was an important part of the process.

In reply to Councillor Currie's question on repayment plans, Ms Garden advised that, as a result of the audit, improvements are being made to ensure that all rent repayment plan agreements are filed and logged on the system.

Douglas Proudfoot, Head of Development, stated that although there was no specific recommendation included in the Action Plan, the teams were working collaboratively to improve the rent arrears position at the point of tenancy sign-up.

Councillor Small queried the timescale for completion of the 'high' level recommendation relating to the prevention of rent arrears. Ms Garden explained that all 'high' level recommendations were expected to be implemented within 3 months. She added that this was an important recommendation which would require liaison between Housing Officers and Rent Income Officers.

### **Decision**

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



## **10. INTERNAL AUDIT REPORT – THROUGH CARE AND AFTERCARE**

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

Mr Allan presented the report outlining the purpose and findings of the review and drawing Members' attention to the recommendations contained in the Action Plan.

Councillor Dugdale asked for clarification of the term "more responsive banking system". Mr Allan explained that this referred to minimising delays in payments being made direct to clients' bank accounts and the time required for clearance through the banking system. Where possible, ensuring that payments were planned in advance would reduce the need for emergency payments.

Councillor McMillan queried the grading of some of the recommendations and whether these should be rated 'high' due to the vulnerability of the young people receiving the payments. Ms Garden advised that the purpose of the audit was to review the financial controls. Referring to Councillor Dugdale's point, she added that the review had highlighted the need for changes to the practice for emergency payments and that was why that particular recommendation had been rated 'high'.

### **Decision**

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

## **11. INTERNAL AUDIT REPORT – COMMON REPAIRS**

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

Ms Garden presented the report outlining some of the key findings and referring Members to the recommendations contained in the Action Plan which had been agreed by Management.

In response to a question from Councillor Small, Ms Garden advised that the total amount outstanding was £365,000 some of which related to projects dating back to 2012.

### **Decision**

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

## **12. INTERNAL AUDIT REPORT – NON-DOMESTIC RATES**

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

Mr Steven 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 about the potential for financial loss and Mr Steven stated that robust checking procedures had already been put in place following the audit.

#### **Decision**

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

### **13. INTERNAL AUDIT REPORT – CARE AT HOME PAYMENTS**

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of the recently issued audit report on Care at Home Payments.

Mr Allan presented the report outlining some of the key findings and referring Members to the recommendations contained in the Action Plan which had been agreed by Management.

In response to questions from members, Mr Allan advised that the number of recommendations in the action plan reflected the fact that the framework was relatively new. He confirmed that those individuals on Self-Directed Support (SDS) Option 2 could choose non-framework providers for their care but that the rates charged must be consistent to those paid to framework providers.

#### **Decision**

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

### **14. ANNUAL INTERNAL AUDIT REPORT 2017/18**

A report was submitted by the Internal Audit Manager providing the Committee with a summary of the work undertaken by the Council's Internal Audit Unit in 2017/18.

Ms Garden presented the report advising Members that the Public Sector Internal Audit Standards (PSIAS) required the Internal Audit Manager to prepare an annual internal audit opinion and report to support the Council's Annual Governance Statement. She summarised the contents of the report including the audit work undertaken in 2017/18 and the total number and grading of recommendations made as a result of the completed audits.

In response to a question from Councillor McMillan, Ms Garden confirmed that she was satisfied that the Internal Audit Team had the necessary resources to carry out its programme of work.

#### **Decision**

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

## **15. CONTROLS ASSURANCE STATEMENT 2017/18**

A report was submitted by the Internal Audit Manager informing the Committee of her responsibility to independently review the internal control systems within East Lothian Council; make an assessment of the control environment and report annually on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.

Ms Garden presented the report summarising the background and basis for her opinion; referring to the assessment of controls and governance; and highlighting that the majority of Internal Audit recommendations made in 2017/18 were categorised as medium risk. She advised that the implementation by Management of agreed actions to address these weaknesses should provide assurance that the system of internal controls was operating as intended.

Ms Garden concluded that in her opinion, subject to the weaknesses outlined in the report, reasonable assurance could be placed on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control for the year to 31 March 2018.

Councillor Small asked if the weaknesses identified in the report had been found in just one service area or more broadly throughout the Council. Ms Garden replied that they had each been found in more than one audit review and that she and her team had made recommendations to Management to address these weaknesses.

In response to a question from the Convener, Ms Garden stated that the setting of timescales for completion of recommended actions was a matter for each Service Area to determine based on their available resources.

### **Decision**

The Committee agreed to note that the Controls Assurance Statement is a formal confirmation of Internal Audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control, for the year ended 31 March 2018.

## **16. 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.

Mr Allan 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 2017/18 annual audit plan.

Councillor Williamson asked for an update on the status of the Learning & Development audit. Ms Garden stated that it had not yet begun.

Sharon Saunders, Head of Partnerships & Community Services, advised that Education Scotland's inspection of the service had impacted on its ability to engage

with the proposed Internal Audit review. However, the inspection was now complete and the audit work would begin shortly.

Responding to a question from Councillor McMillan, Ms Garden advised that Internal Audit had not undertaken any consultancy work in 2017/18.

The Convener welcomed the report noting that the audit programme was very rigorous and substantially complete.

### **Decision**

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

## **17. INTERNAL AUDIT EXTERNAL QUALITY ASSESSMENT**

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of the findings from the recent external quality assessment of the Council's Internal Audit service.

Ms Garden presented the report outlining the background to the assessment and highlighting the key findings. She drew Members' attention to the audit opinion which stated that a high level of assurance could be placed on Internal Audit's compliance with PSIAS.

In response to a question from Councillor Small on the one standard relating to Independence and Objectivity, Ms Garden outlined the three action points identified as part of the assessment.

### **Decision**

The Committee agreed to note the contents of the report.

## **18. INTERNAL AUDIT CHARTER**

A report was submitted by the Depute Chief Executive (Resources and People Services) presenting the Internal Audit Charter for approval by the Committee.

Mr Allan presented the report outlining the key areas of the Charter. He advised Members that the PSIAS required that an Audit Charter was in place in each local authority and that it should be reviewed periodically and presented to Senior Management and to the Audit & Governance Committee for approval.

Councillor McMillan asked if it would be possible to prepare a single page summary and explanation of the Charter to make it more accessible to clients. Councillor McLeod supported this suggestion and asked if an Index might also be added to the main document. Ms Garden agreed to consider these suggestions.

### **Decision**

The Committee approved the updated Internal Audit Charter.

**SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION**

The Audit and Governance Committee unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 1 (information relating to particular employees of the Authority) of Schedule 7A of the Local Government (Scotland) Act 1973.

**Whistleblowing Report 2017/18**

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of the Council's whistleblowing arrangements. The Committee agreed to note the contents of the report.

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**REPORT TO:** Audit and Governance Committee  
**MEETING DATE:** 25 September 2018  
**BY:** Depute Chief Executive (Resources & People Services)  
**SUBJECT:** Internal Audit Report – September 2018

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## **1 PURPOSE**

- 1.1 To inform the Audit and Governance Committee of Internal Audit reports issued since the last meeting of the Committee and to provide an update on the progress against the 2018/19 annual audit plan.

## **2 RECOMMENDATION**

- 2.1 That the Audit and Governance Committee note:
- i. the main findings and recommendations from Internal Audit reports issued during the period July to September 2018 as contained in Appendix 1; and
  - ii. Internal Audit's progress against the annual audit plan for 2018/19 as set out in Appendix 2.

## **3 BACKGROUND**

- 3.1 Since the last meeting of the Committee, final reports have been issued in respect of the following audits: Debtors, Procurement of Goods & Services – Property Maintenance, VAT and Residential Charging.
- 3.2 The main objective of the audits was to ensure that the internal controls in place were operating effectively. A summary of the main findings and recommendations arising from the audits is contained in Appendix 1.
- 3.3 For the audit reviews undertaken, Internal Audit has provided management with the following levels of assurance:
- Debtors – Moderate Assurance

- Procurement of Goods and Services (Property Maintenance) – Limited Assurance
  - VAT – Reasonable Assurance
  - Residential Charging – Reasonable Assurance
- 3.4 The progress report attached as Appendix 2 is prepared to assist the Committee in their remit to evaluate Internal Audit’s work and measure progress against the annual audit plan.

**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

<b>AUTHOR’S NAME</b>	Mala Garden
<b>DESIGNATION</b>	Internal Audit Manager
<b>CONTACT INFO</b>	01620 827326
<b>DATE</b>	17 September 2018



**EAST LOTHIAN COUNCIL – INTERNAL AUDIT  
DEBTORS**

**1. EXECUTIVE SUMMARY**

**1.1 Introduction**

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

**1.2 Areas where Expected Controls were met**

- The Council has a Charging Policy in place – the Policy was approved by Cabinet in January 2015 and sets out the broad principles that govern charging for those services for which the Council has discretion to set a charge.
- Operational procedures are in place to provide guidance to staff in the Sundry Accounts team.

**1.3 Areas with Scope for Improvement**

- In some cases, there had been delays in invoices being raised following the supply of goods and services by the Council – delays of between 4 months and 15 months were noted. *Risk – loss of income to the Council.*
- There was a lack of adequate checking mechanisms in place to ensure the accuracy and completeness of invoices raised – in some cases, there had been a failure by officers within service areas to correctly enter the quantity and cost fields on to the system, resulting in invoices being issued to customers for incorrect or NIL amounts. *Risk – errors or irregularities may occur and remain undetected.*
- There was a lack of adequate segregation of duties – staff members within Sundry Accounts were undertaking all key tasks including raising sales invoices, allocating amounts received to individual debtor accounts, cancellation of invoices, raising of credit notes, write-off of debts and the suppression of debtor accounts. *Risk – errors or irregularities may occur and remain undetected.*
- There had been a failure to progress the backlog of debts awaiting legal action. *Risk – failure to recover all sums due.*
- The arrangements in place for applying interest to those accounts with a repayment charge require review. *Risk – failure to accurately reflect the amounts outstanding.*
- There was a lack of evidence to indicate that all staff within service areas with responsibility for raising sales orders had been provided with appropriate training and guidance. *Risk – errors may arise and remain undetected.*

**1.4 Summary**

Based on our review of Debtors, Internal Audit can provide moderate assurance on the adequacy and effectiveness of the systems of internal control. Detailed findings and recommendations are contained in our main audit report.

**Mala Garden  
Internal Audit Manager**

**September 2018**



## ACTION PLAN

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.1.2	Management should ensure that the Council's Charging Policy is reviewed and updated.	Medium	Service Manager – Business Finance	Agreed		December 2018
3.1.3	Management should ensure that detailed procedures on raising sales orders are provided to staff within service areas.	Medium	Corporate Finance Manager	Agreed		October 2018
3.2.1	Management should ensure that invoices are raised promptly for all goods and services provided.	High	Service Areas	Agreed – Service Managers for Roads & Property Maintenance		October 2018
	Management should ensure that all shared costs/rechargeable repairs are invoiced timeously to owners/tenants.	High	Service Manager – Property Maintenance	Agreed – review of recharge procedure to be undertaken		October 2018
	Management should review the appropriateness of the billing periods for certain client groups – invoices should be raised at regular intervals.	Medium	Group Service Manager – Planning and Performance	Agreed – invoices now being raised four weekly or quarterly		In Place
	Management should ensure that the Officer with responsibility for invoicing Section 75 contributions is provided with access to all relevant information.	Medium	Management Systems and Admin Officer	Agreed – access to the Uniform system is now available to the Officer		In Place

<b>PARA REF</b>	<b>RECOMMENDATION</b>	<b>GRADE</b>	<b>RESPONSIBLE OFFICER</b>	<b>AGREED ACTION</b>	<b>RISK ACCEPTED/ MANAGED</b>	<b>AGREED DATE OF COMPLETION</b>
3.2.2	Appropriate checks should be carried out to ensure that customers are charged the correct rate for the goods or services provided.	Medium	Service Areas	Agreed with relevant service managers		October 2018
	Management should ensure that appropriate documentation is held to support all amounts invoiced.	Medium	Service Areas	Agreed with relevant service managers		October 2018
3.2.3	Management should ensure that for all sales orders entered on to the system, the number and value of orders are reconciled to the batch total – where discrepancies are identified, Management should ensure that individual entries are checked prior to logging out of the batch entry process.	Medium	Team Manager, Council Support	Agreed		October 2018
	Management should ensure that for a sample of cases, batch total reconciliations are checked by a person independent of the processor to ensure accuracy and completeness.	Medium	Team Manager, Council Support	Agreed		October 2018
	Management should ensure that for all cases where errors have been identified, revised invoices are issued for the correct amount.	Medium	Team Manager, Council Support	Agreed		October 2018

<b>PARA REF</b>	<b>RECOMMENDATION</b>	<b>GRADE</b>	<b>RESPONSIBLE OFFICER</b>	<b>AGREED ACTION</b>	<b>RISK ACCEPTED/ MANAGED</b>	<b>AGREED DATE OF COMPLETION</b>
3.3.1	Management should ensure that a standard invoice cancellation/credit adjustment form is issued to all service areas across the Council.	Medium	Corporate Finance Manager	Agreed – standard form to be issued to all service areas.		October 2018
	Management should ensure that sufficient detail is provided on the invoice cancellation/credit adjustment form to clearly outline the reasons for the cancellation.	Medium	Corporate Finance Manager	Service areas to be reminded to clearly outline the reasons for the cancellation.		October 2018
3.4.1	User access should be reviewed to ensure that the cancellation of invoices, the raising of credit notes, the write-off of debts and the suppression of debtor's accounts is restricted to appropriate members of staff only.	High	Corporate Finance Manager	Segregation of duties is not possible due to the small staff team, however quarterly exception/monitoring reports on credit notes, cancellations, write-offs and suppressions will be reviewed.		December 2018
3.5.1	Management should ensure that appropriate action is taken to clear the current backlog of debts awaiting legal action.	Medium	Corporate Finance Manager/Service Manager – Legal and Procurement	Agreed		October 2018

<b>PARA REF</b>	<b>RECOMMENDATION</b>	<b>GRADE</b>	<b>RESPONSIBLE OFFICER</b>	<b>AGREED ACTION</b>	<b>RISK ACCEPTED/ MANAGED</b>	<b>AGREED DATE OF COMPLETION</b>
3.6.1	<p>Management should ensure that staff members receive regular updates on changes in legislation, which will impact on current processes.</p> <p>Management should establish if repayment charges can be placed on commercial properties where the owner has failed to pay the outstanding invoice.</p>	<p>Medium</p> <p>Medium</p>	<p>Service Manager – Legal and Procurement</p> <p>Corporate Finance Manager</p>	<p>To be confirmed</p> <p>Agreed</p>		<p>October 2018</p>
3.6.2	<p>Management should review the adequacy and effectiveness of the current arrangements in place for applying interest to those accounts with a repayment charge.</p>	<p>Medium</p>	<p>Corporate Finance Manager</p>	<p>Agreed – interest to be updated annually.</p>		<p>March 2019</p>
3.7.1	<p>Management should ensure that appropriate training is provided to staff within service areas with responsibility for raising sales orders.</p>	<p>Medium</p>	<p>Service Areas</p>	<p>Agreed – Corporate Finance Manager/ Team Manager, Council Support</p>		<p>Ongoing</p>

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

### Levels of Assurance – Definitions

In order to provide management with an assessment of the adequacy and effectiveness of their systems of internal control, the following definitions are used.

Opinion	Definition
<b>Substantial Assurance</b>	There is a sound system of internal control designed and operating in a way that gives a reasonable likelihood that the objectives will be met.
<b>Reasonable Assurance</b>	Whilst there is a sound system of internal control, there are minor weaknesses, which may put some of the objectives at risk or there is evidence of non-compliance with some of the controls, which may put some of the objectives at risk.
<b>Moderate Assurance</b>	The system of internal control is broadly reliable, however there are a number of weaknesses, which put some of the objectives at risk or there is evidence that the level of non-compliance with controls put some of the objectives at risk.
<b>Limited Assurance</b>	Weaknesses in the system of internal control are such as to put the objectives at risk or the level of non-compliance puts the objectives at risk.
<b>No Assurance</b>	Control is generally weak leaving the system open to error or abuse, or there is significant non-compliance with basic controls, which leaves the system open to error or abuse.



**EAST LOTHIAN COUNCIL – INTERNAL AUDIT  
PROCUREMENT OF GOODS AND SERVICES  
PROPERTY MAINTENANCE**

**1. EXECUTIVE SUMMARY**

**1.1 Introduction**

A review of the arrangements in place for the procurement of goods and services by the Council's Property Maintenance section was undertaken as part of the Audit Plan for 2017/18. Our main findings, recommendations and action plan from the review form the basis of this report.

**1.2 Areas where Expected Controls were Met**

- The Council participates in both national (Scotland Excel) and regional frameworks for the procurement of goods and services.
- For two of the frameworks reviewed (Trade Materials and Building and Timber Materials), there was clear evidence of the frameworks operating effectively – for the sample of cases reviewed, the prices being paid by the Council for core items were in agreement with the framework rates.

**1.3 Areas with Scope for Improvement**

- In some cases, there was a lack of evidence to indicate that the Council's Corporate Procurement Procedures had been properly complied with. *Risk – failure to demonstrate best value.*
- For the procurement of electrical materials, there was a lack of evidence to indicate that goods were being purchased in line with the framework agreement in place – rates for both core and non-core items had been agreed with the supplier independently of the framework and there was a failure to demonstrate best value. *Risk – errors and irregularities may arise and remain undetected.*
- For the procurement of plumbing and heating materials, we found that the vast majority of goods purchased from one supplier were non-core items – the rates had been agreed with the supplier outwith the current framework and had been updated periodically for price increases. *Risk – failure to demonstrate best value.*
- For non-core items, there was a lack of adequate monitoring arrangements in place to ensure that the Council was receiving the discounts specified in the framework agreements. *Risk – failure to obtain best value.*
- The arrangements in place for updating the Orchard job costing system with framework prices require review. *Risk – information held may be inaccurate.*

**1.4 Summary**

Of the four national frameworks reviewed, we found that there had been a failure to demonstrate best value for two of the frameworks (Electrical Materials and Plumbing and Heating Materials). Internal Audit can only provide limited assurance on the adequacy and effectiveness of the systems of internal control operating within Property Maintenance for the procurement of goods and services. Detailed findings and recommendations are contained in our main audit report.

**Mala Garden**  
**Internal Audit Manager**

**September 2018**



## Action Plan

<b>PARA REF</b>	<b>RECOMMENDATION</b>	<b>GRADE</b>	<b>RESPONSIBLE OFFICER</b>	<b>AGREED ACTION</b>	<b>RISK ACCEPTED/ MANAGED</b>	<b>AGREED DATE OF COMPLETION</b>
3.1.2	Management should ensure that the Council's Corporate Procurement Procedures are fully complied with.	Medium	Service Manager – Property Maintenance	Agreed – in the two cases that were identified, the Service will consider utilising a quick quote exercise and/or a single source application appropriate to the estimated value for the respective period.		November 2018
3.2.2	Management should ensure that the Orchard job costing system is updated to accurately reflect the framework prices.	Medium	Service Manager – Property Maintenance	Agreed – the majority of currently used framework commodity prices are accurately reflected in Orchard. However, those identified as a mismatch will be rectified to correspond to the Scotland Excel framework. Further, the rates established through the proposed revised mini-competition (as per 3.2.3 and 3.2.6) will also be reflected in Orchard.		March 2019

<b>PARA REF</b>	<b>RECOMMENDATION</b>	<b>GRADE</b>	<b>RESPONSIBLE OFFICER</b>	<b>AGREED ACTION</b>	<b>RISK ACCEPTED/ MANAGED</b>	<b>AGREED DATE OF COMPLETION</b>
3.2.3	Management should ensure that for all core electrical items purchased, the rates charged by the supplier are consistent with the framework prices.	High	Service Manager – Property Maintenance	Agreed – the Service will review the existing Scotland Excel framework pricing schedule and for those items where a direct branded match is found on the electrical framework, the Service will ensure that these prices are reflected in Orchard and as such will ensure agreement between framework rates and the invoice price.		December 2018
	Where large volumes of non-core items are being purchased from framework suppliers, management should consult the Procurement section and establish if a mini competition can be undertaken in accordance with the Scotland Excel guidance.	High	Service Manager – Property Maintenance	The large volume non-core items purchased relates to specifically branded electrical commodities. The Service will conduct a mini-competition for these lots.		December 2018
3.2.6	Where large volumes of non-core plumbing and heating materials are being purchased from framework suppliers, management should consult the Procurement section and establish if a mini competition can be undertaken in accordance with the Scotland Excel guidance.	High	Service Manager – Property Maintenance	The large volume non-core items purchased relate to plumbing sanitary ware, showers and accessories. The Service will conduct a mini-competition for these lots.		December 2018

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.3.1	Appropriate monitoring arrangements should be put in place to ensure that the Council is receiving discounts on non-core items as specified in the framework agreements.	Medium	Service Manager – Property Maintenance	<p>The proposed mini competition exercises at 3.2.3 and 3.2.6 will require suppliers to clearly stipulate percentage discount offered on non-core items in line with the Scotland Excel framework.</p> <p>For plumbing and electrical non-core items, the Service will instruct suppliers to clearly indicate on invoices the percentage discount offered for each commodity.</p> <p>For such items, the Service will conduct regular monitoring to ensure the appropriate discounts are being applied.</p>		March 2019

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

### Levels of Assurance – Definitions

In order to provide management with an assessment of the adequacy and effectiveness of their systems of internal control, the following definitions are used.

Opinion	Definition
<b>Substantial Assurance</b>	There is a sound system of internal control designed and operating in a way that gives a reasonable likelihood that the objectives will be met.
<b>Reasonable Assurance</b>	Whilst there is a sound system of internal control, there are minor weaknesses, which may put some of the objectives at risk or there is evidence of non-compliance with some of the controls, which may put some of the objectives at risk.
<b>Moderate Assurance</b>	The system of internal control is broadly reliable, however there are a number of weaknesses, which put some of the objectives at risk or there is evidence that the level of non-compliance with controls put some of the objectives at risk.
<b>Limited Assurance</b>	Weaknesses in the system of internal control are such as to put the objectives at risk or the level of non-compliance puts the objectives at risk.
<b>No Assurance</b>	Control is generally weak leaving the system open to error or abuse, or there is significant non-compliance with basic controls, which leaves the system open to error or abuse.





## **EAST LoTHIAN COUNCIL – INTERNAL AUDIT VALUE ADDED TAX (VAT)**

### **1. EXECUTIVE SUMMARY**

#### **1.1 Introduction**

A review of the internal controls surrounding the administration of Value Added Tax (VAT) was undertaken as part of the Audit Plan for 2018/19. A summary of our main findings is outlined below.

#### **1.2 Areas where Expected Controls were Met**

- Adequate arrangements are in place to ensure that the Council complies with the VAT requirements for Local Authorities as set out in legislation.
- Systems are in place to ensure that monthly VAT returns are submitted to HM Revenue and Customs by the due date.
- For the sample of purchases examined, a valid VAT invoice was held to support the input VAT being claimed.
- A designated member of staff within Corporate Finance is the VAT Liaison Officer and has responsibility for the preparation and submission of monthly VAT returns.
- A clear audit trail exists to support both the output and input VAT recorded on the VAT return.

#### **1.3 Areas with Scope for Improvement**

- In some cases, purchase cardholders had incorrectly coded transactions on the Cardplus system as outwith the scope of VAT, although a valid VAT invoice was held – for these cases, the Council had failed to reclaim the input VAT. *Risk – failure to recover amounts due.*
- The existing VAT procedures require to be reviewed and updated to ensure that clear guidance is provided to staff on all key aspects of VAT. *Risk – failure to properly account for VAT.*
- There was a lack of evidence to confirm that the annual partial exemption calculation had been verified by a person independent of the preparer to ensure accuracy and completeness. *Risk – errors may occur and remain undetected.*
- In some instances, service areas had incorrectly coded income for VAT purposes. *Risk – failure to properly account for VAT.*
- There was a lack of evidence to indicate that staff with responsibility for processing sales and purchases had received appropriate VAT training. *Risk – failure to properly account for VAT.*

#### **1.4 Summary**

Based on our review of Value Added Tax, Internal Audit can provide reasonable assurance on the adequacy and effectiveness of the systems of internal control. Detailed findings and recommendations are contained in our main audit report.

**Mala Garden**  
**Internal Audit Manager**

**September 2018**



## ACTION PLAN

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.1.2	Management should ensure that detailed guidance is provided to staff within service areas on all key aspects of VAT.	Medium	Corporate Finance Manager	Agreed – the guidance on VAT will be updated as part of the overall review of the Council’s Charging Policy.		December 2018
3.2.2	Management should ensure that purchase card transactions are correctly coded for VAT purposes.	Medium	Service Managers	Reminders to be issued by Purchase Card Administrator to Cardplus Supervisors.		November 2018
	Management should ensure that where a valid VAT invoice is held, input VAT is identified by cardholders as part of the verification process on the Cardplus system, to enable the Council to reclaim the input VAT.	Medium	Service Managers	As above.		November 2018
	Management should review and update the purchase card instructions on the Council’s e-learning system to ensure that they adequately cover the treatment of VAT.	Medium	Corporate Development Accountant/ Treasury and Banking Officer	Agreed – review will be undertaken.		November 2018

<b>PARA REF</b>	<b>RECOMMENDATION</b>	<b>GRADE</b>	<b>RESPONSIBLE OFFICER</b>	<b>AGREED ACTION</b>	<b>RISK ACCEPTED/ MANAGED</b>	<b>AGREED DATE OF COMPLETION</b>
3.3.1	Management should review the VAT coding of income by service areas to ensure that VAT classifications are correct.	Medium	Corporate Finance Manager	Agreed		December 2018
3.4.1	Management should ensure that the partial exemption calculation is checked by a person independent of the preparer – evidence of the check should be retained on file.	Medium	Corporate Finance Manager	Agreed		March 2019
3.5.2	Monthly VAT returns should be verified for accuracy and completeness prior to submission to HM Revenue and Customs.	Medium	Corporate Finance Manager	Agreed		November 2018
3.6.1	Management should ensure that staff responsible for processing sales and purchases are provided with appropriate VAT training.	Medium	Corporate Finance Manager	Agreed		January 2019

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

### Levels of Assurance – Definitions

In order to provide management with an assessment of the adequacy and effectiveness of their systems of internal control, the following definitions are used.

Opinion	Definition
<b>Substantial Assurance</b>	There is a sound system of internal control designed and operating in a way that gives a reasonable likelihood that the objectives will be met.
<b>Reasonable Assurance</b>	Whilst there is a sound system of internal control, there are minor weaknesses, which may put some of the objectives at risk or there is evidence of non-compliance with some of the controls, which may put some of the objectives at risk.
<b>Moderate Assurance</b>	The system of internal control is broadly reliable, however there are a number of weaknesses, which put some of the objectives at risk or there is evidence that the level of non-compliance with controls put some of the objectives at risk.
<b>Limited Assurance</b>	Weaknesses in the system of internal control are such as to put the objectives at risk or the level of non-compliance puts the objectives at risk.
<b>No Assurance</b>	Control is generally weak leaving the system open to error or abuse, or there is significant non-compliance with basic controls, which leaves the system open to error or abuse.

## **EAST LOTHIAN COUNCIL – INTERNAL AUDIT RESIDENTIAL CHARGING**

### **1. EXECUTIVE SUMMARY**

#### **1.1 Introduction**

A review of the internal controls surrounding the administration of Residential Charging was undertaken as part of the Audit Plan for 2018/19. A summary of our main findings is outlined below.

#### **1.2 Areas where Expected Controls were Met**

- Adequate arrangements are in place to ensure that the Council complies with the Charging for Residential Accommodation Guidance (CRAG) issued by the Scottish Government.
- For older adults in nursing or residential care homes, the fees charged by service providers were in accordance with the National Care Home Fee Settlement Award 2018/19.
- For older adults in Council residential care homes, the fees charged were in accordance with the Adult Social Care fee rates for 2018/19.
- Adequate arrangements are in place to ensure that financial assessments are undertaken to assess client contributions towards residential or nursing care.
- A clear audit trail exists on the Mosaic system for all payments made to care home providers.

#### **1.3 Areas with Scope for Improvement**

- In some cases, there was a lack of evidence to support the rates agreed with the care provider for clients in receipt of specialist care. *Risk – over or under payments may occur.*
- In some cases, there had been a failure by clients or their representatives to return the annual financial circumstances form together with supporting documentation – for these cases, provisional financial assessments had been undertaken based on an uprating of previous year's income figures. *Risk – changes in capital and income may not be reflected in the financial assessment.*
- The current practice of reducing the client's capital sum during the financial assessment process, to ensure it does not exceed the upper capital threshold, requires review. *Risk – financial assessments may be incorrect.*
- There was a lack of independent checking in place – financial assessments were being prepared and authorised by the same member of staff. *Risk – errors and irregularities may occur and remain undetected.*

#### **1.4 Summary**

Based on our review of Residential Charging, Internal Audit can provide reasonable assurance on the adequacy and effectiveness of the systems of internal control. Detailed findings and recommendations are contained in our main audit report.

**Mala Garden  
Internal Audit Manager**

**September 2018**





## ACTION PLAN

<b>PARA REF</b>	<b>RECOMMENDATION</b>	<b>GRADE</b>	<b>RESPONSIBLE OFFICER</b>	<b>AGREED ACTION</b>	<b>RISK ACCEPTED/ MANAGED</b>	<b>AGREED DATE OF COMPLETION</b>
3.2.1	Management should ensure that enhanced rates are only paid to care homes that continue to meet the relevant quality standards.	Medium	Group Service Manager – Planning and Performance	Agreed		October 2018
3.2.2	Management should ensure that adequate evidence is held for clients in residential care, clearly setting out the terms and conditions of the service provision.	Medium	Group Service Manager – Planning and Performance	Agreed – this will be reviewed.		October 2018
3.3.2	Management should ensure that appropriate follow-up action is taken for all provisional assessments – a financial circumstances form together with supporting documentation should be obtained from clients or their representatives.	Medium	Service Manager – Benefits and Financial Assessments	Agreed – the Team plan to revisit these cases to see what further supporting documentation can be obtained from either the service users or their representatives.		October 2018
3.3.3	The current practice of reducing the client’s capital sum during the financial assessment process, to ensure it does not exceed the upper capital threshold, should be reviewed.	Medium	Service Manager – Benefits and Financial Assessments	Agreed – Team Leader to implement a process where the assessing officer firstly determines whether the client’s income could either be outstripping or falling		October 2018

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.3.3 (cont)				behind their care home costs and depending on this answer, considers whether the client is about to fall into the Council funded bracket or not.		
3.3.4	All financial assessments should be authorised by a person independent of the preparer.	Medium	Service Manager – Benefits and Financial Assessments	All new financial assessments are checked by a second officer, however due to the high volume of annual re-assessments the Team do not have the capacity to extend secondary authorisation, although they do seek secondary authorisation from a colleague in instances where the outcome of their re-assessment is either unexpected or appears incorrect.	Yes	

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

### **Levels of Assurance – Definitions**

In order to provide management with an assessment of the adequacy and effectiveness of their systems of internal control, the following definitions are used.

Opinion	Definition
<b>Substantial Assurance</b>	There is a sound system of internal control designed and operating in a way that gives a reasonable likelihood that the objectives will be met.
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<b>No Assurance</b>	Control is generally weak leaving the system open to error or abuse, or there is significant non-compliance with basic controls, which leaves the system open to error or abuse.

**INTERNAL AUDIT PROGRESS REPORT 2018/19**

**Appendix 2**

<b>AUDIT REPORTS</b>	<b>SCOPE OF THE AUDIT</b>	<b>TARGET COMPLETION DATE</b>	<b>STATUS</b>
VAT	For all payments processed by the Council, we will examine the arrangements in place to ensure that VAT is correctly accounted for.	September 2018	Completed
Adult Services – Residential Care	We will review the arrangements in place for the assessment and charging of clients in residential care.	September 2018	Completed
IT Systems Access	We will review the IT access controls/access rights in place for all the Council’s main systems.	September 2018	In Progress
Trade Waste Income	We will review the arrangements in place for the billing and collection of trade waste income.	November 2018	
Adult Services – Payments on Schedule	We will review payments on schedule processed through the Mosaic system – our audit will focus on the arrangements in place for the recovery of credit balances.	November 2018	
Schools	We will review the financial arrangements operating within one school to ensure compliance with the financial procedures in place.	November 2018	
Adult Services – Transport	We will review the transport arrangements within Adult Services – as part of the review we will assess if the arrangements in place for securing transport are cost effective and well managed.	November 2018	

<b>AUDIT REPORTS</b>	<b>SCOPE OF THE AUDIT</b>	<b>TARGET COMPLETION DATE</b>	<b>STATUS</b>
Conflicts of Interest	We will examine the arrangements in place for the disclosure of potential conflicts of interest by members of staff.	November 2018	
NDR – Liability	We will continue our audit work on Non-Domestic Rates (NDR) – in 2018/19, we will review the arrangements in place for determining NDR liability.	February 2019	
Planning Enforcement	We will check to ensure that planning enforcement is being carried out in accordance with legislation and Council policy.	February 2019	
Contracts	As part of our annual review of procurement, we will examine a sample of contracts to ensure compliance with the Council’s Corporate Procurement Procedures.	February 2019	
Business Grants and Loans	We will review the arrangements in place for the awarding of grants and loans to businesses within East Lothian.	February 2019	
Review of Performance Indicators	Internal Audit will continue to review the systems in place for the preparation and reporting of Performance Indicators.	February 2019	
Disclosure Checks	We will review the disclosure checking arrangements in place for members of staff and volunteers working with children and/or protected adults.	February 2019	

<b>AUDIT REPORTS</b>	<b>SCOPE OF THE AUDIT</b>	<b>TARGET COMPLETION DATE</b>	<b>STATUS</b>
Bank Reconciliations	We will check to ensure that appropriate and effective systems of control are in place for the Council's bank accounts.	June 2019	
Council Tax	We will continue our audit work on Council Tax – for 2018/19, our review will focus on the procedures in place for the recovery of Council Tax arrears.	June 2019	
Fixed Assets	We will review the systems in place for maintaining and updating the Council's Fixed Asset Register.	June 2019	
Following the Public Pound	We will review the monitoring arrangements in place for a sample of organisations receiving partnership funding from the Council in 2018/19.	June 2019	
Building Standards	We will examine the arrangements in place for the processing of applications received for building warrants, including the collection of income due to the Council.	June 2019	
Creditors	We will review the procedures in place for processing supplier invoices for payment and we will check to ensure that adequate arrangements are in place for the prevention and detection of duplicate payments.	June 2019	





## East Lothian Council - Audit and Governance Committee

25 September 2017

### East Lothian Council Audit of 2017/18 annual accounts

3

#### Independent auditor's report

1. Our audit work on the 2017/18 annual accounts is now substantially complete. Subject to receipt of a revised set of annual accounts for final review, we anticipate being able to issue unqualified audit opinions in the independent auditor's report on 28 September 2018 (the proposed report is attached at [Appendix A](#)).

#### Annual audit report

2. Under International Standards on Auditing in the UK, we report specific matters arising from the audit of the financial statements to those charged with governance of a body in sufficient time to enable appropriate action. We present for the Audit and Governance Committee's consideration our draft annual report on the 2017/18 audit. The section headed "Significant findings from the audit in accordance with ISA 260" sets out the issues identified in respect of the annual accounts.
3. The report also sets out conclusions from our consideration of the four audit dimensions that frame the wider scope of public audit as set out in the Code of Audit Practice.
4. This report will be issued in final form after the annual accounts have been certified.

#### Unadjusted misstatements

5. We also report to those charged with governance all unadjusted misstatements which we have identified during our audit, other than those of a trivial nature and request that these misstatements be corrected.
6. There was one item not adjusted for in the accounts above the reporting threshold but below materiality. It relates to an over-accrual of a capital invoice which led to non-current asset additions and creditors being overstated.

#### Representations from Section 95 Officer

7. As part of the completion of our audit, we are seeking written representations from the Section 95 Officer on aspects of the annual accounts, including the judgements and estimates made.
8. A draft letter of representation is attached at [Appendix B](#). This should be signed and returned to us by the Section 95 Officer with the signed annual accounts prior to the independent auditor's report being certified.

# APPENDIX A: Proposed Independent Auditor's Report

## Independent auditor's report to the members of East Lothian Council and the Accounts Commission

This report is made solely to the parties to whom it is addressed in accordance with Part VII of the Local Government (Scotland) Act 1973 and for no other purpose. In accordance with paragraph 120 of the Code of Audit Practice approved by the Accounts Commission, I do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.

### Report on the audit of the financial statements

#### Opinion on financial statements

I certify that I have audited the financial statements in the annual accounts of East Lothian Council and its group for the year ended 31 March 2018 under Part VII of the Local Government (Scotland) Act 1973. The financial statements comprise the Movement in Reserves Statements, Comprehensive Income and Expenditure Statements, Balance Sheets, and Cash Flow Statements, the council-only Housing Revenue Account Income and Expenditure Statement, the Movement on the Housing Revenue Account Statement, the Council Tax Income Account, and the Non-domestic Rate Income Account, the Common Good Movements in Reserves Statement, Comprehensive Income and Expenditure Statement and Balance Sheet and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and International Financial Reporting Standards (IFRSs) as adopted by the European Union, and as interpreted and adapted by the Code of Practice on Local Authority Accounting in the United Kingdom 2017/18 (the 2017/18 Code).

In my opinion the accompanying financial statements:

- give a true and fair view in accordance with applicable law and the 2017/18 Code of the state of affairs of the council and its group as at 31 March 2018 and of the income and expenditure of the council and its group for the year then ended;
- have been properly prepared in accordance with IFRSs as adopted by the European Union, as interpreted and adapted by the 2017/18 Code; and
- have been prepared in accordance with the requirements of the Local Government (Scotland) Act 1973, The Local Authority Accounts (Scotland) Regulations 2014, and the Local Government in Scotland Act 2003.

#### Basis for opinion

I conducted my audit in accordance with applicable law and International Standards on Auditing (UK) (ISAs (UK)). My responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of my report. I am independent of the council and its group in accordance with the ethical requirements that are relevant to my audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and I have fulfilled my other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### Conclusions relating to going concern basis of accounting

I have nothing to report in respect of the following matters in relation to which the ISAs (UK) require me to report to you where:

- the use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Head of Council Resources has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the council's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

## **Responsibilities of the Head of Council Resources and Audit and Governance Committee for the financial statements**

As explained more fully in the Statement of Responsibilities, the Head of Council Resources is responsible for the preparation of financial statements that give a true and fair view in accordance with the financial reporting framework, and for such internal control as the Head of Council Resources determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Head of Council Resources is responsible for assessing the council's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless deemed inappropriate.

The Audit and Governance Committee is responsible for overseeing the financial reporting process.

## **Auditor's responsibilities for the audit of the financial statements**

My objectives are to achieve reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website [www.frc.org.uk/auditorsresponsibilities](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of my auditor's report.

## **Other information in the annual accounts**

The Head of Council Resources is responsible for the other information in the annual accounts. The other information comprises the information other than the financial statements, the audited part of the Remuneration Report, and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon except on matters prescribed by the Accounts Commission to the extent explicitly stated later in this report.

In connection with my audit of the financial statements, my responsibility is to read all the other information in the annual accounts and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If I identify such material inconsistencies or apparent material misstatements, I am required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

## **Report on other requirements**

### **Opinions on matters prescribed by the Accounts Commission**

In my opinion, the audited part of the Remuneration Report has been properly prepared in accordance with The Local Authority Accounts (Scotland) Regulations 2014.

In my opinion, based on the work undertaken in the course of the audit

- the information given in the Management Commentary for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with statutory guidance issued under the Local Government in Scotland Act 2003; and

- the information given in the Annual Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Delivering Good Governance in Local Government: Framework (2016).

### **Matters on which I am required to report by exception**

I am required by the Accounts Commission to report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements and the audited part of the Remuneration Report are not in agreement with the accounting records; or
- I have not received all the information and explanations I require for my audit; or
- there has been a failure to achieve a prescribed financial objective.

I have nothing to report in respect of these matters.

Gillian Woolman MA FCA CPFA  
Audit Director  
Audit Scotland  
102 West Port  
Edinburgh  
EH3 9DN

September 2018

## APPENDIX B: Letter of Representation (ISA 580)

Gillian Woolman, Assistant Director  
Audit Scotland  
4th Floor  
102 West Port  
Edinburgh  
EH3 9DN

Dear Assistant Director

### **East Lothian Council Annual Accounts 2017/18**

1. This representation letter is provided in connection with your audit of the annual accounts of East Lothian Council for the year ended 31 March 2018 for the purpose of expressing an opinion as to whether the financial statements give a true and fair view in accordance with the financial reporting framework, and for expressing other opinions on the remuneration report, management commentary and annual governance statement.
2. I confirm to the best of my knowledge and belief, and having made appropriate enquiries of the Chief Executive and Corporate Management Team, the following representations given to you in connection with your audit of East Lothian Council's annual accounts for the year ended 31 March 2018.

### **General**

3. East Lothian Council and I have fulfilled our statutory responsibilities for the preparation of the 2017/18 annual accounts. All the accounting records, documentation and other matters which I am aware are relevant to the preparation of the annual accounts have been made available to you for the purposes of your audit. All transactions undertaken by East Lothian Council have been recorded in the accounting records and are properly reflected in the financial statements.
4. I confirm that the effects of uncorrected misstatements are immaterial, individually and in aggregate, to the financial statements as a whole. I am not aware of any uncorrected misstatements other than those reported by you.

### **Financial Reporting Framework**

5. The annual accounts have been prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom 2017/18 (2017/18 accounting code), and in accordance with the requirements of the Local Government (Scotland) Act 1973, the Local Government in Scotland Act 2003 and The Local Authority Accounts (Scotland) Regulations 2014.
6. In accordance with the 2014 regulations, I have ensured that the financial statements give a true and fair view of the financial position of the East Lothian Council and its Group at 31 March 2018 and the transactions for 2017/18.

## **Accounting Policies & Estimates**

7. All significant accounting policies applied are as shown in the notes to the financial statements. The accounting policies are determined by the 2017/18 accounting code where applicable. Where the code does not specifically apply I have used judgement in developing and applying an accounting policy that results in information that is relevant and reliable. All accounting policies applied are appropriate to East Lothian Council circumstances and have been consistently applied.
8. The significant assumptions used in making accounting estimates are reasonable and properly reflected in the financial statements. Judgements used in making estimates have been based on the latest available, reliable information. Estimates have been revised where there are changes in the circumstances on which the original estimate was based or as a result of new information or experience.

## **Going Concern Basis of Accounting**

9. I have assessed East Lothian Council's ability to continue to use the going concern basis of accounting and have concluded that it is appropriate. I am not aware of any material uncertainties that may cast significant doubt on East Lothian Council's ability to continue as a going concern.

## **Assets**

10. Where a rolling programme of asset valuations has been used, I have satisfied myself that the carrying amount of assets at 31 March 2018 does not differ materially from that which would be determined if a revaluation had been carried out at that date.
11. I carried out an assessment at 31 March 2018 as to whether there is any indication that an asset may be impaired and have recognised any impairment losses identified.
12. I have provided you with all information of which I am aware regarding any valuation exercises carried out after 31 March 2018.
13. There are no plans or intentions that are likely to affect the carrying value or classification of the assets recognised within the financial statements.
14. Owned assets are free from any lien, encumbrance or charge except as disclosed in the financial statements.

## **Liabilities**

15. All liabilities at 31 March 2018 of which I am aware have been recognised in the annual accounts.
16. Provisions have been recognised in the financial statements for all liabilities of uncertain timing or amount at 31 March 2018 of which I am aware where the conditions specified in the 2017/18 accounting code have been met. The amount recognised as a provision is the best estimate of the expenditure likely to be required to settle the obligation at 31 March 2018. Where the effect of the time value of money is material, the amount of the provision has been discounted to the present value of the expected payments.

17. Provisions recognised in previous years have been reviewed and adjusted, where appropriate, to reflect the best estimate at 31 March 2018 or to reflect material changes in the assumptions underlying the calculations of the cash flows.
18. The accrual recognised in the financial statements for holiday untaken by 31 March 2018 has been estimated on a reasonable basis.
19. The pension assumptions made by the actuary in the IAS 19 report for East Lothian Council have been considered and I confirm that they are consistent with management's own view.
20. There are no plans or intentions that are likely to affect the carrying value or classification of the liabilities recognised in the financial statements.

## **Fraud**

21. I have provided you with all information in relation to
  - my assessment of the risk that the financial statements may be materially misstated as a result of fraud
  - any allegations of fraud or suspected fraud affecting the financial statements
  - fraud or suspected fraud that I am aware of involving management, employees who have a significant role in internal control, or others that could have a material effect on the financial statements.

## **Laws and Regulations**

22. I have disclosed to you all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements.

## **Related Party Transactions**

23. All material transactions with related parties have been disclosed in the financial statements in accordance with the 2017/18 accounting code. I have made available to you the identity of all the East Lothian Council's related parties and all the related party relationships and transactions of which I am aware.

## **Remuneration Report**

24. The Remuneration Report has been prepared in accordance with the Local Authority Accounts (Scotland) Amendment Regulations 2014, and all required information of which I am aware has been provided to you.

## **Management commentary**

25. I confirm that the Management Commentary has been prepared in accordance with the statutory guidance and the information is consistent with the financial statements.

## **Corporate Governance**

26. I confirm that the East Lothian Council has undertaken a review of the system of internal control during 2017/18 to establish the extent to which it complies with proper practices set out in the Delivering Good Governance in Local Government: Framework 2016. I have disclosed to you all deficiencies in internal control identified from this review or of which I am otherwise aware.
27. I confirm that the Annual Governance Statement has been prepared in accordance with the Delivering Good Governance in Local Government: Framework 2016 and the information is

consistent with the financial statements. There have been no changes in the corporate governance arrangements or issues identified, since 31 March 2018, which require to be reflected.

### **Group Accounts**

28. I have identified all the other entities in which East Lothian Council has a material interest and have classified and accounted for them in accordance with the 2017/18 accounting code. Any significant issues with the financial statements of group entities, including any qualified audit opinions, have been advised to you.

### **Events Subsequent to the Date of the Balance Sheet**

29. All events subsequent to 31 March 2018 for which the 2017/18 accounting code requires adjustment or disclosure have been adjusted or disclosed.

Yours sincerely

Head of Council Resources



# East Lothian Council

2017/18 Annual Audit Report

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 AUDIT SCOTLAND

Prepared for the Members of East Lothian Council and the Controller of Audit  
25 September 2018

## Who we are

The Auditor General, the Accounts Commission and Audit Scotland work together to deliver public audit in Scotland:

- The Auditor General is an independent crown appointment, made on the recommendation of the Scottish Parliament, to audit the Scottish Government, NHS and other bodies and report to Parliament on their financial health and performance.
- The Accounts Commission is an independent public body appointed by Scottish ministers to hold local government to account. The Controller of Audit is an independent post established by statute, with powers to report directly to the Commission on the audit of local government.
- Audit Scotland is governed by a board, consisting of the Auditor General, the chair of the Accounts Commission, a non-executive board chair, and two non-executive members appointed by the Scottish Commission for Public Audit, a commission of the Scottish Parliament.



## About us

Our vision is to be a world-class audit organisation that improves the use of public money.

Through our work for the Auditor General and the Accounts Commission, we provide independent assurance to the people of Scotland that public money is spent properly and provides value. We aim to achieve this by:

- carrying out relevant and timely audits of the way the public sector manages and spends money
- reporting our findings and conclusions in public
- identifying risks, making clear and relevant recommendations.

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# Key messages

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## 2017/18 annual accounts

- 1 In our opinion, East Lothian Council and its group financial statements give a true and fair view and were properly prepared.
- 2 The audited part of the remuneration report, management commentary and annual governance statement are all consistent with the financial statements and prepared in accordance with proper accounting practices.
- 3 The statement of accounts of the Dr Bruce Charitable Fund section 106 charity administered by the Council is free from material misstatement.

## Financial management

- 4 Financial management is effective with a budget process focussed on the Council's priorities.
- 5 Our testing of the design and operation of the financial controls over significant risk areas confirmed that controls relating to financial systems and procedures are designed appropriately and operating effectively.

## Financial sustainability

- 6 The Council and its group financial position is sustainable in the foreseeable future although rising demand, increasing costs of services and reductions to central funding will continue to place a strain on the Council's capacity to deliver services at the current levels.
- 7 There is a five-year financial strategy that is aligned to the Council's priorities and demonstrates how it will address future budget challenges. The Council has made savings over the past few years however the scale of the savings required to address future funding gaps will mean that more will need to be identified.

## Governance and transparency

- 8 The Council has appropriate governance arrangements in place that support the scrutiny of decisions made by the Council.
- 9 The Council is open and transparent in the way it conducts its business and the public can attend meetings of the Council and its standing committees.

## Value for money

- 10 A best value audit was carried out during the year and will be formally reported to the Accounts Commission on 11 October 2018. Recommendations have been made and these will form part of our audit work in 2018/19.

- 11** Formal reporting and monitoring arrangements should be revisited, clarified and strengthened for the significant group components (e.g. Enjoy East Lothian Ltd. and Musselburgh Racing Associated Committee) to ensure the Council is complying with the duties set out in the Code of Guidance on Funding External Bodies and Following the Public Pound. This includes ensuring a report is brought to the Audit and Governance Committee at least once a year. This remains an area requiring further improvement.

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# Introduction

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**1.** This report summarises the findings arising from the 2017/18 audit of East Lothian Council and its group (the Council).

**2.** The scope of the audit was set out in our Annual Audit Plan presented to the 20 February 2018 meeting of the Audit & Governance Committee. This report comprises the findings from:

- an audit of the annual accounts
- consideration of the four audit dimensions that frame the wider scope of public audit set out in the [Code of Audit Practice 2016](#) as illustrated in [Exhibit 1](#).

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## Exhibit 1

### Audit dimensions



Source: *Code of Audit Practice 2016*

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**3.** The main elements of our audit work in 2017/18 have been:

- an audit of the Council and its group 2017/18 annual accounts and the statement of accounts of the Dr Bruce Charitable Fund (section 106 charity) administered by the Council including the issue of independent auditor's reports setting out our opinions
- a review the Council's key financial systems
- audit work covering the Council's arrangements for securing Best Value to be reported in the Best Value Assurance Report on 11 October 2018
- consideration of the four audit dimensions.

4. The Council has primary responsibility for ensuring the proper financial stewardship of public funds. This includes preparing annual accounts that are in accordance with proper accounting practices.
5. The Council is also responsible for compliance with legislation, and putting arrangements in place for governance, propriety and regularity that enable it to successfully deliver its objectives.
6. Our responsibilities as independent auditor appointed by the Accounts Commission are established by the Local Government in Scotland Act 1973, the [Code of Audit Practice \(2016\)](#) and supplementary guidance, and International Standards on Auditing in the UK.
7. As public sector auditors we give independent opinions on the annual accounts. We also review and provide conclusions on the effectiveness of the Council's performance management arrangements, suitability and effectiveness of corporate governance arrangements, and financial position and arrangements for securing financial sustainability. We also report on the Council's best value arrangements and in doing this we aim to support improvement and accountability.
8. Further details of the respective responsibilities of management and the auditor can be found in the [Code of Audit Practice 2016](#).
9. This report raises matters from the audit of the annual accounts and consideration of the audit dimensions. Weaknesses or risks identified are only those which have come to our attention during our normal audit work and may not be all that exist. Communicating these does not absolve management from its responsibility to address the issues we raise and to maintain adequate systems of control.
10. Our annual audit report contains an agreed action plan at [Appendix 1](#) setting out specific recommendations, responsible officers and dates for implementation. It also includes outstanding actions from last year and progress against these.
11. We can confirm that we comply with the Financial Reporting Council's Ethical Standard. We can also confirm that we have not undertaken any non-audit related services and the 2017/18 audit fee of £237,010 as set out in our Annual Audit Plan, remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.

### **Adding value through the audit**

12. Our aim is to add value to East Lothian Council by providing insight into, and offering foresight on, financial sustainability, risk and performance by identifying areas of improvement and recommending and encouraging good practice. In so doing, we aim to help the council promote improved standards of governance, better management and decision making and more effective use of resources.
13. This report is addressed to both the Council and the Controller of Audit and will be published on Audit Scotland's website [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk).
14. We would like to thank all management and staff who have been involved in our work for their co-operation and assistance during the audit.

# Part 1

## Audit of 2017/18 annual accounts



### Main judgements

**In our opinion, East Lothian Council and its group financial statements give a true and fair view and were properly prepared.**

**The audited part of the remuneration report, management commentary and annual governance statement are all consistent with the financial statements and prepared in accordance with proper accounting practices.**

**The statement of accounts of the Dr Bruce Fund section 106 charity administered by the Council is free from material misstatement.**

### Audit opinions on the annual accounts

**15.** The annual accounts for the Council and its group for the year ended 31 March 2018 were approved by the Audit and Governance Committee on 25 September 2018. We reported, within our independent auditor's report that, in our opinion:

- financial statements give a true and fair view and were properly prepared
- the audited part of the remuneration report, management commentary and the annual governance statement were all consistent with the financial statements and properly prepared in accordance with the guidance

**16.** We have nothing to report in respect of misstatements in information other than the financial statements; the adequacy of accounting records; the information and explanations we received; or the achievement of prescribed financial objectives.

The Council and its group annual accounts are the principal means of accounting for the stewardship of resources and performance in the use of resources.

### Audit opinion on section 106 charity – Dr Bruce Fund

**17.** A separate independent auditor's report is required for the statement of accounts of each registered charity where members of East Lothian Council are sole trustees, irrespective of the size of the charity (section 106 of the Local Government in Scotland Act 1973). The Dr Bruce Fund is the only registered charity for which this applies in East Lothian Council.

**18.** We received the Dr Bruce Fund accounts on 25 July, in line with the agreed timetable.

**19.** Some presentational adjustments were required to the unaudited accounts to align the disclosures to the FRS 102 based on the Statement of Recommended Practice. There were no adjusted or unadjusted audit differences raised. However, the following issues were noted during the audit. These are the same issues raised in 2016/17.

- The Dr Bruce Fund's accounts were not advertised in line with the requirements under Regulation 9 of the Local Authority Accounts (Scotland)



Regulations 2014 issued under section 105 of the Local Government in Scotland Act 1973

- The unaudited accounts submitted to audit were not signed on behalf of the trustees, and
- The Dr Bruce Fund was set up to provide relief for the poor of Musselburgh. The Dr Bruce Fund awarded the same two individuals £60 in 2017/18 (2016/17: £50). More could be done by East Lothian Council to promote the trust.

**20.** The Council has begun a project aimed at reducing or removing the number of charitable trusts where it is the sole trustee. This is still in the early stages of development and commenced after July 2018. It is recommended that progress of the consolidation of trust funds and the Section 106 charity be a priority to allow for effective and focussed management of the funds.

**21.** After completing our audit, we reported in our independent auditor's report that, in our opinion:

- the financial statements give a true and fair view of the section 106 charity's financial position and are properly prepared in accordance with charities legislation
- the trustees' annual report is consistent with the financial statements and prepared in accordance with proper accounting practices.

---

### **Recommendation 1 ([appendix 1, action plan point b/f 1](#))**

**The unaudited accounts should be advertised in line with the Regulations.**

**The unaudited accounts should be signed on behalf of the trustees prior to submitting for audit.**

### **Recommendation 2 ([appendix 1, action plan point b/f 2 and b/f 3](#))**

**The Council should review the method(s) used to promote this (and other) charitable trusts to ensure that the potential availability of these funds are known to the wider community.**

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## **Submission of the Council and its group annual accounts for audit**

**22.** We received the unaudited annual accounts on 26 June 2018 in line with the audit timetable set out in our 2017/18 Annual Audit Plan.

**23.** The working papers provided with the unaudited accounts were of a good standard and finance staff provided good support to the audit team during the audit. This helped ensure that the audit of the annual accounts process ran smoothly.

**24.** The 2017/18 group accounts were prepared on the basis of the unaudited accounts of the subsidiaries and associates. Audited accounts have recently been received for East Lothian Land Ltd and East Lothian Investments and no changes were identified. However audited accounts were received for the remaining group entities (Lothian Valuation Joint Board, Enjoy East Lothian Limited, Musselburgh Joint Racing Committee and Brunton Theatre Trust) late in the audit process.

**25.** This impacts on the ability to ensure the most up to date, audited figures have been used. We have raised this issue with the Council and found that they are working with the group to bring these timelines forward for 2018/19. An up-to-

position as at 18 September for the group accounts is below. Of the six group components, two have recently been received - East Lothian Land Ltd and East Lothian Investment and the accounts have been updated to reflect this. Four were in various stages of completion during our audit and recent developments include:

- Lothian Valuation Joint Board – received 4 September 2018
- Brunton Theatre Trust – signed on 7 September 2018
- Musselburgh Joint Racing Committee – due to be approved by the Racecourse Board on 18 September
- Enjoy East Lothian Ltd – due to be approved by the Enjoy Board on 27 September

**26.** The council has ensured that the most up to date figures (the audited figures) were used in the 2017/18 accounts.

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### **Recommendation 3 (appendix 1, action plan point 1)**

**The Council needs to work with the various subsidiaries and associates to plan and agree a suitable timetable for receipt of audited accounts for the group components.**

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## **Whole of Government Accounts**

**27.** The Council submitted a draft consolidation pack for the whole of government accounts (WGA) audit on 4 July 2018 in line with the submission deadline. Due to the threshold for auditor assurance being increased from £350 million (2016/17) to £500 million for 2017/18, there is no requirement for a full audit of the Council's WGA and only an assurance statement is required. The assurance statement will be provided to the National Audit Office by 28 September.

## **Risk of material misstatement**

**28.** [Appendix 2](#) provides a description of those assessed risks of material misstatement that were identified during the planning process which had the greatest effect on the overall audit strategy, the allocation of resources to the audit and directing the efforts of the audit team and the wider audit dimension risks identified.

## **Materiality**

**29.** Misstatements are material if they could reasonably be expected to influence the economic decisions of users taken based on the financial statements. The assessment of what is material is a matter of professional judgement and involves considering both the amount and nature of the misstatement. It is affected by our perception of the financial information needs of users of the financial statements.

**30.** Our initial assessment of materiality for the annual accounts was carried out during the planning phase of the audit and is summarised in [Exhibit 2](#). With regards to the annual accounts, we assess the materiality of uncorrected misstatements both individually and collectively.

**31.** On receipt of the annual accounts we reviewed our planning materiality calculations and concluded that they remained appropriate.

## Exhibit 2

### Materiality values

Materiality level	Amount
Overall materiality	£3.8 million
Performance materiality	£1.9 million
Reporting threshold	£38,000

Source: Audit Scotland, Annual Audit Plan 2017/18

### How we evaluate misstatements

**32.** There were two monetary adjustments to the unaudited financial statements arising from our audit. Details of the adjustments and their impact on the financial statements are included in [Exhibit 3](#).

**33.** One error above the reporting threshold but below materiality was identified but has not been adjusted in the financial statements. [Appendix 3](#) gives details of the unadjusted error and the impact on the financial statements.

**34.** It is our responsibility to request that all errors above the reporting threshold are corrected although the final decision on this lies with those charged with governance considering advice from senior officers and materiality. Management do not propose to adjust for the above item as the amount is not considered material in the context of the financial statements. We agree that this amount is not material.

### Significant findings from the audit in accordance with ISA 260

**35.** International Standard on Auditing 260 (UK) requires us to communicate significant findings from the audit to those charged with governance. These are summarised in [Exhibit 3](#). Where a finding has resulted in a recommendation to management, a cross reference to the Action Plan in [Appendix 1](#) has been included.

**36.** The findings include our views about significant qualitative aspects of the Council's accounting practices including:

- |   |   |
|---|---|
| • Accounting policies   | • Accounting estimates and judgements   |
| • Significant financial statements disclosures                | • Timing of transactions and the period in which they are recorded              |
| • The impact on the financial statements of any uncertainties | • The effect of any unusual transactions on the financial statements            |
| • Misstatements in the annual accounts                        | • Disagreement over any accounting treatment or financial statements disclosure |

## Exhibit 3

### Significant findings from the audit of the financial statements

Finding	Resolution
<p><b>1. IAS 19 actuarial valuation</b></p> <p>The actuarial valuation of the IAS 19 pension assets and liabilities in the unaudited accounts was initially based on a methodology which estimated the year end position using an earlier date of valuation. Due to greater levels of market volatility around the year-end than in previous years, the difference between the actuaries' estimated valuation and the actual position at 31 March 2018 was assessed as being material to the financial statements and requiring amendments.</p>	<p>The Council obtained a revised actuarial valuation reflecting the actual position at the financial year end (31 March) and adjusted the financial statements to reflect the revised pension assets and liabilities position. The impact of the adjustment was to increase net assets in the balance sheet by £9.3m with a corresponding actuarial gain on pension assets in the comprehensive income and expenditure statement.</p>
<p><b>2. Accumulated absences provision</b></p> <p>The unaudited accounts included a provision of £3.7 million for accumulated absences within long term liabilities on the Council's balance sheet. This relates to benefits that employees have earned as part of their contracts of employment but have not yet taken, such as holiday pay. As such benefits are mainly taken by employees in the year after they are earned, it was judged more appropriate for this provision to be included within current liabilities.</p>	<p>An adjustment has been made in the audited accounts to transfer the accumulated absences provision of £3.7 million from long term to current liabilities. There was no impact on the comprehensive income and expenditure account or net assets position within the balance sheet.</p>
<p><b>3. Assets under Construction</b></p> <p>Audit testing identified that capital expenditure relating to the Law Primary School extension was included within Other Land &amp; Buildings in Property Plant and Equipment Note 12 in the unaudited accounts, although the work had not been completed at the financial year end as the project is still on-going.</p>	<p>An adjustment has been made in the audited accounts to transfer assets of £4.8 million from Other Land &amp; Buildings to Assets under Construction in Property Plant and Equipment Note 12.</p> <p>As the Council's policy is not to charge depreciation in the year of acquisition, there was no impact on depreciation charge and there was no impact on the comprehensive income and expenditure account or the Property Plant and Equipment amount in the balance sheet.</p>
<p><b>4. Common Good assets</b></p> <p>The Council identified assets with a total value of £1.1 million which were held on the Council's balance sheet which related to the Common Good. The Council had correctly transferred these assets to the Common Good balance sheet but had included them within the additions total in the Common Good Notes to the financial statements.</p>	<p>The Council has amended the disclosure in the Common Good Notes to the financial statements to provide separate disclosure of those assets transferred from the Council balance sheet. This is part of the wider piece of work being done by the Council in reviewing all their fixed assets.</p>
<p><b>5. Cash flow</b></p> <p>We identified that within the cash flow statement capital accruals and capital retentions were included within the movement in creditors under operating activities. These should have been included within 'investing activities' instead.</p>	<p>The Council has amended the cash flow statement to adjust for capital accruals and capital retentions and included the correct figures in within 'investing activities'. The net cash outflow from operating activities and Purchase of Property, Plant and Equipment amount included in investing activities have both decreased by £1.136 million. There is no change in the net increase in cash and cash equivalents.</p>

## Good practice in financial reporting

**37.** The annual report and accounts reflect good practice as set out in Audit Scotland guidance on '[Improving the quality of local authority accounts – expenditure and funding analysis](#)'.

## Follow up of prior year recommendations

**38.** We have followed up actions previously reported and assessed progress with implementation, these are reported in [Appendix 1](#) and identified by the prefix b/f (brought forward).

**39.** In total, six agreed actions were raised in 2016/17. Of these:

- Two have been fully implemented.
- Four are either partly actioned or have not been actioned.

**40.** Overall the Council has made some progress in implementing these actions. For those actions not yet implemented, revised responses and timescales have been agreed with management as set out in [Appendix 1](#).

## Integration Joint Board

**41.** For the second year the Council included its share of the financial transactions of East Lothian Integration Joint Board (the IJB) within its group financial statements. We have completed the audit of the IJB and will report our findings separately to the IJB Audit and Risk Committee on 27 September 2018 where the accounts are due to be approved. We are satisfied that the Council had adequate arrangements in place to agree year end balances between itself and its partners. During 2017/18, the council produced a recovery plan to address overspending in the Health and Social Care Directorate. Our audit testing also confirmed that the council properly identifies transactions that relate to work commissioned by the IJB.

## Other findings

**42.** Our audit identified several presentational and disclosure issues which were discussed with management. These were adjusted and reflected in the audited annual accounts.

## Objections

**43.** The Local Authority Accounts (Scotland) Regulations 2014 require a local authority to publish a public notice on its website that includes details of the period for inspecting and objecting to the accounts. This must remain on the website throughout the inspection period. The Council complied with the regulations. There were no objections to the accounts.

# Part 2

## Financial management



### Main judgements

Financial management is effective with a budget process focussed on the Council's priorities.

Our testing of the design and operation of the financial controls over significant risk areas confirmed that controls relating to financial systems and procedures are designed appropriately and were operating effectively.

### Financial performance in 2017/18

**44.** In February 2017 the Council approved a General Services budget of £232.97 million for 2017/18. The budget was aligned to the Council's main priorities and vision.

**45.** The Council has a good track record in delivering services within budget over the last two years. The 2017/18 end of year financial review presented to full council on 26 June reported an underspend £0.38 million against the planned budget. This position was, however, assisted by a number of non-recurring items including additional grant from the Scottish Government in respect of severe weather, release of a provision previously held on the balance sheet and an additional contribution from NHS Lothian to support the IJB related functions. Without these items, the Council would have overspent on its General Services budget by £0.67 million.

**46.** While the Council's spending remained in line with its overall budget, there are significant variations in how different services have performed. The more significant under and overspends are summarised in [Exhibit 4](#).

### Exhibit 4

Summary of significant under / overspends against budget

Area	Under/over spend (£m)	Reason for variance
<b>Underspends</b>		
Resources and People Services	£1.37	Underspends on staff budgets, driven through vacancy management, and schools PPP costs.
Partnerships and Services for Communities	£0.35	Underspends mainly on staff budgets, additional income, increase in building

Area	Under/over spend (£m)	Reason for variance
warrants and a decrease in wider service expenditure budgets.		
<b>Overspends</b>		
Health and Social Care Partnership	£0.89	Increased demand for services and increased complexities and needs of clients, within Children's and Adults' services.

Source: East Lothian Council 2017-18 End of Year Financial Review

47. The Health Social Care Partnership directorate has overspent against budget in both the current and previous financial years. These overspends have been offset by underspends in other services to maintain financial balance. Given that the council would have overspent on its general services budget in 2017/18 if it had not benefited from a number of non-recurring income items, this is unlikely to be sustainable in future. During 2017/18, the council implemented recovery actions to allow the IJB break-even. We will continue to monitor the Council's progress in this area for the remainder of our audit appointment.

### Housing revenue account

48. The Council is required by legislation to maintain a separate housing revenue account (HRA) and to ensure that rents are set to at least cover the costs of its social housing provision. Rent levels are therefore a direct consequence of the budget set for the year.

49. The 2017/18 end of year financial review presented to full council in June 2018 reported that HRA approved spending plans for 2017/18 had anticipated an in-year surplus of £1.62 million however the HRA delivered an in-year surplus of £2.87 million, exceeding the budgeted surplus by £1.25 million. The higher surplus can be attributed to, but not limited to, underspends on repairs and maintenance and loan charges, an underspend on staffing largely due to delays in recruitment pending the outcome of a wider service review, and a lower than planned increase to the bad debt provision.

50. The HRA reserve balance has increased by £0.37 million during the 2017/18 financial year and there was a transfer of £0.99 million from the HRA reserve to the general fund.

51. The HRA reserve balance at 31 March 2018 was £5.39 million. This is in line with the Council's five-year financial strategy for 2018-23 which has a stated policy of maintaining an HRA reserve balance of at least £1 million, to allow the Council to maintain a cushion against any unexpected increase in costs or loss of income, and to protect against the risks inherent in the UK welfare reform proposals. Given the uncertainty that exists over the timing and scale of capital investment in new affordable housing, there is no upper limit on reserves.

### Efficiency savings

52. With reduced funding from government and increased demand for financial services, efficiency savings are an important means of bridging the gap between funding received and spending commitments.

53. The Council is required to make an annual return to the COSLA in respect of recurring efficiency savings. The Cabinet and Council routinely receive budget monitoring reports including savings plans which have been risk assessed.

Financial management is about financial capacity, sound budgetary processes and whether the control environment and internal controls are operating effectively



**54.** The 2017/18 annual return to the Scottish Government indicated that £2.1 million of savings were planned. The Council achieved actual savings of £2.7 million. Some of the planned savings in relation to Health and Social Care Integration and Buysmart were not delivered in-year however this was offset by efficiencies and underspends in corporate expenditure.

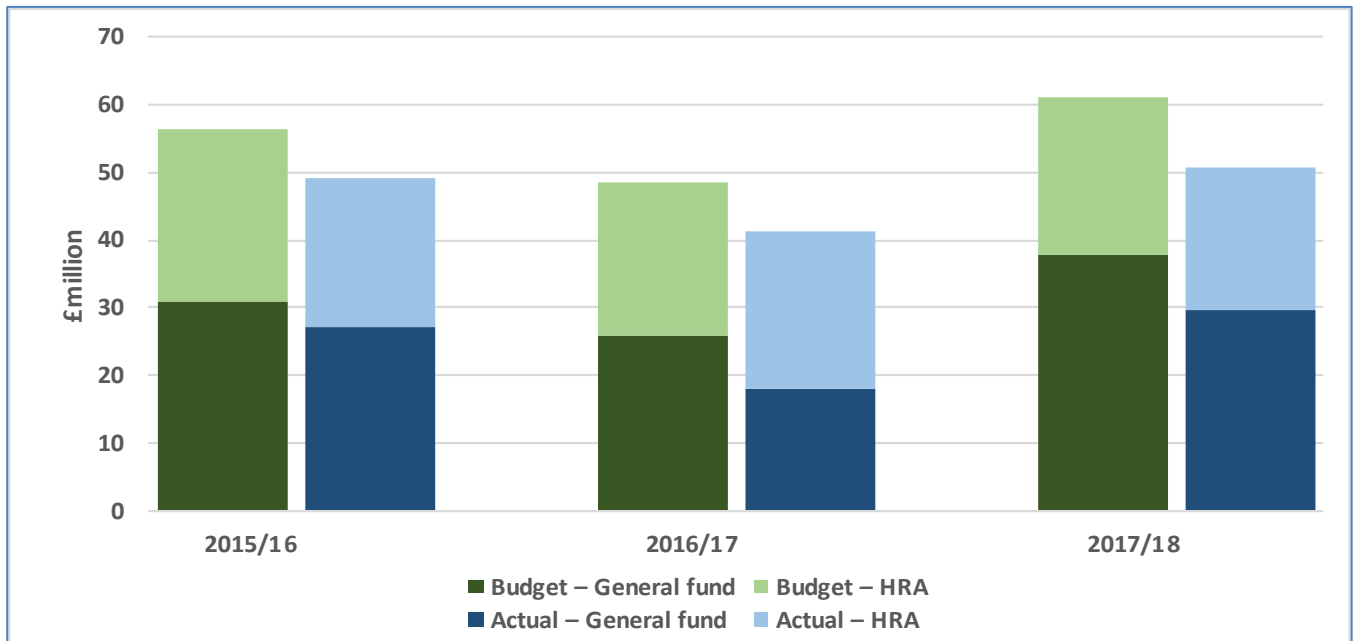
### Capital programme 2017/18

**55.** The total capital expenditure budget for 2017/18 was £61.1 million. Of the total capital budget, £37.7 million related to general services and £23.4 million to the HRA.

**56.** Capital spend was £10.1 million below budget. For the last three years, the Council has reported slippage in its capital programme as outlined in [Exhibit 5](#). The HRA slippage comprised 21% of this total.

## Exhibit 5

### Capital slippage compared to budget (general fund and HRA)



Source: End of Year Financial Reviews (2015/16, 2016/17, 2017/18)

**57.** The majority of the capital underspend for general services relates to slippage and will be carried forward to the 2018/19 capital programme. The most significant underspends relate to delayed project starts at the new Wallyford Primary School and Dunbar Grammar School. The council is monitoring both projects and expects the new Wallyford Primary School to be completed on time, with the Dunbar Grammar School extension expected to be completed two months later than originally planned.

**58.** A budget of £0.44 million was allocated for cemeteries within the 2017/18 capital programme. The actual spend in the year was nil due to protracted negotiations with landowners.

**59.** The HRA capital programme had a total underspend of £2.12 million. Within HRA, £10.6 million was spent on modernisation with an underspend of £1.5 million. Spending of new affordable homes was £10.4 million, which was £0.1 million below



the approved budget. Two mortgages to rent applications were processed during the year, resulting in an underspend against the approved budget of £0.5 million.

**60.** Whilst management has an understanding of capital slippage and does not consider this to be problematic in 2017/18, there is a risk that ongoing delays in capital projects could impact on service plans going forward.

## Borrowing in 2017/18

**61.** The Council's outstanding loans at 31st March 2018 were £358 million, an increase of £14 million on the previous year. During the year, £6 million of loan repayments were made and there were £22 million of new loans taken out. The increase in borrowing reflects the increase in the Council's capital financing requirements as per its treasury management strategy.

**62.** Total external debt (which includes the Council's long-term liabilities) was within the authorised limit and operational boundary set by the treasury management strategy. The current borrowing position is prudent, and the Council will continue to consider the affordability of future borrowing.

## Budgetary process

**63.** The [Local Government in Scotland: Financial overview 2016/17](#) (November 2017) highlighted that the need for budgets and forecasts to reflect actual spending becomes increasingly important for councils with decreasing (or low levels) of usable reserves to rely on. We noted that the Council's budget and savings plan is aligned to the Council priorities as set out in its strategic plan. This is consistent with good practice.

**64.** The Council used scenario planning to calculate estimated funding gaps for the five-year period as part of its 2018 -23 financial strategy. Three scenarios were used ranging from best to worse case, based on a limited number of key variables (Revenue Support Grant, pay and non-pay inflation) and different assumptions based on potential outcomes.

**65.** Since early 2018, the full council receives revenue and capital monitoring reports and provides detailed scrutiny of financial performance. From our review of these reports and attendance at council meetings we concluded that these reports provide an overall picture of the budget position at service level. The report includes forecast out-turn position for the year and good explanations for significant variances against budget. The reports allow both members and officers to carry out scrutiny of the Council's finances.

## Systems of internal control

**66.** As part of our audit we identify and inspect the key internal controls in those accounting systems which we regard as significant to produce the financial statements. Our objective is to gain assurance that the Council has systems of recording and processing transactions which provide a sound basis for the preparation of the financial statements.

**67.** Our findings were included in our management letter that was presented to the Audit and Governance Committee on 12 June 2018. We concluded that the key controls were appropriate and operating effectively for the key financial systems we reviewed. No significant control weaknesses were identified which could affect the Council's ability to record, process, summarise and report financial and other relevant data to result in a material misstatement in the financial statements.

## Financial capacity

**68.** The Head of Council Resources is the Section 95 officer with responsibility for finance and information technology, is a member of the corporate management

team and has direct access to the chief executive and Council members. We concluded that the Section 95 officer has appropriate status within the Council.

**69.** The finance team has remained stable in recent years and includes sufficient numbers of qualified and experienced staff. The Corporate Finance Manager, who is a senior and experienced member of the finance team, will be leaving the Council towards the end of 2018 and it is important that the Council puts adequate succession arrangements in place.

**70.** It is important that members continue to receive adequate training on how the Council works and how it is financed if they are to exercise their scrutiny responsibilities effectively. We reviewed the induction training and materials provided to new and existing members and concluded that it was fit for purpose.

# Part 3

## Financial sustainability



### Main judgements

**The Council and its group financial position is sustainable in the foreseeable future although rising demand, increasing costs of services and reductions to central funding will continue to place a strain on the Council's capacity to deliver services at the current levels.**

**There is a five-year financial strategy that is aligned to the Council's priorities and demonstrates how it will address future budget challenges.**

**The Council has made savings over the past few years however the scale of the savings required to address future funding gaps will be challenging for it to deliver.**

### Financial planning

**71.** It is important that long-term financial strategies (typically covering five to ten years) are in place which link spending to the Council's strategies. Although councillors approve a three-year budget, they only approve the council tax budget for a single year. This should be supported by indicative future spending plans (covering three years at least) that forecast the impact of relevant pressures on the Council.

**72.** The Accounts Commission recommended that when future Scottish Government funding is not known, councils should plan for a range of scenarios, so they are prepared for different levels of funding and income.

**73.** The Council has a five-year financial strategy in place covering the period 2018/19 to 2022/23, which includes funding gap projections for the five-year period based on scenario planning. Spending plans for the three-year period from 2018/19 to 2020/21 were approved as part of the 2018/19 annual budget process.

**74.** The Council used the funding gap projections within its financial strategy effectively to develop a package of savings, and additional income generating measures amounting to £12.5 million to enable it to set a balanced budget for the three-year period from 2018/19 to 2020/21. This was presented to members in February 2018.

**75.** The Council recognises that delivery of the £12.5 million budgeted efficiencies over the next three years and development of further measures to address future funding gaps will be a significant challenge and work is ongoing in this area. The projected funding gap figures within the five-year financial strategy are due to be updated as part of the 2019/20 budget process and this will assist the Council to identify the level of savings required going forward.

Financial sustainability looks forward to the medium and long term to consider whether the board is planning effectively to continue to deliver its services or the way in which they should be delivered

## Funding position

**76.** The Council approved its 2017/18 budget in February 2017. The budget was set at £233 million which included planned savings of £2.1 million and a transfer of £2.5 million from reserves to address the identified funding gap.

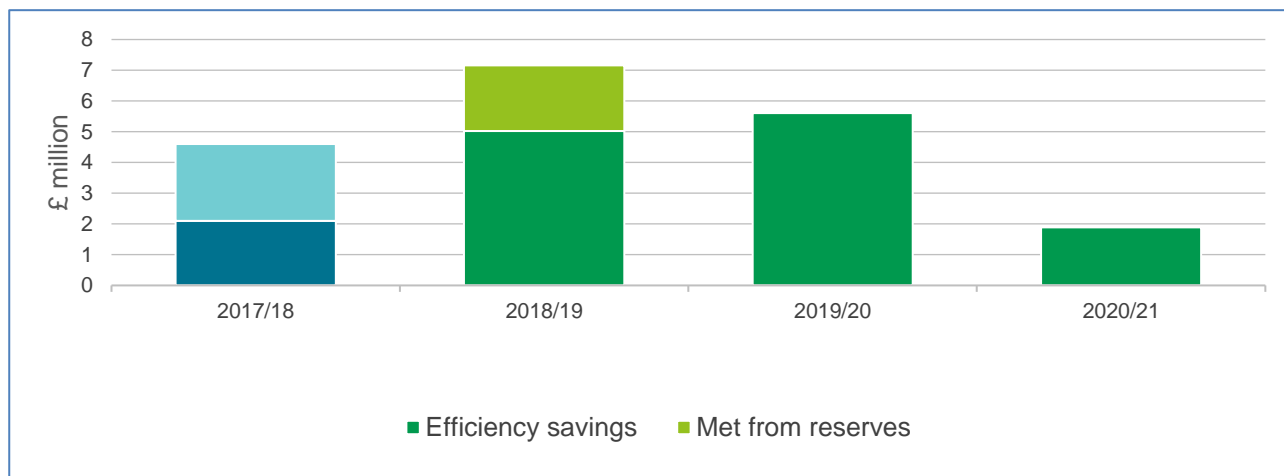
**77.** The Council is facing several challenges in maintaining a sustainable financial position in future. These include rising demands for services, increasing cost of services (pay and non-pay) and continued reductions in local government funding.

**78.** In December 2017, the council approved its first five-year financial strategy for 2018 to 2023. The strategy refers to the council's overarching aim of 'reducing inequalities within and across our communities' and the four themes of Growing our Economy, Growing our People, Growing our Communities and Growing our Capacity. The purpose of the strategy is to provide direction on how the council will manage its financial resources in order to deliver the Council Plan.

**79.** During the annual budget process, the council updated its projected funding gap assumptions for the three-year period from 2018/19 to 2020/21 and estimated that it faced a funding gap of £12.5 million for that period. The three-year budget approved in February 2018 included a package of measures to either reduce expenditure or increase income amounting to £12.5 million, enabling the council to set a balanced budget for the period from 2018/19 to 2020/21. The Council plans to bridge these gaps mostly by efficiency savings and the transfer of reserves from the general fund as illustrated in [Exhibit 6](#).

## Exhibit 6

### Identified funding gaps 2017/18 – 2020/21



Source: East Lothian Council

## New financial powers

**80.** Proposals have been made for changes to the Scottish Government's budget process, with these likely to be introduced for the 2019/20 budget. The Council considers Scottish Government budget issues within its annual Financial Prospects reports and when preparing its five-year financial strategy.

**81.** Overall, we concluded that the Council is facing a challenging situation in the short term. Rising costs, ending of the public sector pay cap combined with small increases in funding and dependency on efficiency savings will make it difficult to achieve financial balance.

**82.** The medium to longer term financial position is difficult to predict given the uncertainty around EU withdrawal and new financial powers and future funding settlements. The Council needs to consider and plan for these events and continue to develop its longer term financial plans based on scenario planning.

## Savings plans

**83.** As outlined above the Council achieved its efficiency savings target in 2017/18. The Council has identified that it needs to make efficiency savings of £12.5 million in the three-year period from 2018/19 to 2020/21 as part of its plans to maintain financial balance. To manage this effectively the Council needs to continue to prepare medium and long-term plans and closely monitor the delivery of its planned savings.

## Reserves

**84.** One of the key measures of the financial health of a local authority is the level of reserves held. The general fund is the largest usable reserve. This reserve is used to fund the delivery of services. It also provides a contingency fund to meet unexpected expenditure and a working balance to help cushion the impact of uneven cash flows.

**85.** The level of general fund reserves held by the Council decreased from £20.5 million in 2016/17 to £19 million in 2017/18 as illustrated in [Exhibit 7](#).

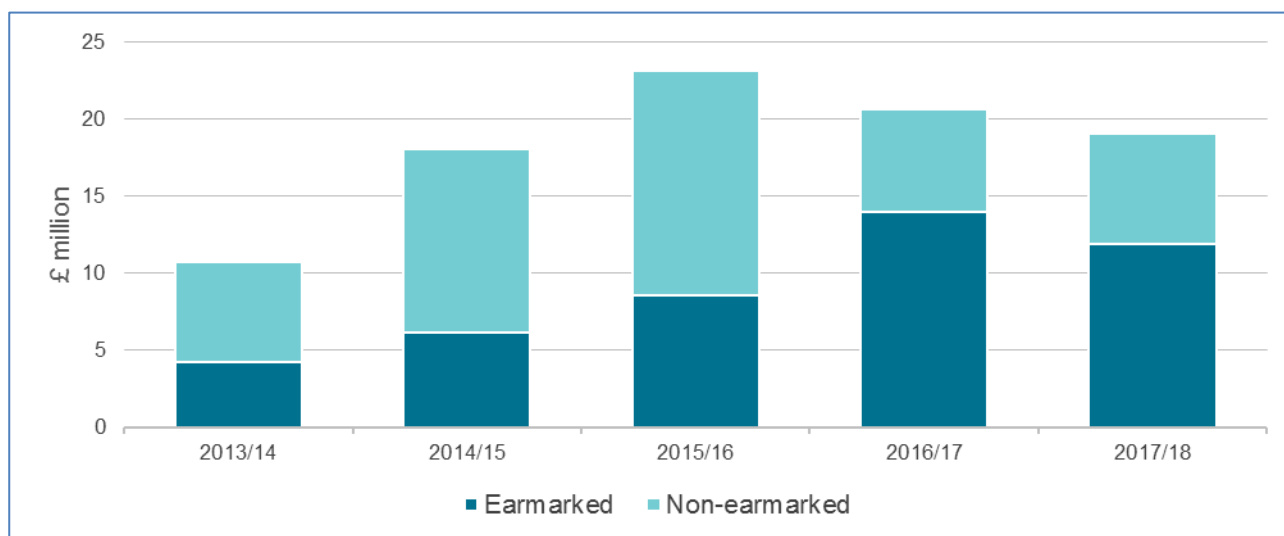
**86.** The Council was able to build up its general fund balance between 2013/14 and 2015/16. In the past two financial years it has made transfers from the general fund to help to balance its budgets. In 2017/18 it planned to use £2.5 million of reserves but actually only used £1.5 million therefore the year end position is slightly more favourable than planned. The Council plans to use a further £2.1 million of reserves to balance its budget in 2018/19 but no further use of reserves is planned in the following two financial years in line with the financial strategy.

**87.** The Council reviews the level of its uncommitted reserves when setting the budget each year. The 2018-23 financial strategy considers the level of reserves held in total and the amounts required for different purposes. It also recommends the need to establish a minimum level of uncommitted general fund reserve balances to help with any unforeseen or unquantifiable event. This level is to equate to 2 per cent of the council's annual running costs (about £4 million). The council currently meets this minimum at just under £4.3 million (taking into account the civil emergency fund and the general services capital fund).

**88.** [Exhibit 7](#) provides an analysis of the general fund over the last five years split between earmarked and non-earmarked reserves. This shows a slight reduction in reserves in the past two years as reserves have been used to maintain financial balance however the level of reserves held is still in line with the Council's policy.

## Exhibit 7

### Analysis of general fund over last five years



Source: End of year Financial Reviews (2014/15, 2015/16 and 2016/17) end of year reserves forecast 2017/18

## EU withdrawal

**89.** There remains significant uncertainty about the detailed implications of EU withdrawal (i.e. Brexit). It is critical that public sector bodies are working to understand, assess and prepare for the impact on their business in three broad areas:

- Workforce - the extent to which changes to migration and trade policies are likely to affect the availability of skilled and unskilled labour.
- Funding – the extent to which potential changes to funding flows are likely to affect the finances of the organisation and the activity that such funding supports.
- Regulation – the extent to which potential changes to regulation across a broad range of areas overseen at an EU level are likely to affect the activities of the organisation.

**90.** The Council has flagged the economic uncertainty in relation to Brexit as a challenge within its current Council Plan as follows: East Lothian's economy will also feel the impact of the decision to leave the EU. Key sectors of East Lothian's economy – farming, food and drink and tourism – and Edinburgh's financial and Higher Education sectors, which employ a significant proportion of East Lothian's population, could be negatively impacted by 'Brexit' through loss of EU subsidies, changes in trade agreements and negative changes in currency values. Work is still ongoing to identify the potential impact of any changes at the Council. The Council should ensure it closely monitors developments and has plans in place to mitigate any emerging operational risks.

# Part 4

## Governance and transparency



### Main Judgements

**The Council has appropriate governance arrangements in place that support the scrutiny of decisions made by the Council.**

**The Council is open and transparent in the way it conducts its business and the public can attend meetings of the Council and its standing committees.**

### Governance arrangements

**91.** We reviewed the Council's governance and accountability arrangements in 2017/18 as part of the annual audit planning and Best Value Audit Review. This included:

- confirming that the governance framework and governance arrangements, including decision-making and scrutiny, are regularly reviewed and updated to ensure they remain effective – we found these arrangements to be satisfactory.
- assessing the effectiveness of decision-making to ensure it is balanced by effective scrutiny and challenge by those independent of the body – we found sound processes in place surrounding decision making and effective scrutiny and challenge by Members during 2017/18.
- confirming that there is effective scrutiny and challenge in place over policy decisions, service performance, and programme management – we observed through committee attendance effective scrutiny and challenge however we did note that there is scope to improve the depth of challenge given.
- confirming that decision makers have the information they need to scrutinise, challenge and make transparent decisions – we found that decision makers were given appropriate information to make decisions.
- ensuring that it is clear what decisions have been made, who made them and the rationale supporting those decisions – we found that documentation over decisions and rationale was clear and available.

**92.** Overall we concluded that the Council's governance arrangements are appropriate and effective and support good governance and accountability.

### Transparency

**93.** Transparency means that the general public have access to understandable, relevant and timely information about how the Council is taking decisions and how it is using resources such as money, people and assets.

Governance and transparency is concerned with the effectiveness of scrutiny and governance arrangements, leadership and decision making and transparent reporting of financial and performance information.

**94.** There is evidence from several sources which demonstrate the Council's commitment to transparency. Members of the public can attend meetings of the full Council, Cabinet, Audit and Risk Committee as well as other committees. Minutes of these committee meetings and supporting papers are readily available on the Council's website.

**95.** The Council's website allows the public to access a wide range of information including the register of members' interests, current consultations and surveys and how to make a complaint. In addition, the website provides details of the citizen's panel and how to join it. The panel provides information and feedback on services as well as information on the needs of local communities.

**96.** The Council makes its annual accounts available on its website. These include a management commentary which provides details of performance against budget, information on the use of reserves and risks and uncertainties facing the Council.

**97.** Overall, we concluded that the Council conducts its business in an open and transparent manner.

## Internal audit

**98.** The Council's internal audit function is carried out by an in-house provider. Each year we consider whether we can rely on internal audit work to avoid duplication of effort. When we plan to place reliance on internal audit work we carry out an assessment of the internal audit function to ensure that it is sufficient in terms of documentations standards, reporting procedures and quality, and is performed in accordance with Public Sector Internal Audit Standards (PSIAS)

**99.** We reviewed the Council's internal audit arrangements in accordance International Standard on Auditing (UK) 610 (Using the Work of Internal Auditors) to determine the extent we could rely on the work of internal audit. Overall, we concluded that we would place reliance on aspects of internal audit work in the following areas – council tax and non-domestic rates (IT access controls) – for our financial statements responsibilities. The internal audit programme of work for 2017/18 was completed in line with their plans.

**100.** A formal external quality assessment (EQA) of internal audit's compliance with the PSIAS is required at least once every five years. An EQA was undertaken in 2018 by the chief internal auditor at Argyll and Bute Council. The report provided high level assurance on internal audit's compliance with PSIAS, meaning the overall internal control, governance and the management of risk were of a high standard. There were eight recommendations made in the report (two medium and six low priority) to help further strengthen overall PSIAS compliance.

**101.** We have reviewed these recommendations and in line with our own observations at Audit and Governance Committee and our review of internal audit reports, that internal audit reports would be strengthened by:

- Having an overall audit opinion in the summary report provided to members - this will help focus members' attention and scrutiny to those areas where there are more significant issues noted.
- Summarising the area tested including the population, samples tested, instances of failure, impact and overall value – this additional information will add value to the covering report.



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## Recommendation 4 (appendix 1, action plan ref. 2)

**Internal audit should provide an audit opinion for each area it audits as well as providing some further summarised contextual information to enable more focussed scrutiny of the areas audited.**

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### Management commentary, annual governance statement and remuneration report

**102.** The Code of Practice on Local Authority Accounting in the United Kingdom 2017/18 requires councils to prepare and publish, along with their financial statements, an annual governance statement, management commentary (or equivalent) and a remuneration report that are consistent with the disclosures made in the financial statements. The management commentary should be fair, balanced and understandable and clearly address the longer-term financial sustainability of the body.

**103.** Based on our knowledge and work performed, we concluded that the management commentary, annual governance statement and remuneration report are consistent with the financial statements.

### National Fraud Initiative

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

**105.** NFI activity is summarised in [Exhibit 8](#). We undertook a review of the Council's NFI activity in February 2018 and concluded that it was satisfactory. At that time the council had completed 477 investigations out of a total of 578 recommended matches. The Council has now completed 494 investigations. Internal Audit intend to undertake further work on the remaining matches as part of their 2018/19 audit plan.

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## Exhibit 8

### NFI activity



3152

Matches



578

Recommended for  
investigation



494

Completed/closed  
investigations

Source: NFI secure website: [www.nfi.gov.uk](http://www.nfi.gov.uk)

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**106.** The results of the Council's NFI activity were reported to the Audit and Governance Committee in February 2018 by Internal Audit. They reported that, of the 477 investigations completed at that time, they found that:

- In 363 cases, no fraud or errors were identified;

- In 109 cases, errors were identified in respect of blue badges and residents parking permits and in each case appropriate action was taken by the Council's Transportation section to either cancel the permit/badge or to update the system with the correct information;

**107.** In the remaining 5 cases, overpayments of £52,515 were identified, the main ones being:

- £5,513 related to payments which the Council had continued to make to a residential home after the resident's death. This amount has now been recovered from the residential home.
- £35,023 related to 2 duplicate payments (£24,533.18 and £10,490.24) made to the same contractor. The contractor has acknowledged both overpayments and the Council is currently in the process of recovering these amounts.
- £11,808 relates to a duplicate payment made to a separate contractor. The service area is currently liaising with the contractor to ensure recovery of the overpayment.

## Standards of conduct for prevention and detection of fraud and error

**108.** The Council has a range of established procedures for preventing and detecting fraud and irregularity including a whistleblowing policy, anti-fraud strategy and codes of conduct for members and officers. We assessed these at the planning stage of our audit to ensure that they were appropriate, readily available to staff and are regularly reviewed to ensure they remain relevant and current.

**109.** We concluded that the Council has appropriate arrangements in place for the prevention and detection of bribery and corruption. We are not aware of any specific issues we require to bring to your attention.

## Cyber security

**110.** The Scottish Government issued a Public Sector Action Plan on Cyber Resilience in November 2017 which requires all public sector bodies to carry out a review to ensure their cyber security arrangements are appropriate.

**111.** We reviewed the Council's arrangements to mitigate cybersecurity risks and confirmed that 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).

## General Data Protection Regulation

**112.** The new General Data Protection Regulation (GDPR) came into force on 25 May 2018. This replaced the UK Data Protection Act 1998. As a Regulation, all EU member states must implement it in the same way. GDPR sets out further requirements than the DPA and has introduced new and significantly changed data protection concepts.

**113.** GDPR introduces a wide range of new rights for individuals in respect of their personal data. These include the right to be forgotten, the right to object to certain processing activities and to decisions taken by automated processes. Failure to comply with new GDPR data handling arrangements could result in the Council incurring significant fines.

**114.** The Council revised and updated its Data Protection Policy in June 2018 to comply with the new GDPR.

**115.** Information security, data protection and records management awareness training forms part of the Council's induction process. This now incorporates a mandatory GDPR module which is supplemented by paper and person-to-person training. Data Protection, GDPR and information security awareness training is mandatory for all employees and must be renewed every two years. The Council's Data Protection Officer has developed a GDPR toolkit including templates, guidance and information to support GDPR compliance.

**116.** Overall, we concluded that the Council has taken appropriate steps to comply with GDPR.

## Integration of health and social care

**117.** The Scottish Government's 2020 vision places greater emphasis on enabling people to stay in their homes, or another homely setting, where possible, sharing their lives with their family and friends and doing the things that give life meaning and value. The integration of health and social care is a mechanism to achieve this.

**118.** The East Lothian Integration Joint Board (IJB) is provided in partnership with NHS Lothian and was established on 27 July 2015. It assumed responsibility for the delegated health and social care services set out in its Integration Scheme from 1 April 2016. The financial transactions of the East Lothian IJB have been consolidated into the Council's group accounts and we have audited these with satisfactory results.

**119.** The IJB broke even in 2017/18 but only with the additional funding support from the partners, which included £611,000 from the Council. The Council has indicated that in the event of future IJB overspends further financial support is not guaranteed. We have included recommendations in our Annual Audit Report to the IJB that the IJB needs to continue to engage with its partners to ensure that the partners' planned efficiencies for 2018/19 are identified, monitored and achieved in order to break-even. Partners have stated that the provision of additional funds to cover future overspends is not a sustainable position.

## Local scrutiny plan

**120.** The 2018/19 Local Scrutiny Plan (LSP) prepared by the Local Area Network (LAN) of scrutiny partners for the Council was submitted on 23 April 2018. It was presented to the Full Council on 26 June 2018. The LAN and Strategic Risk Assessment did not identify any new scrutiny risks in the year which would require specific scrutiny work during 2018/19. The Council will be subject to a range of nationally driven scrutiny activity as set out in the LSP.

**121.** The Community Empowerment Act 2015 gave local communities new powers to take control of and manage community assets. The Council has taken steps to engage with local communities and this has been subject to review in the 2017/18 BVAR due to be published in October 2018.

## Equal pay

**122.** There remain some 27,000 equal pay claims across Scotland however East Lothian Council has no new / live claims in 2017/18 with the last settlement being in 2015/16. Workers could potentially still make new claims against councils. This means that councils need to be confident that 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.

# Part 5

## Value for money



### Main judgements

**A best value audit was carried out during the year and will be formally reported to the Accounts Commission on 11 October 2018. A number of recommendations have been made and these will form part of our audit work in 2018/19.**

**It is important that there is alignment of objectives between the Council and Group components. We recommended that formal reporting and monitoring arrangements should be put in place for significant group components. This remains an area requiring further improvement.**

### Best value

**123.** Best value is assessed over the five-year audit appointment, as part of the annual audit work. A Best Value Assurance Report (BVAR) for each council will be considered by the Accounts Commission at least once in this five-year period. The BVAR report for East Lothian Council will be discussed by the Accounts Commission on 11 October 2018 with intended publication on 30 October 2018.

**124.** The findings in the report and the Council's response will be followed up and reported on as part of the 2018/19 annual audit.

### Following the public pound

**125.** Local authorities have a statutory responsibility to comply with the Accounts Commission / COSLA Code of Guidance on funding external bodies and following the public pound.

**126.** The Council's financial regulations contain a specific section on following the public pound. These emphasise that services must adhere to the Council's guidance for allocating funds to external organisations. The guidance applies where funding is provided, or transferred, to arms-length bodies such as companies, trusts, voluntary and community-based organisations.

**127.** In our 2016/17 annual audit report we recommended that formal reporting and monitoring arrangements should be put in place for significant group components (e.g. Enjoy East Lothian Ltd. and Musselburgh Joint Racing Committee) to ensure the Council is complying with the duties set out in the Code of Guidance on Funding External Bodies and Following the Public Pound.

**128.** During 2017/18 we noted the following from attendance at the Audit and Governance committee with respect to those two subsidiaries:

- Enjoy East Lothian Ltd – an update was provided in November 2017 by the general manager summarising the objectives, activities of the business and its operations. The report was useful and provided necessary context for effective scrutiny. Members welcomed the report. A commitment to

Value for money is concerned with using resources effectively and continually improving services.

providing an annual report to the committee was made, as well as circulating the audited accounts once approved by the Enjoy East Lothian Ltd. Board. However, despite this commitment, there have been no further reports during 2017/18 to the committee.

- Musselburgh Racing Associated Committee (formerly Musselburgh Joint Racing Committee) – during the year a mix of verbal updates and one paper (June 2018) were provided to the committee on the status of the organisation and future direction of travel. However, we did note that the outcome of the governance review of the racecourse was presented as a private paper to the full council in February 2018. We have noted that the newly formed Musselburgh Racing Associated Committee working group papers are now publicly available on the Council's website with papers being available from June 2018 onwards.

**129.** This remains an area still requiring further improvement and we have reiterated the recommendation made in our 2016/17 annual audit report. There is still a lack of evidence of any routine performance monitoring / reporting to Council committee for significant group components in a timely fashion on an annual basis.

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### **Recommendation 5 (appendix 1, action plan ref. 3)**

**Formal reporting and monitoring arrangements should be revisited, clarified and strengthened for the significant group components (e.g. Enjoy East Lothian Ltd. and Musselburgh Racing Associated Committee) to ensure the Council is complying with the duties set out in the Code of Guidance on Funding External Bodies and Following the Public Pound. This includes ensuring a report is brought to the Audit and Governance Committee at least once a year.**

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### **Governance arrangements for subsidiaries included in Group Accounts**

**130.** In line with the Code of Practice on Local Authority Accounting, the following organisations are defined as subsidiaries within East Lothian Council for the purposes of preparing group accounts:

- Musselburgh Racing Associated Committee (formerly Musselburgh Joint Racing Committee) whose purpose is to organise and develop horse racing at Musselburgh Links.
- East Lothian Land Ltd. – set up to manage land to support economic development in East Lothian.
- Common Good Funds – used to further the common good of the residents of the areas of the former Burghs of Dunbar, Haddington, Musselburgh and North Berwick
- 46 Trust funds with various purposes and objectives.

**131.** We found the Council's annual Group Boundary assessment to be satisfactory and that the above bodies met the definition of a subsidiary and have been appropriately included in the group accounts.

**132.** During the course of 2016/17 issues relating to the governance of the racecourse were brought to our attention and we reported this in our 2016/17 annual audit report. During 2017/18 significant progress has been made in this area with a newly formed Musselburgh Racing Associated Committee working group (MRAC). The MRAC working group will consider and recommend the best operating model for the future of the racecourse.

**133.** In June 2018, the deputy chief executive submitted a report to the Member's Library outlining the MRAC working group's recommendation that a third party operate the racecourse. In July 2018 a further paper was presented by the MRAC working group noting that the preferred option is that the long-term operation of Musselburgh Racecourse should be carried out by a third party operator. The Council will now commence the procurement process to appoint a third party to operate the racecourse. The racecourse's license is valid until December 2018. We will continue to monitor progress in this area.

## Overview of performance targets

**134.** The Council participates in the [Local Government Benchmarking Framework](#) (LGBF). The framework aims to bring together a wide range of information about how all Scottish Councils perform in delivering better services to local communities, including the cost of services and how satisfied citizens are with them.

**135.** The most recent [National Benchmarking Overview Report 2016/17](#) by the Improvement Service was published in February 2018 and covered the 2016/17 reporting period. This report was submitted to the Policy and Performance Review Committee on 20 June 2018. Overall the Council performed well in comparison to other councils with the majority of indicators (56%) falling within the top two quartiles. The committee report highlighted some specific areas where the Council had performed well or improved, including the number of business gateway start-ups and costs of planning/ trading standards sickness absence days per employee (non-teacher). The report highlighted some areas for further investigation including sickness absence days per teacher, average time per planning application and percentage of secondary pupils in S4 achieving 5 or more awards at level 5.

**136.** The Policy and Performance Review Committee receives regular performance reports throughout the year and an annual performance report. These reports monitor progress against the Council's key priorities. The Council uses red/amber/green ratings to show which indicators are below, near or on target. Based on the most recent report submitted to the committee in June 2018 several positives were highlighted including:

- 24 indicators are rated green, 4 amber and 14 red
- Average number of days to rehousing has reduced by 34.6% in quarter 4 to 349 days.
- Homelessness assessments completed in under 28 days improved from 72% in Q3 to 83% in Q4.
- Number of delayed discharge patients waiting more than 2 weeks has decreased in Q4 from 13 to 8

**137.** At the same time the Council recognises that it should improve service delivery in areas such as contact centre call response times. Performance will continue to be reviewed by the Policy and Performance Review Committee to assess progress.

## Statutory performance indicators (SPIs)

**138.** The Accounts Commission places great emphasis on councils' responsibility for public performance reporting. The Commission does not prescribe how councils should report this information but expects them to provide the public with fair, balanced and engaging performance information.

**139.** For 2017/18 two SPIs were prescribed:

- SPI 1: covering a range of information relating to areas of performance such as improving local public services, improving local outcomes, engaging with communities and achieving best value
- SPI 2: relates to the reporting of performance information as required by the Local Government Benchmarking Framework.

**140.** The Council's performance in relation to SPI 1 has been covered as part of our best value assurance report due to be presented to the Accounts Commission on 11 October. For SPI 2, we placed reliance on the work of internal audit and we have also commented on this in paragraphs 134-137. Overall we found this to be satisfactory.

### National performance audit reports

**141.** Audit Scotland carries out a national performance audit programme on behalf of the Accounts Commission and the Auditor General for Scotland. During 2017/18 Audit Scotland published a number of reports were issued which are of direct interest to the Council. These are outlined in [Appendix 4](#).

**142.** We found from attendance and observation at Full Council meetings as well as the Audit and Governance committee that the Council's arrangements for considering national reports is appropriate. A covering paper is prepared by the appropriate officer summarising the national report providing important contextual background for the Council to be aware of. The covering paper sets out the actions/recommendations for the Committee to take as result of the report. Normally these refer the officers and members to consider the recommendations in the national report.

**143.** The covering paper for the latest national report presented to the Audit and Governance Committee on 12 June 2018 [Local Government in Scotland: Challenges and Performance 2018](#), recommended that the Committee should use the recommendations in the Accounts Commission report and the questions it poses for elected members to identify any further information or scrutiny activity it would wish to have reported back to future meetings of the Audit and Governance committee.



# Appendix 1

## Action plan 2017/18

### 2017/18 recommendations for improvement



No.	Issue/risk	Recommendation	Agreed management action/timing
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### Recommendations brought forward from 2016/17 still requiring action

<b>b/f 1</b>	<p><b>Dr Bruce Fund</b></p> <p>The trust's accounts were not advertised in line with the requirements under Regulation 9 of the Local Authority Accounts (Scotland) Regulations 2014 issued under section 105 of the 1973 Act.</p> <p>The unaudited accounts were not signed on behalf of the trustees.</p> <p><b>Risk</b></p> <p>There is a risk of non-compliance with statute/legislation.</p>	<p>The unaudited accounts should be advertised in line with the Regulations.</p> <p>The unaudited accounts should be signed on behalf of the trustees prior to submitting for audit.</p> <p><a href="#">Paragraph 21</a></p>	<p>Agreed - formal arrangements have now been put in place to ensure that advertising and signing is incorporated within the Council's planning timelines for 2018/19</p> <p>Service Manager – Business Finance</p> <p>June 2019</p>
<b>b/f 2</b>	<p><b>Dr Bruce Fund</b></p> <p>The Dr Bruce Fund was set up to provide relief for the poor of Musselburgh. One of the risks identified for managing this is the financial demands placed on those funds. In 2016/17 there was a net movement in funds of £6,800, of which £3,291 was income received. In the same period only £50 was disbursed.</p> <p><b>Risk</b></p> <p>The fund may not be operating the way in which it was intended i.e. providing relief for the poor of Musselburgh.</p>	<p>The Council should review the method(s) used to promote this (and other) charitable trusts to ensure that the potential availability of these funds are known to the wider community.</p> <p><a href="#">Paragraph 20</a></p>	<p>A project group has been established to review the Trusts and Common Good Funds, and this will be considered as part of that review.</p> <p>Service Manager – Licensing &amp; Democratic Services &amp; Service Manager – Business Finance</p> <p>June 2019</p>
<b>b/f 3</b>	<p><b>Trust Funds</b></p> <p>Of the 46 trusts being administered by the Council, only 16 were actively used, i.e. incurred expenditure or earned income, in 2016/17.</p>	<p>The Council should ensure that the trusts it administers are promoted more widely amongst the public, and the trust objectives clarified legally to help facilitate their use. An exercise should also</p>	<p>A project group has been established to review the Trusts and Common Good Funds, and this will be considered as part of that review.</p>





No.	Issue/risk	Recommendation	Agreed management action/timing
	<p><b>Risk</b></p> <p>There is a risk that trust funds held could become dormant due to lack of use and lack of wider knowledge in the community as to their existence.</p>	<p>be undertaken by the Council to consider whether any trusts could be consolidated.</p> <p><a href="#">Paragraph 20</a></p>	<p>Service Manager – Licensing &amp; Democratic Services &amp; Service Manager – Business Finance</p> <p>June 2019</p>

## 2017/18 recommendations

1	<p><b>Group accounts</b></p> <p>The 2017/18 group accounts were prepared using the unaudited accounts of the subsidiaries and associates. Audited accounts have recently been received for two of the six group components. Audited accounts have not yet been received for the remaining group entities (Lothian Valuation Joint Board, Enjoy East Lothian Limited, Musselburgh Joint Racing Committee and Brunton Theatre Trust) until recently.</p> <p><b>Risk</b></p> <p>There is a risk that the group accounts are not up to date and based on complete and audited information. Further delays could impact on the statutory deadline for the Council's accounts.</p>	<p>The Council needs to work with the various subsidiaries and associates to plan and agree a suitable timetable for receipt of audited accounts for the group components.</p> <p><a href="#">Paragraphs 24 -26</a></p>	<p>All Group components were made aware of the appropriate timelines for submission of group accounts, and all signed audited accounts have been incorporated within the final signed accounts. We will continue to work with Group components during the planning for 2018/19 to ensure that audited accounts are available within appropriate timescales.</p> <p>Service Manager – Business Finance</p> <p>Implemented for 2018/19 accounts</p>
2	<p><b>Internal audit</b></p> <p>From observation and attendance at Audit and Governance committees internal audit reports would be strengthened by having an overall audit opinion and, a high level summary of key information in the summary reports provided to members.</p> <p><b>Risk</b></p> <p>There is a risk that unnecessary time is spent focussing on every report instead of ones that have the most impact or those requiring more significant actions to be addressed by officers.</p>	<p>Internal audit should provide an audit opinion for each area it audits as well as providing some further summarised contextual information to enable more focussed scrutiny of the areas audited.</p> <p><a href="#">Paragraph 101</a></p>	<p>The External Quality Assessment report issued in May 2018 recommended that an overall audit opinion should be provided in the final audit report - this has been implemented.</p> <p>Internal Audit Manager</p> <p>Date – in place</p>



No.	Issue/risk	Recommendation	Agreed management action/timing
3	<p><b>Following the public pound</b></p> <p>There have been limited reports presented to the Audit and Governance Committee during 2017/18 (as well as 2016/17) for significant group components and we cannot find evidence of any routine performance monitoring/ reporting to the Council committees in this area.</p>	<p>Formal reporting and monitoring arrangements should be revisited, clarified and strengthened for significant group components (e.g. Enjoy East Lothian Ltd. and Musselburgh Racing Associated Committee) to ensure the Council is complying with the duties set out in the Code of Guidance on Funding External Bodies and Following the Public Pound.</p> <p>A report should be provided to the Audit and Governance committee at least once a year to update member on these significant group components.</p>	<p>Work has progressed during 2017/18 to incorporate more formal reporting arrangements for Group entities, and this requirement will continue to be embedded in future A&amp;G Committee workplan</p> <p>Head of Council Resources</p> <p>During 2018/19 financial year</p>
<p><a href="#">Paragraphs 128-129</a></p>			

# Appendix 2

## Significant audit risks identified during planning

The table below sets out the audit risks we identified during our planning of the audit and how we addressed each risk in arriving at our conclusion. The risks are categorised between those where there is a risk of material misstatement in the annual accounts and those relating our wider responsibility under the [Code of Audit Practice 2016](#).

Audit risk	Assurance procedure	Results and conclusions
<b>Risks of material misstatement in the financial statements</b>		
<p><b>1 Management override of controls (example)</b></p> <p>ISA 240 requires that audit work is planned to consider the risk of fraud which is presumed to be a significant risk in any audit. This includes consideration of the risk of management override of controls in order to change the position disclosed in the financial statements.</p>	<p>Detailed testing of journal entries.</p> <p>Review of accounting estimates.</p> <p>Focused testing of accruals and prepayments.</p> <p>Evaluation of significant transactions that are outside the normal course of business.</p>	<p>Satisfactory – we found no evidence of management override of controls during our normal audit procedures.</p>
<p><b>2 Risk of fraud over income</b></p> <p>ELC receives a significant amount of income in addition to Scottish Government funding. The extent and complexity of income means that, in accordance with ISA 240, there is an inherent risk of fraud.</p>	<p>Analytical procedures on income streams.</p> <p>Detailed testing of revenue transactions focusing on the areas of greatest risk.</p>	<p>Satisfactory – we found no evidence of this during our normal audit procedures.</p>
<p><b>3 Risk of fraud over expenditure</b></p> <p>Most public sector bodies are net expenditure bodies and therefore the risk of fraud is more likely to occur in expenditure.</p>	<p>Reviews work on the National Fraud Initiative matches.</p> <p>Assess high level key controls in areas of significant expenditure.</p> <p>Focused substantive testing of expenditure and housing benefit transactions.</p>	<p>Satisfactory – we found no evidence of fraud during our audit work.</p>
<p><b>4 Estimation and judgements</b></p> <p>There is a significant degree of subjectivity in the measurement and valuation of the material account areas such as non-current assets and provisions. This subjectivity represents an</p>	<p>Completion of 'review of the work of an expert' in accordance with ISA 500 for the professional valuer.</p> <p>Focused substantive testing of asset valuations and asset useful lives.</p>	<p>Satisfactory – we found the estimates and judgements (where applied) where appropriate.</p>

Audit risk	Assurance procedure	Results and conclusions
increased risk of misstatement in the financial statements.	Focused substantive testing of provisions.	
<p><b>5 Rent arrears</b></p> <p>The Council's risk register (at November 2017) includes a high residual risk in relation to Welfare Reform and the rollout of Universal Credit (UC). It notes that rent arrears for UC claimants are increasing with 82% of ELC tenants claiming UC now in arrears.</p> <p>There is a risk that debtors could be overstated if the provision for doubtful debts is not adequate in light of rising rent arrears. There is an increased risk to the overall delivery of services in line with the Council's strategic objectives.</p>	Monitor rent arrears levels and provision for doubtful debts.	Satisfactory – Housing rent debtors and bad debt provision have both increased by less than 1% compared to the previous year.

### Risks identified from the auditor's wider responsibility under the Code of Audit Practice

<p><b>5 Financial sustainability</b></p> <p>ELC's 2018-19 to 2022-23 Financial Strategy recognises that it faces significant financial challenges resulting from the expected reduction in grant funding and a rapidly expanding population.</p> <p>Current approved spending plans require the delivery of over £9 million of additional efficiencies between 2017-18 and 2019-20.</p> <p>The total estimated level of revenue savings required over the next 5 years in addition to the current planned savings has been calculated based on a number of different scenarios and ranges from £12.4 million to £39 million.</p> <p>The Council recognises that the scale of the further savings required over the coming years presents a significant challenge.</p>	<p>Review the Council's change / transformation plans as part of the Best Value Audit Review.</p> <p>Assessing the robustness of the Council's transformation plans and other items supporting longer term plans.</p>	<p>Delivering the transformation programme will be challenging alongside increasing demands on services from a growing population. The council should ensure it reviews its transformation programme to ensure it can deliver any changes within the timescale and prioritise the projects that are most likely to result in major change and opportunities for savings. Audit Scotland will continue to monitor the delivery of this programme in future years.</p>
<p><b>6 Financial management</b></p> <p>The Quarter 2 financial report for 2017/18 identifies two services areas (Adult Wellbeing and Children's Wellbeing) as</p>	<p>Review of financial monitoring reports and the Council's financial position.</p>	<p>The end of year financial review reported that Adult Wellbeing and Children's Wellbeing both overspent against budget for 2017/18 however this was offset</p>

Audit risk	Assurance procedure	Results and conclusions
<p>high risk of not operating within approved budgets. Both service areas had difficulty operating within budget and required additional funding in the last financial year.</p> <p>There is a risk that the Council will not achieve a balanced year end position and also of future budget overspends if a sustainable budget is not developed timeously.</p>		<p>by underspends in other services and additional income and overall the Council reported a small underspend. Audit Scotland will continue to monitor the Council's financial position in future years.</p>
<p><b>7 Following the Public Pound</b></p> <p>In our 2016/17 Annual Audit Report, we reported that no reports were presented to the Audit and Governance Committee during 2016/17 regarding Enjoy East Lothian Ltd. or the other significant Group components and we could not find evidence of any routine performance monitoring / reporting to Council committees in this area. Formal reporting and monitoring arrangements should be put in place for significant Group components.</p> <p>There remains a risk that the Council is not complying with the duties set out in the Code of Guidance on Funding External Bodies and Following the Public Pound ensuring they are holding the various group components to account.</p>	<p>Attendance / observation of relevant Committee(s).</p> <p>Review of arrangements put in place by the Council in response to 2016/17 recommendation.</p>	<p>Limited progress - Reports were presented to the Audit and Governance committee on Enjoy East Lothian Ltd. (November 2017) East Lothian Land Limited (February 2018) and East Lothian Investments Limited (June 2018). An update report on Musselburgh Racecourse was also presented in June 2018.</p> <p>This remains an area requiring further improvement and we have brought forward the recommendation made in our 2016/17 annual audit report.</p> <p>Audit Scotland will continue to monitor the Council's reporting to elected members in relation to group components.</p>

# Appendix 3

## Summary of uncorrected misstatements

**We report all uncorrected misstatements that are individually greater than our reporting threshold of £38,000.**

The table below summarises uncorrected misstatements that were noted during our audit testing and were not corrected in the financial statements. Cumulatively these errors are below our performance materiality level as explained in [Exhibit 3](#). We are satisfied that these errors do not have a material impact on the financial statements.












No.	Account areas	Comprehensive income and expenditure statement		Balance sheet		Movement in Reserves Statement
		Dr £000	Cr £000	Dr £000	Cr £000	
1	Over-accrual of capital invoice			69	69	
<b>Net impact</b>				<b>69</b>	<b>69</b>	

Notes:

Entry 1 relates an over-accrual of a capital invoice which led to non current asset additions and creditors being overstated

# Appendix 4

## Summary of national performance reports 2017/18

		 <b>2017/18 Reports</b>	
		Apr	
		May	
Common Agricultural Policy Futures programme: further update		<b>Jun</b>	 Scotland's colleges 2017
		Jul	 NHS workforce planning
Self-directed support: 2017 progress report		<b>Aug</b>	
Equal pay in Scottish councils		<b>Sept</b>	
Transport Scotland's ferry services		<b>Oct</b>	 NHS in Scotland 2017
Local government in Scotland: Financial overview 2016/17		<b>Nov</b>	
		Dec	
		Jan	
Early learning and childcare		<b>Feb</b>	
Managing the implementation of the Scotland Acts		<b>Mar</b>	

### Local government relevant reports

[Principles for a digital future](#) – May 2017

[Self-directed support: 2017 progress report](#) – August 2017

[Equal pay in Scottish councils](#) – September 2017

[Local government in Scotland: Financial overview 2016/17](#) – November 2017

# East Lothian Council

## 2017/18 Annual Audit Report

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**REPORT TO:** Audit and Governance Committee

**MEETING DATE:** 25 September 2018

**BY:** Depute Chief Executive (Resources & People Services)

**SUBJECT:** Annual Accounts 2017-18

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**5**

## **1 PURPOSE**

- 1.1 To provide the Committee with an update on the main changes arising during the audit of the draft financial statements 2017-18, and to ask the Committee to approve the now audited accounts for 2017-18.

## **2 RECOMMENDATIONS**

- 2.1 The Committee is asked to:
- Note the main changes arising during the course of the audit; and
  - Approve the 2017-18 audited accounts for the Council and its group components.

## **3 BACKGROUND**

- 3.1 The Council's draft financial accounts for 2017-18 were considered by Council on 26 June 2018, and formally submitted to Audit Scotland prior to the statutory deadline of 30 June 2018. The audit commenced early July 2018 and was completed mid-September.
- 3.2 In accordance with statutory requirements, the draft accounts were made available for public inspection for a 3 week period commencing 1 July 2018. No objections were received during this period.
- 3.3 East Lothian Council's statutory accounts include the financial results for both the Council and its group components. The audited financial accounts are set out in Appendix 1, and include an independent audit opinion on the financial statements, and as also highlighted in the auditor's

draft annual audit report, I am pleased to report that an unqualified audit opinion has been presented signalling that the financial statements presented represent:

- A true and fair view of the affairs of the Council and the wider Group;
- Have been properly prepared in accordance with respective accounting standards.

3.4 In addition to the Council's financial statements, Audit Scotland also provide an audit opinion of the Dr Bruce Trust which is administered by the Council. The final audited accounts are included within Appendix 2, of this report for Members information, and an unqualified audit opinion has been issued.

3.5 Members of Audit & Governance Committee should be aware that whilst the accounts which are laid before them are complete, there may remain a few minor presentational changes which are still to be made prior to formal signing and submission to Audit Scotland, none of which will impact on the substance and figures which are presented for approval with this report.

#### **Main changes to Unaudited Financial Position**

3.6 During the course of the audit there were a number of proposed changes to the accounts, none of which remain outstanding. The most significant of these related to changes in the Pension results which we receive from Lothian Pension Fund, in particular relating to the value of pension assets. Updated pension valuation results were requested which resulted in an overall increase in pensions assets by £9.3 million, and a corresponding decrease in pension liabilities from the previous draft position of £142 million to £133 million. The issue has largely arisen due to timing differentials between the information which Pension Fund submit to actuaries to prepare reports which are used for accounting pension calculation (IAS 19), against the position which actually prevails as at end of March 2018. This issue is not unique to Lothian Pension Fund, and has affected a wide number of Scottish Local Government Pension Funds and their related employers.

3.7 Whilst overall there have been a number of presentational issues to the draft accounts, the key results which were presented to Council in June 2018 have been maintained and there has been no impact on the useable reserves position which remains at £24.431 million (General Fund including Insurance Fund - £19.036 million and HRA £5.395 million).

3.8 In line with statutory guidance, following approval of the annual accounts by those charged with governance, the 2017-18 accounts will be formally signed by the Council (Chief Executive, Council Leader and Chief Finance Officer) as well as Audit Scotland prior to the statutory deadline of 30 September 2018, and will be placed on the Council's website.

#### **4 POLICY IMPLICATIONS**

4.1 There are no direct policy implications associated with this report.

#### **5 INTEGRATED IMPACT ASSESSMENT**

5.1 The subject of this report has been considered and given there is no change in policy direction, there is no requirement to undertake any further impact assessment.

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial – as described above

6.2 Personnel - none

6.3 Other – none

#### **7 BACKGROUND PAPERS**

7.1 Council 26 June 2018 – Item 3 – 2017-18 End of Year Financial Review

<b>Author's Name</b>	Jim Lamond
<b>DESIGNATION</b>	Head of Council Resources
<b>CONTACT INFO</b>	jlamond@eastlothian.gov.uk
<b>DATE</b>	18 September 2018



**REPORT TO:** Audit and Governance Committee  
**MEETING DATE:** 25 September 2018  
**BY:** Chief Executive  
**SUBJECT:** Corporate Risk Register

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**6**

## **1 PURPOSE**

- 1.1 To present to the Audit and Governance Committee the Corporate Risk Register (Appendix 1) for discussion, comment and noting.

The Corporate 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 Corporate Risk Working Group (RWG).

## **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Audit and Governance Committee notes the Corporate Risk Register and in doing so, 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 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.

## **3 BACKGROUND**

- 3.1 The Risk Register has been compiled by the Corporate RWG on behalf of and in consultation with Council Management Team. All risks have been evaluated using the standard (5x5) risk matrix (Appendix 2) 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 Corporate Risk Register includes 8 High risks, 9 Medium risks and 2 Low Risks.

## **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 Corporate Risk Management 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 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 None.

Appendix 1 – Corporate Risk register

Appendix 2 – Risk Matrix

<b>AUTHOR'S NAME</b>	Scott Kennedy
<b>DESIGNATION</b>	Emergency Planning, Risk and Resilience Officer
<b>CONTACT INFO</b>	<a href="mailto:skennedy@eastlothian.gov.uk">skennedy@eastlothian.gov.uk</a> 01620 827900
<b>DATE</b>	13 September 2018





# East Lothian Council Corporate Risk Register (V25: 13<sup>th</sup> September 2018)

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency	Evidence held of Regular Review
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			L	I	L x I		L	I	L x I			
ELC CR 1	<p><b>Managing the Financial Environment</b></p> <p>The Council may not be able to manage its obligations within the resources available.</p> <p>Reducing funding levels, increasing demand and short term funding means that the Council is having to ensure that it remains financially resilient and services can be delivered sustainably.</p> <p>The Council is managing a multitude of pressures, and if these are not successfully planned for and managed effectively over the medium to longer term (i.e. the next 3 and possibly up to 7 years), there would be a serious risk of unplanned / reactive budget realignments with significant adverse impact on availability and quality of both front-line services and required investment in the Council's infrastructure and asset base.</p> <p>Over the medium term it is highly likely that the Council's income will, at best, remain static and may even reduce. At the same time it will have specific cost and demand pressures to deal with. These include:</p> <ol style="list-style-type: none"> <li>(1) Supporting the resource requirements associated with the delivery of the growth agenda resulting from the Local Development Plan;</li> <li>(2) Associated demographic change and social-economic pressures;;</li> <li>(3) Growing inflationary pressures and contractual commitments including pay and pensions;</li> </ol> <p>Potential financial costs associated with a wide range of new obligations / legislative changes</p>	<p>The Council has well developed medium term financial planning arrangements. These include:</p> <ul style="list-style-type: none"> <li>• Five year financial strategy;</li> <li>• Three year General Services revenue budgets;</li> <li>• Five year General Services capital plan budgets;</li> <li>• Five year Housing Revenue Account revenue and capital budgets.</li> </ul> <p>In addition, it has an enhanced range of cost control and financial management arrangements for managing in year budget performance and delivery of planned efficiencies. This includes monthly management information to CMT and management and quarterly financial information to Council. This provides mitigating controls in terms of the immediate financial risk and pressures the Council is faced with.</p> <p>There continues to remain significant uncertainty in terms of the longer term financial projections for the public sector with the expectation that the current austerity measures will remain in place for the foreseeable future. The current financial strategy covers the medium term planning period of the next 5 financial years and more recently has been informed through greater alignment with the Local Development Plan and by a range of scenario based planning assumptions. The Financial Strategy also contains an enhanced reserves strategy which sets out the current level of reserves and associated commitments, including a requirement to maintain a minimum level of uncommitted reserves to support any unforeseen event.</p> <p>The Budget Review Group continues to monitor and oversee control actions regarding the budget.</p> <p>Continue to closely monitor information arising from both UK and Scottish Financial settlements through intelligence gathered from COSLA, professional bodies such as CIPFA Directors of Finance and also credible professional commentators.</p>	4	4	16	<p>Enhanced in year monitoring and review of expenditure commitments against approved budgets.</p> <p>Continued development of budget proposals to ensure that the Council can continue to deliver its obligations within financial resources.</p> <p>Continued development of longer term scenario based financial planning to inform future decisions and longer term financial strategies.</p> <p>Continued scrutiny and challenge of longer term efficiency measures to ensure they can be delivered and achieved within agreed timescales.</p> <p>Continued development of longer term financial plans for both capital, revenue and HRA.</p> <p>Development of a Capital Strategy which sets the high level overview of capital expenditure financing, treasury management activities, service delivery and the management of associated risk to ensure future financial sustainability.</p> <p>Exploring new options for enhanced commercial opportunities within the organisation to maximise income generation for the Council. Ensure the financial strategy sets a clear financial framework for the Council to operate within and that it is appropriately implemented and monitored.</p> <p>Prepare a new Capital Strategy in accordance with the requirements of the CIPFA Prudential Code. – apply owner and timescale (April 2019)</p> <p>Ensure the delivery of the workforce development plan.</p> <p>The Chief Executive along with the Depute Chief Executives has established a transformation board to oversee delivery of a transformational programme of strategic change projects to improve services and secure planned efficiencies.</p>	3	4	12	<p>Chief Executive</p> <p>Depute Chief Executive – Resources and People Services</p> <p>Depute Chief Executive – Partnerships and Community Services</p> <p>Head of Council Resources</p> <p>Council Management Team</p>	<p>Action ongoing and continuous review.</p> <p>Monitoring arrangements will continue to be applied.</p>	<p>Risk reviewed by Head of Council Resources and Service Managers - Finance (August 2018) with no change to assessment of scores.</p> <p>Risk reviewed by Head of Council Resources and Service Managers - Finance May 2017 with Current Score reduced from 20 to 16.</p> <p>Risk reviewed by Head of Council Resources and Service Manager Business Finance May 2016 with no change to assessment of current scores.</p> <p>Risk reviewed by CMT in May 2014 and current score increased from 15 to 20.</p>

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ELC CR 2	<p><b>Welfare Reform</b></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 23<sup>rd</sup> March 2016 has seen a significant number of households migrate from legacy benefits to UC.</p> <p>The main risks/issues associated with the UC rollout include:</p> <ul style="list-style-type: none"> <li>A wider range of people in scope for claiming UC &amp; higher volume of cases as a consequence</li> <li>Additional demand for (SWF) Crisis Grants. (Risk of overspend)% increase in current tenant rent arrears</li> <li>An increased risk of lowered take up of Council Tax Reduction and increased arrears</li> <li>Increased risk of DWP Admin Subsidy reduction</li> <li>Temporary Accommodation management charges not being covered by UC Housing Costs.</li> <li>Increased demand for Discretionary Housing Payments, (DHP) risk of funding gap.</li> </ul> <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 Castle Rock HA Personal Budgeting Support, (PBS) for East Lothian UC claimants is being withdrawn.</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. This has resulted in senior DWP Officers attending PPRC Committee meeting to account for UCFS impact on Council performance.</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 &amp; DHP expenditure.</p> <p>Revenues &amp; 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>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>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 the new Scottish Social Security Agency in relation to development of devolved and 'localised' welfare provision/administration.</p> <p>Additional £100k was allocated in the Administration budget 2017/18 to help mitigate the impact of UC on rent arrears.</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 officers have provided further reports/briefings to the Council's PPRC Committee, (Universal Credit/Rent Collection).</p> <p>The Council's Welfare Rights team helps to secure unclaimed welfare benefit money for people who cannot do this themselves and who are often in desperate need of help (£3.7m in 2017/18). The team also works in partnership with Macmillan Cancer Support to provide welfare advice and support to people and families affected by cancer (this project alone secured income gains of over £1.1m for clients in 2017/18). The Council also provides funding of £526k p.a. to the East Lothian Advice Consortium (Haddington and Musselburgh CAB and Carers of East Lothian) to provide free, impartial, confidential advice (including advocacy and representation) to all residents of East Lothian. Both the Council's Welfare Rights team and the partners in the Consortium are involved in delivering the Council recommendations within the Poverty Commission Action Plan.</p>	4	4	16	<p>Council services will continue to work with the UC Project Team in respect of timescales for the 'Managed Migration' phase rollout of UCFS.</p> <p>Council Services will continue to explore the potential for increased automation of UC Change of Circumstances notifications, (LCTRs).</p> <p>Increased 'Universal Support' funding will be used to fund an additional Welfare Rights post to provide a Personal Budgeting Support, (PBS) capability for new/recent UC claimants.</p> <p>1.6 FTE Financial Inclusion positions will be funded within the Welfare Rights team to carry out campaign work to help Council tenants prepare for UC managed migration (existing HB claimants). This work will help safeguard the Council's rental income.</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 &amp; staff will continue to engage with other LAs, JCP/DWP, CoSLA and Scottish Government at a range of levels.</p>	3	4	12	<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>July 2019</p> <p>March 2019</p> <p>September 2018</p> <p>September 2018</p> <p>Scottish Social Security Agency rollout, (various dates, complete by 2021)</p> <p>Ongoing through current financial year (ending 31 March 2019)</p>	<p>Risk reviewed by Board of Directors August 2018 and Assessment of Residual Scores reduced from 20 and 16 to 16 and 12.</p> <p>Risk refreshed by Service Managers – Benefits &amp; Financial Assessments and Revenues &amp; Welfare Support July 2018 with no change to assessment of current scores.</p> <p>Risk refreshed by Service Managers – Benefits &amp; Financial Assessments and Revenues &amp; Welfare Support July 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.</p> <p>Risk refreshed by Service Managers – Revenues &amp; Benefits March 2016 with both current and planned scored increased to 16 due to current uncertainty.</p>

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ELC CR 3	<p><b>Information Security and Data Protection</b></p> <p><b>Information Security</b> Failure to have comprehensive council wide Information Security Management (ISM) measures in place will put at risk the availability, integrity and confidentiality of the councils information and may cause a Council wide failure of central I.T. systems (incl. Telephony) caused by a malicious attack by hackers, virus, trojan, disclosure of information or Fire/Flood event.</p> <p>Attacks via spam emails containing infected ransomware attachments are on the increase amongst local authorities and should these emails manage to break through Firewalls and Intrusion Detection Systems there is a high possibility of file encryption at both a local and network wide levels.</p> <p>The Cabinet Office has introduced zero tolerance for all LA's connected to the Public Sector Network (PSN). All Scottish LA's use the PSN to register Births, Marriages &amp; Deaths and connection to DWP for benefit provision. We have to re-accredit to this network every year and must meet stringent requirements. Failure to do so would mean disconnection from the PSN.</p> <p>In 2017 the Scottish Government introduced the Cyber - Public Sector Action Plan which sets out the minimum security standards for all public bodies</p> <p><b>Data Protection</b> In May 2018 the UK Government introduced the Data Protection (DP) Act 2018. The 2018 Act updates DP legislation to take account of recent technological innovations and increases the Council's obligations to demonstrate and maintain compliance, as well as enhancing individual rights.</p> <p>Review arrangements for handling subject access requests as we anticipate a rise in the number we receive due to the removal of the £10 fee chargeable under the previous DP Act 1998. Additionally the timescale for responding to these requests will reduce from 40 days to 1 calendar month.</p> <p>Breach of the Data Protection Act/GDPR, other confidentiality requirements, any relevant laws or duty of care through the loss or wrongful transmission of information (including information stored electronically) could result in - harm to individuals; - legal action; - fines of up to 20 million euros; - requirement to pay compensation; - adverse publicity; - damage to reputation</p> <p>GDPR will also introduce a mandatory 72 hour window in which to report relevant breaches to the Information Commissioners Office.</p>	<p><b>Information Security</b> The Council uses the international standard ISO 27001:2017 as the framework for its ISM system. This includes objectives, policy framework, internal audit, management support and treatment, training and awareness, risk assessment, measurement of effectiveness, management review, non-conformity management and continual improvement.</p> <p>As part of the security controls required by the standard to mitigate risks, several control areas are set out : IS policy; IS organisation; Human resources security; Asset management; Access controls and managing user access; Physical &amp; Environmental security of all sites/equipment, Secure communications, Data handling and Data Protection (including paper documents); Secure acquisition, development, and support of information systems; Security for suppliers and third parties; Information Security Incident management; Business continuity/disaster recovery (to the extent that it affects information security);</p> <p>Annual IT health checks on the existing infrastructure. New systems introduced are risk assessed and security checked to ensure they meet the criteria.</p> <p>There is a Council Information Governance and Security (IGS) Forum co-hosted by the IT Team Manager – Infrastructure and Security and the Team Manager – Information Governance / Data Protection.</p> <p><b>Data Protection</b> Compliance – The Council takes measures to avoid breaches of law, statutory, regulatory or contractual obligations (including the DP Act 2018, GDPR and Public Records (Scotland) Act 2011). There is a Council Information Governance and Security (IGS) Forum co-hosted by the IT Team Manager – Infrastructure and Security and the Team Manager – Information Governance / Data Protection Officer. The Forum is attended by a network of Information Champions nominated by each Service Manager. This Forum will be used to upskill the Champions in order that they can review and improve practices in their own service areas.</p> <p>The role of Data Protection Officer is a statutory role which the Council filled in March 2018. The Council also now has a dedicated Data Protection inbox.</p> <p>IS, DP and Records Management Awareness training now forms part of our induction process. This now incorporates a mandatory GDPR module which is supplemented by paper and person-to-person training. Data Protection, GDPR and IS awareness training is mandatory for all employees and must be renewed every two years. The Data Protection Officer has developed a GDPR toolkit including templates, guidance and information to support Corporate GDPR compliance. The Toolkit will be updated and maintained on a continuous basis.</p> <p>The Council's Records Management Plan covers how the Council manages its records and includes links to</p>	4	4	16	<p><b>Information Security</b> Upgrade of external facing systems taking place during 2019 to increase security of our internet facing gateways.</p> <p>The Cyber Essentials + accreditation will be introduced across our corporate and education networks to ensure we meet the Scottish Government Cyber Action Plan in 2018/19</p> <p>Acceptable use policy for all ELC employees is to be refreshed during 2018 with all employees expected to sign.</p> <p><b>Data Protection</b> The Data Protection Officer will oversee a series of "health checks"/audits in various Council departments to ensure compliance and to improve practice.</p> <p>The DP Officer will continue to seek nominations from Service Managers for an Information Champion role for each Service.</p> <p>The Council needs to complete and publish a Corporate Information Asset Register which identifies all Information Assets and Data Flows throughout the organisation.</p> <p>The Council requires to implement DP Impact Assessments (DPIA) for all new business processes which will be incorporated into the Council's Integrated Impact Assessment Process. A standalone template will also enable staff to complete DPIAs for individual processes/projects.</p> <p>The Council also needs to implement and publish a Corporate Information Asset Register which identifies all Information Assets and Data Flows throughout the organisation.</p> <p>The Council needs to ensure that data subjects are informed through Privacy Notices regarding how we use, share and retain personal information.</p> <p>The Council also needs to ensure that all staff are aware of and complying with the Corporate Retention Schedule.</p> <p>The Council needs to review information sharing agreements and contracts to ensure they are fit for purpose. As part of this review the Council will also need to introduce agreements where they are not in place.</p> <p>The Council requires to review and update its Data Protection Policy.</p>	3	4	12	Depute Chief Executive – Resources and People Services Head of Council Resources Depute Chief Executive – Partnerships and Community Services	August 2019  March 2019  December 2018  March 2019  March 2019  March 2019  March 2019  March 2019	<p>Risk further reviewed and updated July 2018 with no change to assessment of current scores.</p> <p>Risk further reviewed and updated March 2017 with no change to assessment of current scores.</p> <p>Risk further reviewed and updated May 2016 with no change to assessment of current scores.</p> <p>Risk reviewed March/April 2015 with new measures now in place although risk score remains at 16 due to the increase of attacks via spam emails containing infected ransomware attachments amongst local authorities.</p>

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		<p>our IS, DP policies and retention schedule. There is an annual approval of Progress of Records Management Plan by The Keeper.</p> <p>CMT and SMT have both been briefed on GDPR/DPA 2018 and will continue to receive briefings from the DP Officer and any other relevant staff.</p> <p>The Council website has been updated to include a revised privacy statement and cookie policy.</p> <p>A GDPR Project team is in place to drive preparations and implementations across Service areas which will include the Service Manager (LADS), Data Protection Officer and representatives from IT, Legal and a representative from each Directorate.</p> <p>Large numbers of staff Council-wide have been reviewing information sharing agreements and contracts. Revised templates for Information Sharing Agreements and Data Processing Agreements have been produced and a joint strategy with Procurement, Legal and LADS is in place to roll out updates to all new and existing contracts.</p> <p>The DP Officer has been invited to multiple team meetings to brief on GDPR and required actions. The DP Officer has also held several meetings with the transformation team regarding supplier compliance and DPIAs. DPIA is also embedded in the Transformation teams' project methodology.</p> <p>The DP Officer and the Communications team have created a Communications Plan including Inform briefings, e-mail updates and other training and briefings.</p> <p>The Council has a close working relationship with SOLAR (Society of Local Authority Lawyers and Administrators) and attends meetings regularly. These meetings are also attended by the Information Commissioners office.</p> <p>The Council attends and currently chairs ASLAWG (Archivists of Scottish Local Authorities Working Group) to share best practice with other record keeping professionals.</p> <p><b>Data Breaches</b> A Data Breach Team has been established including the Team Manager – Information Governance/DPO, the IT Team Manager – Infrastructure and Security, the LADS Service Manager, the Legal Service Manager, and the Head of Council Resources. The group meets monthly and as needed to address reported data breaches quickly and effectively in line with new mandatory 72-hour reporting deadlines.</p> <p>A new Data Breach Procedure has been approved by CMT including a mandatory reporting form for completion by staff upon discovering a breach. All breaches are to be reported to the Data Breach Team by phone or email within 24 hours of discovery.</p>										



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CR 4	<p><b>Expansion of Early Learning and Childcare (ELCC) to 1140 hours.</b></p> <p>Scottish Government are implementing plans to expand ELCC to 1140 hours by 2020. Potential risk that this cannot be delivered within the timescale due to challenges of expanding within existing resource, available funds and staffing. Risk that expansion cannot be delivered due to pressures on other council departments</p> <p>Risk that quality in existing early years provision deteriorates because the focus is on the expansion.</p> <p>Reputational risk to the Council from Scottish Government reporting on progress in relation to the delivery of 1140hrs ELCC. Parents not able to access 1140hrs of ELCC</p> <p>There is a risk to the Council that a significant increase in workload reduces the availability of other Council service areas to ensure delivery to timescale.</p> <p>There is a risk that the increase in entitlement for vulnerable 2 year olds cannot be delivered due to challenges of expanding provision given the different requirements regarding staffing and resources for this age group.</p> <p>Reputational risk to the Council from Partnership centres who regard the offered hourly rate as non-sustainable and decline to be in partnership.</p>	<p>The Council continues to develop detailed plans and work with Scottish Government to take forward the expansion. Project board and associated working groups are already in place.</p> <p>There is clear governance of the project through the 1140 hours project board to ensure careful planning, communication and monitoring of progress.</p> <p>Work underway to establish baseline of quality across all provision and ELCC across all settings will be supported and monitored by the early years team</p> <p>Scottish Government National Standard for Partnership and associated guidance. Ongoing discussion and collaboration with partners</p>	4	4	16	<p>Ensure regular planned governance meetings with focussed actions and reporting on key priorities. Continue to review the strategic leadership and planning for full implementation by 2020. Ongoing work with council departments to ensure key priorities are met.</p> <p>Liaison with SG to ensure that risks are flagged and that the service is aware of expectations and demands.</p> <p>Further develop relationships with neighbouring authorities in learning from other approaches and ensuring that progress is on track.</p> <p>Ensure ongoing focus on the quality of existing provision alongside the expansion and enhance the number of staff focussed on both areas.</p> <p>Ongoing engagement with partner nursery providers of early learning and childcare to ensure planning meets the Scottish Government brief regarding parental choice, flexibility, quality and accessibility.</p> <p>Establish new work stream groups, including cross sector representation, and network meetings that feed in to the project board to ensure collective detailed planning across service areas and consider risks associated with delay.</p>	3	4	12	<p>Head of Education</p> <p>Head of Council Resources</p> <p>Head of Finance</p> <p>Quality Improvement Manager</p>	June 2019 for all	New risk created August 2018 by Education Senior Management Team.
ELC CR 5	<p><b>Limitation (Childhood Abuse) (Scotland) Bill</b></p> <p>On 16 November 2016 Scottish Government introduced the Limitation (Childhood Abuse) (Scotland) Bill to remove the three year limitation period for civil actions arising out of childhood abuse (defined to include sexual abuse, physical abuse, and emotional abuse) relating to children who have been in the care system. This means survivors no longer have to persuade a court to exercise its power to allow an action to proceed notwithstanding the three year limitation period and may raise action relating to the predecessors Councils responsibilities</p> <p>In conjunction with the Scottish Child Abuse Inquiry there is an increased likelihood of claimants coming forward potentially resulting in financial implications if historic allegations of child abuse are made and upheld against East Lothian Council as the statutory successor.</p> <p>There is no way of knowing how many claims may be made (i.e. all 'living' potential claimants). The Council has received intimation of several claims for compensation and at least two court actions have been raised and are progressing through the Court. It is anticipated this number will rise considerably. The Council's insurers have indicated that they will cover appropriate external legal costs and compensation payments but the cases will place considerable strain</p>	<p>Child Abuse Claims Group and SCAI Overview Group – East Lothian co-ordination of responses, reported strategically, managed flow and collaboration.</p> <p>Close monitoring of the work of the Scottish CAI itself and review of any published materials.</p> <p>Records Management Expertise allows us to respond effectively to SAR requests and information requests / provide evidence.</p> <p>Cross Lothian collaboration on Lothian Region period 1975 to 1996 (and predecessor authorities) re records management etc.</p> <p>Accurate records post 1996 relating to East Lothian Council clients.</p> <p>Scotland-wide networking and information sharing on SCAI between authorities.</p> <p>Council Financial Reserve – may reduce the impact to service provision if claims extend beyond budget.</p> <p>Continue current working practices with care experienced young people in accord with national legislation and care standards, reducing likelihood of any 'new' claims arising.</p>	4	4	16	<p>CACG and SCAIOG reports to CMT – to sustain level of awareness of risk.</p> <p>Monitor and build a timeline showing the Councils control of the schools from 1975 onwards.</p> <p>Monitor to ensure that there is sufficient staffing resource available to deal with claims, court actions and recovery of documentation and to preserve the Council's position.</p> <p>Make budgetary provision for any additional costs/claims that may not be covered by insurance.</p>	3	3	9	East Lothian Council	Continue to progress all and report quarterly to CMT.	New risk created March 2017 and further reviewed and updated August 2018 with no change to assessment of risk scores.

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	on internal resources within the legal, social work and records management teams for which there is no additional budget.											
ELC CR 6	<p><b>Flooding and Coastal Erosion</b></p> <p>As the incidence of flooding and coastal erosion increases as an impact of Climate Change, there is an increased risk of disruption to road and path networks, impact on public safety, damage to roads, property, harbours and natural heritage sites and an associated increase in claims against the Council.</p>	<p>Flooding and drainage issues are considered when processing planning applications. Inspection regimes and good housekeeping measures in place.</p> <p>The Severe Weather Response Plan has been developed and ensures a co-ordinated and consistent multi-agency response across the county. Emergency surface water, coastal and river flood procedures in place and have proven effective.</p> <p>Shoreline Management Plan has been produced. A National Flood Risk Management Strategy has been produced and a Local Flood Risk Management Plan for the Forth Area has also been published to meet the requirements of the Flood Risk Management (Scotland) Act 2009 which includes specific actions to be discharged by the Council.</p> <p>Flooding advice is on the Council website and directs people to the relevant pages on the SEPA website.</p> <p>The Council is working with various organisations to promote and progress "Resilient Communities" as per the Scottish Government initiative "Ready Scotland".</p> <p>Communication with vulnerable groups regarding access and assistance during severe weather events.</p>	4	4	16	<p>ELC have commissioned Flood Studies for Haddington and Musselburgh and are progressing a Flood Protection Scheme on the River Esk through Musselburgh.</p> <p>Flood Protection Schemes for Musselburgh and Haddington have been included in the List of Prioritised Actions in the Local Flood Risk Management Plan for the Forth Estuary Local Plan District. Implementation of Flood Protection Works is reliant on available funding. These two schemes are being funded 80% by Scottish Government and 20% by East Lothian Council.</p> <p>The Musselburgh Flood Protection Scheme is a fully established project. It has completed two of its nine stages, and is undertaking Stage 3 – the Option Appraisal Process. The project is programmed to achieve construction completion and flood protection achieved by October 2024.</p>	3	3	9	<p>Depute Chief Executive – Partnerships and Community Services</p> <p>Depute Chief Executive – Resources and People Services</p>	<p>2024</p> <p>2016-2022</p> <p>2024</p> <p>2024</p>	<p>Risk further reviewed and updated August 2018 with no change to assessment of current scores.</p> <p>Risk further reviewed and updated March 2017 with no change to assessment of current scores.</p>
ELC CR 7	<p><b>Duty of Care to Public and Public Protection</b></p> <p>The Council has a responsibility to provide care and support for the people of East Lothian and East Lothian's environment. Any breach of this duty of care may compromise legislative duties, health, safety and wellbeing, impacting on, for example, the protection of children and adults.</p> <p>Failure to fulfil the duty of care could also result in serious harm/death to an individual/s, prosecution, having to pay compensation and have a negative impact on the reputation of the Council.</p> <p>A failure to secure efficient and effective Public Protection arrangements, covering Child Protection, Adult Support and Protection, Offender Management, Violence against Women and Girls and Substance Misuse services, may see the Council being unable to fulfil its statutory duties/duty of care which could contribute to a service user suffering harm/death or detriment. This would in turn result in reputational damage to and increased scrutiny of the Social Work services.</p> <p>The duty of care is at the heart of the Council's approach to risk management. The likelihood of this risk occurring is influenced by a range of factors including:</p> <p>(1) Complexity of service delivery, infrastructure, environment and partnership arrangements across the Council services;</p>	<p>The East and Midlothian Public Protection Committee (EMPPC) incorporates the Adult Protection Committee, Child Protection Committee, Offender Management Committee and Violence Against Women Partnership and ensures robust links with Midlothian and East Lothian Drug and Alcohol Partnership (MELDAP).</p> <p>Ongoing review of the Public Protection Performance Framework through the EMPPC Performance &amp; Quality Improvement Sub Group.</p> <p>Violence Against Women and Girls Services reviewed and recommendations were agreed in July 2017.</p> <p>Governance and scrutiny arrangements through Critical Services Oversight Group (CSOG), including Self Evaluation. The Public Protection Office Business Plan is reviewed six monthly by CSOG.</p> <p>East Lothian and Midlothian Public Protection Strategic Business Plan 2014-18 approved by CSOG 03/12/15. The business plan 2015-2018 is a working document and exceptions are reported to EMPPC / CSOG on a quarterly basis.</p> <p>Policies, Protocols, Procedures and Guidance are in place, subject to ongoing review and update and available on Public Protection website: <a href="http://www.emppc.org.uk">www.emppc.org.uk</a>.</p> <p>Chief Social Work Officer (CSWO) fulfils statutory role and responsibilities, overseeing and reporting on Public Protection issues to Chief Executive and</p>	3	4	12	<p>Assess implementation of Adult Support and Protection procedures across partnership services to fully embed procedures in practice meeting legislative duties.</p> <p>The East Lothian and Midlothian Public Protection Strategic Business Plan has been refreshed and will be taken to the Critical Services Oversight Group on 23 October 2018 for approval and sign off.</p>	2	4	8	<p>Chief Executive</p> <p>Critical Service Oversight Group</p> <p>Depute Chief Executives</p> <p>Director of East Lothian Health and Social Care Partnership</p> <p>Heads of Service</p> <p>Chief Social Work Officer</p> <p>Public Protection Team Manager</p> <p>Health and Safety Team</p> <p>Emergency Planning and Risk</p>	<p>Ongoing</p> <p>October 2018</p>	<p>Risk further reviewed and updated August 2018 with no change to assessment of current scores.</p> <p>Risk further reviewed and updated August 2017 with no change to assessment of current scores.</p> <p>Former Public Protection and Duty of Care to Public Risks combined and reviewed May 2016. Current risk score reduced from 16 to 12 and Predictive Risk score reduced from 12 to 8 as likelihood reduced.</p> <p>Risk reviewed and updated April 2015 by CMT with further review planned throughout 2015/16.</p>

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	<p>(2) Increasing population and the number of vulnerable people in East Lothian;</p> <p>(3) Increased population and more complex service demands presented by an increasing number of service users whilst resources have reduced</p> <p>(4) Levels of deprivation in East Lothian;</p> <p>(5) Capacity in partnership and purchased services.</p>	<p>Elected Members, reporting annually to Council giving oversight of Public Protection performance including assessment of risks and pressures.</p> <p>The Council delivers services within a comprehensive framework of business control arrangements i.e. Council and Service Plans, Business Continuity and Risk Management Plans, CONTEST and a suite of corporate health and safety policies. This framework provides a robust control and ongoing review for public duty of care and public protection risks. The Council employs staff through robust recruitment policies including pre-employment vetting through Disclosure Scotland and the PVG scheme.</p> <p>The Council continues to work towards delivering the UK Governments Counter Terrorism strategy, known as Contest, of which Prevent is a key element.</p> <p>All employees access appropriate training/E-Learning covering core Public Protection and Health and Safety training e.g. GIRFEC, Child Protection, Prevent, Adult Protection and Health &amp; Safety.</p> <p>All Regulated Services e.g. Care homes for older people, residential units for young people, Schools are inspected by Care Inspectorate and HMiE. Action Plans are implemented following on from all Regulated Services inspections.</p> <p>Revisions to the Children &amp; Young People (Scotland) Act 2014 concerning the 'Named Person' role and information sharing are being monitored and action required to implement any new responsibilities will be put in place.</p> <p>Suite of Health and Safety Management Arrangements being introduced.</p> <p>There is a weekly audit of decisions made with regards to duty to enquire referrals to Adult Wellbeing by the Lead Officer for Adult Support and Protection.</p> <p>The Lead Officer has oversight of the training programme for council staff to ensure compliance with statutory requirements for council officers.</p>							Management Team			
ELC CR 8	<p><b>Duty of Care to Council Staff (Health &amp; Safety)</b></p> <p>East Lothian Council has a duty of care and has existing Health and Safety Policies to look after the care of staff to all its employees across the full range of services and those who can be affected by the Council's activities.</p> <p>Any breach of this duty of care may affect the health, safety and wellbeing of the Council's employees leading to increased sickness absence, pressures on service delivery with the added potential for claims against the Council for incidents involving employees or non-employees.</p> <p><u>Lone Working</u> Failure of the Council to provide employees with effective Lone Working Arrangements and the appropriate training could result in injury or death to</p>	<p>All employees receive an induction, have job outlines and follow the PRD process ensuring all are capable and trained to perform safely in their roles.</p> <p>Quarterly Joint Health and Safety Committees oversee the Health and Safety Agenda of Council. This is supported by Joint Consultative Committees/Departmental committees examining health and safety at a department level.</p> <p>Quarterly reviews of Occupational Health Service referral levels take place. Monthly Occupational health contract and work level review takes place along with a review of service need and demands.</p> <p>Revised Managing Attendance Policy. Workshops (by HR Team) for Managers undertaken prior to and after release to ensure all are familiar with the revisions. More robust scheme which will help to identify any</p>	3	4	12	<p>Imminent re-specification and re-tender of the Contact Centre Client Management System, hosting the staff lone working component, in progress to sustain lone working system and process.</p> <p>Review SDAW Policy and Guidance through the SDAW Group.</p> <p>Management self-inspection programme to be put in place to ensure managers monitoring their identified risk control measures.</p>	2	4	8	<p>Depute Chief Executive – Partnerships and Community Services</p> <p>SDAW Group</p> <p>Health and Safety Team</p> <p>Human Resources</p>	<p>March 2019</p> <p>December 2018</p> <p>December 2018</p>	<p>Risk reviewed and updated July 2018 with no change to assessment of current scores.</p> <p>Risk refreshed December 2015 by CMT with current residual score reduced from 15 to 12 and planned score reduced from 10 to 8.</p> <p>Risks on Lone Working, Safe Driving at Work and Duty of Care amalgamated into one Duty of Care</p>

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	<p>those employees resulting in H&amp;S prosecution, civil insurance liability, reputational risk, increased sickness absence and pressures on service delivery.</p> <p><u>Safe Driving at Work</u>            "Health and Safety Law applies to on the road work activities as to all work related activities and the risks should be managed within a health and safety management system". Failure to implement and maintain a Safe Driving at Work (SDAW) Policy and Guidance to ensure that the Council meets current Health &amp; Safety guidelines could result in the Council facing legal action if a serious road accident were to take place involving any driving operation undertaken by employees, Elected Members, volunteers, agency workers or other authorised parties using personal, Council or hired vehicles, as well as any driving Council fleet vehicles, in connection with Council business.</p>	<p>employee health and wellbeing issues earlier to enable managers to put appropriate support mechanisms in place. Managers' guidance notes issued and HR Team available to support Managers as required. Managing attendance and Managing sickness Absence Policies in place. Training for managers in managing attendance and sickness absence in place</p> <p>Risk assessments carried out to identify significant workplace hazards and to establish suitable workplace controls e.g. safe systems of work.</p> <p>Health Surveillance is carried out on employees where they are exposed to specific hazards.</p> <p>Safety Management System supported by audit and inspection programme across the Council.</p> <p>Health and Safety Training needs are identified from project plans and Risk Assessment Findings.</p> <p>.</p> <p>Ongoing HWL initiatives programme rolled out across all Services promoting workplace health and wellbeing.</p> <p>24/7 Employee Assistant Programme in place available to all employees including Physiotherapy and OH service in place.</p> <p><u>Lone Working</u>            Information on Lone Working is part of the Service Level Induction process. Lone Working employees who require access to the lone worker system receive training on the use of this. Specific procedures are in place in services with a high level of lone working such as Health and Social Care and Revenues, including risk assessments, electronic diaries, mobile phones and signing in/out books. Lone workers register and use the Corporate Lone Working System operated through the Contact Centre. Lone workers have access to lone worker devices (Reliance personal alarm) which have 24/7 GPS monitoring.</p> <p><a href="http://secure.relianceprotect.com/SentinelWeb">http://secure.relianceprotect.com/SentinelWeb</a></p> <p>Lone workers can be tracked via a dedicated website and are able to raise an alarm by activating their device and an 'officer down' alarm will also trigger intervention procedures if activated. This service is also being utilised elsewhere within the organisation.</p> <p>A Potentially Violent Clients Register has been set up which enables the sharing of information relating to potentially violent clients across customer facing teams allowing managers to identify and implement control measures to protect employees from harm.</p> <p>Since April 2017 all Council Vehicles have a Vehicle Tracking system, including those used by lone staff working directly with clients.</p> <p><u>Safe Driving at Work</u></p>									(H&S of employees) Risk in May 2014 at the request of CMT.	



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		<p>A Safe Driving at Work Policy and a Guidance Manual in place to ensure that safe driving principles are embedded across the Council. This policy is now available online for all Managers to utilise.</p> <p>Arrangements are in place to ensure the reporting and recording of all accidents and incidents arising from work related driving as well as identifying and implementing remedial actions following road traffic accidents.</p> <p>Council vehicles used in the course of Council activities are properly maintained and fit-for-purpose. All Council vehicles over 3.5t are maintained in accordance with VOSA publication "Guide to Maintaining Roadworthiness".</p> <p>The E Davis system used by East Lothian Council records and monitors grey fleet users driver details including insurance, RFL and driving licence. This ensures that the registered drivers have the correct credentials to drive on behalf on the Council.</p> <p><u>Fire Safety</u> Fire Safety Risk Assessments are carried out on all our operational buildings where employees work and any remedial action prioritised and put in place.</p>										
ELC CR 9	<p><b>Failure to maintain a Highly Skilled Workforce</b></p> <p>The Council's salary and grading structure may not be competitive compared to other employers making it more difficult to recruit qualified staff to certain posts.</p> <p>The high number of specialist roles/skills within the Council means that service reviews, budget restrictions, long-term absence, cessation of contract etc. could compromise service delivery.</p> <p>Reduction in skilled, qualified and experienced workforce would result in an inability to provide good quality services, increased pressure on existing staff and increased likelihood of poor operational performance.</p> <p>The Council recognises that a large proportion of the workforce is aged over 55 years and many staff with significant knowledge and experience could leave the Council leaving the Council at risk in key areas.</p>	<p>The Council has an approved Workforce Plan 2018-2022 which addresses the issues relating to this risk.</p> <p>The Plan contains 38 actions which are being brought together into a detailed Implementation Plan seven workstreams which are being taken forward by lead officers.</p> <p>Actions, such as developing a Management and Leadership Programme, reviewing the Managing Attendance Policy, renewed focus on Healthy Working Lives and implementing the Early Learning and Childcare Workforce Plan are already underway.</p>	3	3	9	Keep the implementation of the Workforce Plan under review.	3	3	9	Service Manager HR & Payroll  Service Manager Corporate Policy & Improvement	Ongoing through to 2022	<p>Risk reviewed and refreshed July 2018 with Current Risk Score reduced from 12 to 9.</p> <p>New risk created May 2016 and further revised July 2017 with no change to assessment of current scores.</p>
ELC CR 10	<p><b>Severe Weather</b></p> <p>There is a risk that an extended period of severe winter weather will lead to an increase demand for gritting and snow clearing of roads/footpaths which exceeds normal capacity and supplies of salt.</p> <p>This could result in travel disruption, difficulties for people in accessing services, failure to maintain refuse collection timetable and school closures at short notice as well as a possible increase in insurance claims related to pothole damage.</p>	<p>East Lothian Councils Winter Maintenance Plan has been in place for some time and ensures that the main transport routes are treated as priority.</p> <p>The ELC Severe Weather Response Plan has been developed over the past few years and ensures a co-ordinated and consistent multi-agency response across the county and is reviewed annually.</p> <p>Claims protocol in place within the Insurance section.</p> <p>Council's Salt Barn has a capacity of 8,000 tonnes to meet demand arising from severe cold weather. Snow clearing equipment has been supplied to Primary Schools. Snow clearing equipment has</p>	3	3	9	<p>A workshop, hosted by East Lothian Council, to further progress Resilient Communities, for the benefit of Community Councils and other voluntary organisations, will take place on Saturday 27<sup>th</sup> October 2018.</p> <p>Community Councils and TRAs have been asked to appoint SPoC and deputies for resilient matters including severe weather. During such an incident ELC will communicate directly with these SPoCs/Deputies.</p>	3	3	9	Depute Chief Executive – Partnerships and Community Services	October 2018  December 2018	<p>Risk refreshed July 2018 with no change to assessment of current scores.</p>

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		<p>been offered to Community Councils with some taking up this offer. A number of grit bins are provided to enable self-help gritting of adopted roads and footways.</p> <p>Winter Maintenance operatives are trained to SVQ or equivalent in winter gritting and snow clearing. Winter Maintenance Duty officers trained as Winter Service Supervisors to City and Guilds level.</p> <p>Guidance and information on ELC website.</p> <p>Several Community Councils have started to create or have created their own emergency response plans or asset registers of volunteers and skills available at a time of crises. ELC now finance all 20 Community Councils annual insurance premiums ensuring that Insurance is not perceived as a barrier to invoking such plans.</p> <p>The Council continues to work with the Community Councils and other voluntary groups including Tenants and Residents Associations to promote and progress "Resilient Communities" as per the Scottish Government initiative "Ready Scotland".</p> <p>Training and awareness sessions for staff.</p> <p>Training and exercising with partner agencies.</p>				The ELC Severe Weather plan review for 2018 will include reference to and improvements learned from the 'Beast from the East' incident when many parts of East Lothian ground to a halt because of the heavy snow falls.					December 2018	
ELC CR 11	<p><b>Contest</b></p> <p>Deliver the UK Governments Counter Terrorism (CT) strategy, known as CONTEST.</p> <p>All Local Authorities in Scotland are required to comply with the statutory legislation issued under section 24 of the Counter Terrorism and Security Act 2015.</p> <p>Failure to discharge this duty could mean sufficient steps are not taken to prevent an incident taking place and could result in the Secretary of State issuing a direction to the Council via the powers within the act and would also result in a loss of reputation and negative publicity.</p>	<p>Multi agency 'J' Division CONTEST Meeting attended by East Lothian Council representatives.</p> <p>ELC has established a CT WG chaired by the Deputy Chief Executive with members consisting of the CMT and Police Scotland.</p> <p>ELC has appointed senior members of staff as SPoC and Deputy for Prevent as per statutory guidelines. A SPoC for Prepare and Protect, although not a statutory requirement, has also been appointed.</p> <p>Under Protect the CMT are prepared for the Government to raise the Security Level to Critical. This includes ensuring BC plans are fit for purpose.</p> <p>ELC follows and contributes towards the 'J' Division Contest group implementation plan.</p> <p>Training gap analysis completed in respect of Prevent.</p> <p>Education personnel are fully engaged with Prevent and appropriate filters have been installed on the Education infrastructure.</p> <p>ELC Managers have received Prevent training.</p> <p>A mandatory e-learning (level 1) training package available to all staff.</p> <p>A good level of engagement will be maintained with Community Planning Partners.</p> <p>Prevent reporting process has been established.</p>	3	3	9	<p>Programme of awareness training and delivery of packages such as WRAP/ACT Now training to be followed in ELC.</p> <p>Head of Education will continue to progress Prevent associated training for staff and pupils.</p> <p>A register and/or system of recording the names and positions of those having completed Prevent training will be established.</p> <p>Access to Prevent training and particularly the mandatory e-learning package, through the ELC IT, is to be established for staff who are unable to access a computer.</p>	2	3	6	Chief Executive Depute Chief Executives Council Management Team	<p>March 2019</p> <p>December 2018</p> <p>March 2019</p> <p>December 2018</p>	<p>Risk reviewed August 2018 by Board of Directors with Current Score reduced from 12 to 9.</p> <p>New risk created May 2016 and further reviewed April 2017 with no change to assessment of current scores.</p>

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ELC CR 12	<p><b>Carbon Management</b></p> <p>There is a risk that the Council may fail to meet its public bodies duty under the Climate Change (Scotland) Act 2009 to reduce its carbon emissions, adapt to climate change and endeavour to act sustainably.</p> <p>Failure to mainstream and embed action to address climate change issues may harm the Council's reputation (in terms of corporate social responsibility) and increase the potential for unbudgeted costs and financial penalties.</p>	<p>Sustainable Energy and Climate Change Officer recruited April 2018, who will lead on driving and coordinating the work of the Council to meet its climate change obligations and commitments.</p> <p>A Climate Change Mitigation and Adaptation Strategy and Action Plan is being prepared, which will update and replace the Environment Strategy (2010-15) and Carbon Management Plan (2009-14, extended to 2015). To inform this, the East Lothian Local Climate Impacts Profile (2000-2010) will be updated.</p> <p>A Climate Change Planning and Monitoring Group is established, under the East Lothian Partnership. The Group will play a critical part in driving and coordinating the work of the Partnership to meet its climate change obligations and commitments and will also be responsible for developing and monitoring the Climate Change Mitigation and Adaptation Strategy.</p> <p>Supporting the work of the Group will be a number of delivery subgroups, a number of which already exist (e.g. Carbon Management Team). The Subgroups will be tasked to implement relevant plans and projects identified in the Climate Change Strategy.</p> <p>An Energy Transformation Board has been formed, which has been tasked to look at generating income from installing low carbon technologies across the Council's estate.</p> <p>Area Partnerships serving the six cluster areas of East Lothian were established in 2014, providing the main opportunities for local communities to contribute to the East Lothian Plan and influence service planning and delivery in their area. Each Partnership is responsible for developing a strategic level Area Plan, linked to the priorities in the ELP, which will be delivered by partners and involve local communities. Sustainable travel has been identified as a key priority across all the Partnerships.</p>	3	3	9	<p>Develop and implement a Climate Change Mitigation and Adaptation Strategy and Action Plan with associated plans and strategies as required (i.e. Local Housing Strategy, Local Heat and Energy Efficiency Strategy).</p> <p>Active Travel Improvement Plan now drafted, with input from the 'East Lothian on the Move' events held within each Area Partnership area, as part of the Local Transport Strategy. This is now out for consultation.</p>	2	3	6	Depute Chief Executive – Partnerships and Community Services	<p>April 2019</p> <p>August 2018</p>	<p>Risk refreshed by Sustainable Energy and Climate Change Officer June 2018 with no change to assessment of scores.</p> <p>Risk refreshed November 2017 by Service Manager EDSI and Senior Strategy Officer with no change to assessment of current scores.</p>

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ELC CR 13	<p><b>Business Continuity</b></p> <p>Failure to ensure currency of Business Continuity Plans could lead to services not having a robust response to an incident affecting their service area or critical services may not be maintained, while critical services for the public could be affected and statutory requirements not completed.</p> <p>Non availability of:</p> <ul style="list-style-type: none"> <li>premises, through fire, flood or other unexpected incident;</li> <li>key staff or significant numbers of front-line staff for any reason e.g. a Pandemic;</li> <li>systems (IT, telephony, power failure etc.);</li> <li>any form of transportation due to a fuel shortage.</li> </ul> <p>The occurrence of any of these may have an adverse effect on the Council to function fully and to complete critical services and statutory requirements.</p>	<p>Business Continuity Framework Plan in place and regularly reviewed.</p> <p>Business Continuity Plans are maintained for all service areas, giving details of minimum levels of staff, alternate locations, exercise and review dates and version control.</p> <p>The Chief Executive has a statutory responsibility for the ELC BC process. The Heads of Service remain responsible for ensuring the BC process is completed within their area of work.</p> <p>Each service area now has a Single Point of Contact (SPoC) and deputy who are responsible for, their services BC Plan, exercising this plan and ensuring it is maintained. All BC Plans are managed through Continuity<sup>2</sup> Software.</p> <p>ELC staff have access to an e-learning package on Business Continuity.</p> <p>IT –specific disaster recovery arrangements in place for the critical systems – telephony, e-mail and social care. These have duplicate servers in place off site which can be brought into action if ELC lost its main data centre at JMH.</p> <p>An IT Disaster Recovery Plan is in place and will be regularly updated when any changes take place in the main data centres.</p> <p>For single server failure - there are over 100 systems now running on virtual servers which automatically fall over to another server if there are hardware issues.</p> <p>Controls that are in place to prevent and limit the effects of IT system unavailability including firewalls, anti-virus software, system/ data backup routines, and resilience in the form of a back-up generator for the main data centre at JMH.</p> <p>The Council will be advised by Scottish Government whenever there are Fuel Shortages on the horizon. Fuel supply is held at our depots and can be sourced externally from local fuel service stations and through shared services with other Local Authorities. Regular monitoring of current fuel stock and assessment of any weather predictions, political developments or industrial action etc. that may affect fuel availability.</p>	2	4	8	<p>Progress Business Continuity 'alternative accommodation' plan and a 'site specific' plan.</p> <p>Progress BC with Education.</p> <p>Organise and plan a full real time exercise, involving a facility (possibly JMH) to test the ELC BC plans.</p> <p>Review the ELC BC e-learning package to ensure it is current and makes reference to the new Continuity<sup>2</sup> software.</p> <p>A review of the ELC BC framework to include reference to new software and subsequent processes.</p>	2	3	6	<p>Depute Chief Executive – Partnerships and Community Services</p> <p>Depute Chief Executive – Resources and People Services</p>	<p>December 2019</p> <p>December 2018</p> <p>November 2018</p> <p>November 2018</p> <p>November 2018</p>	<p>Risk refreshed July 2018 with no change to assessment of current scores.</p> <p>Risk refreshed April 2017 with no change to assessment of current scores.</p>

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			Likelihood	Impact	Total		Likelihood	Impact	Total			
			L	I	L x I		L	I	L x I			
ELC CR 14	<p><b>Public Sector Reform</b></p> <p>Major elements of public sector reform have been or are being implemented including:</p> <ul style="list-style-type: none"> <li>Integration of Health and Social Care and creation of a new H&amp;SC Partnership;</li> <li>Implementation of the Community Empowerment (Scotland) Act 2015;</li> <li>New legislative duties in procurement, regulation, and children and young people;</li> <li>Reform of Education</li> </ul> <p>Following the Scotland Act 2016 there is continuing uncertainty about the future governance of Scotland, the future structure and governance of local government and the public sector and continuing pressure on public finances.</p> <p>The Scottish Government is carrying out a Review of Local Governance which may result in further public sector reform with impact on local government.</p> <p>The cost of implementing changes arising from legislation is not always fully reflected in Scottish Government funding. In addition, the Scottish Government's commitment to protect and increase funding in priorities such as health and education run the risk of further eroding Scottish Government funding for other local government services.</p> <p>Existing public sector reforms and new reforms create uncertainty, additional workload, requirement to restructure services and new accountability, governance, scrutiny and partnership arrangements.</p>	<p>CMT and elected members work together to ensure that the Council is prepared for future public sector reform and differing scenarios for future governance, financial, operational and performance management arrangements are explored in order to minimise risk.</p> <p>Responses to the Scottish Government on consultations around public sector reform are prepared and submitted as required. Financial and resource scoping is carried out as required.</p> <p>The Integration Joint Board has been established along with appropriate governance and scrutiny arrangements.</p> <p>East Lothian Partnership has a new East Lothian Plan that will meet the requirements set out in the Community Empowerment (Scotland) Act 2015 to have a Local Outcome Improvement Plan. The structure of the Partnership has been revised to provide a more focused approach to implementation of the Plan and addressing issues arising from the public sector reform agenda.</p> <p>Effective working relations with key partners including Police Scotland, Scottish Fire and Rescue Service, NHS Lothian and the voluntary sector are being further developed through East Lothian Partnership and bi-lateral meetings and arrangements to prepare for public sector reform.</p> <p>Area Partnerships now established and will be supported to enhance local service delivery.</p> <p>The Council has put in place processes to deal with its new duties and responsibilities arising from the Community Empowerment (Scotland) Act 2015 such as responding to Participation Requests and Community Asset Transfer requests.</p> <p>The Council's Transformation Programme will provide resilience to assist to respond to public sector reform.</p>	2	3	6	<p>Continue to monitor developments in the Public Sector Reform agenda and Scottish Government's legislative programme and develop responses to exploit potential benefits from, or mitigate potential negative impacts of, different future scenarios.</p> <p>Maintain regular communication with employees to manage any uncertainty in times of change.</p> <p>Reports will be submitted to Council on the implications of the reform proposals and on the Council's preparations, as appropriate which are led by the Chief Executive and senior officers.</p>	2	3	6	Chief Executive	March 2019  Ongoing	<p>Risk reviewed by Board of Directors August 2018 and Assessment of Current and Residual Scores reduced from 12 and 9 to 6 and 6.</p> <p>Risk reviewed and refreshed July 2018 with Current Risk Score reduced from 16 to 12 and residual score from 12 to 9.</p> <p>Risk further reviewed and updated April and August 2017 with no change to assessment of current scores.</p> <p>Risk reviewed and refreshed May 2016 with Current Risk Score increased from 9 to 16.</p>



Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency	Evidence held of Regular Review
			Likelihood	Impact	Total		Likelihood	Impact	Total			
			L	I	L x I		L	I	L x I			
ELC CR 15	<p><b>Corporate Events Management</b></p> <p>Effective preparation and co-ordination across a number of services, for high profile events coming to East Lothian is essential and failure to achieve this could result in a risk of adverse reputational impact for the Council on a national/international level as well as possible legal procedures at fatal accident enquiries accounting for our action or non-action.</p> <p>COSLA, Police Scotland and the Health &amp; Safety Executive (HSE) recommend that Local Authorities form a core group, led by a senior officer, who will meet to discuss all events taking place within their area over a pre-determined period of time. This group includes the blue lights and other appropriate organisations and decide if each individual event should be organised through a separate, specific Safety Advisory Group (SAG) or if the event can carry on without interference, other than appropriate safety advice.</p> <p>The following criteria would be considered by the 'over-arching' SAG:</p> <ul style="list-style-type: none"> <li>• Status of the principal e.g. HM Queen</li> <li>• Status of the event organiser e.g. Scottish Defence League</li> <li>• The size of the crowd or the number of spectators</li> <li>• The profile of the event e.g. North Berwick Highland games.</li> <li>• The requirement for a TTRO</li> <li>• At the request of one of the partner agencies</li> <li>• At the request of an event organiser</li> </ul> <p>The council is involved in events as they tend to take place in Council parks or on our roads and the Council issues licenses and permits for events. The Council also has a statutory role in enforcement /inspection (building control, food hygiene etc.) and will help the organisers with traffic management.</p> <p>If the event organisers fail to have the correct licences or processes, advised through a SAG meeting, in place then it is the organisers not the Council, who face the risk of possible criminal prosecution.</p>	<p>The Council now has a SAG policy and a Senior Officer – Events Co-ordination in place who is now the Single Point of Contact (SPOC) to overview events and event notifications, awareness and assessment to support overarching SAG meetings and Corporate Events Management Group meetings and the actions that flow from these.</p> <p>Corporate Events Management Group in place and hold regular overarching SAG meetings (monthly) to decide which events require specific SAG.</p> <p>Strategic SAG Group meetings co-ordinate preparation for various events as per event schedule, with representation from all relevant Services areas and Multi-Agency Partners.</p> <p>Council staff involved in events have considerable experience and proven track records in organising and managing events.</p> <p>Event guidance for organisers of events is published on the Council website.</p> <p>Where a SAG group is set up, for a specific event, it has no statutory power to stop it taking place; however, it can withdraw its support and co-operation which means that the event cannot proceed. This is especially true in terms of their insurance cover. Police Scotland will always provide the final advice on public safety.</p> <p>An ELC staff member has recently been employed to take responsibility for the events process in the Council.</p>	2	3	6	<p>Events information and documentation accessed through the ELC website will be reviewed by the new ELC member of staff. This new staff member will also review all processes linked with the SAG process, through his line manager, to improve the overall system in place and ensure it becomes more 'user friendly' as per 'lessons learned' from work completed in this area to date.</p> <p>Definition of 'events' that require to be put through the SAG process will be reviewed.</p>	2	3	6	<p>Depute Chief Executive - Partnerships &amp; Community Services</p> <p>Head of Service (Development)</p> <p>Service Manager – Protective Services</p> <p>Team Manager, Economic Development</p>	<p>March 2019</p> <p>March 2019</p>	<p>Risk reviewed July 2018 with no changes to assessment of risk scores.</p> <p>New risk created May 2016 and updated April 2017 with current score reduced from 12 to 6 and residual score from 8 to 6 due to implemented measures, chiefly new Senior Officer – Events Co-ordination and SAG process in place.</p>

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency	Evidence held of Regular Review
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			L	I	L x I		L	I	L x I			
ELC CR 16	<p><b>Equality</b></p> <p>Failure to meet duties and legislative requirements of the Single Equality Act 2010.</p> <p>The Single Equality Act 2010 and related guidance places a general duty on public authorities to be active in promoting equality, eliminating unlawful conduct and fostering good relations. It also places specific duties on public authorities to</p> <ul style="list-style-type: none"> <li>report on mainstreaming the equality duty;</li> <li>publish equality outcomes and report progress;</li> <li>assess and review policies and practices;</li> <li>gather and use employee information;</li> <li>publish gender pay gap information;</li> <li>publish statements on equal pay;</li> <li>consider award criteria and conditions in relation to public procurement;</li> <li>publish in a manner that is accessible.</li> </ul> <p>The Scottish Government has introduced a 'socio-economic duty'. This will require the Council to consider the impact of our work on those living in poverty. The Council will need to respond to the full requirements of this new duty and raise awareness of the requirements on the Council.</p> <p>There is a risk that the Council may not be able to meet its general or specific duties and in particular at a time when difficult budget decisions are having to be made that there will be cuts in services or increases in charges that have a disproportionate impact on people who may need those services most because of their equality background.</p> <p>The Council would be open to legal challenge of not meeting its duties and in particular of not carrying out adequate assessment of impact of policies and budget decisions.</p>	<p>ELC Equality Plan in place and available online. A revised Equality Plan was produced in 2017. This includes the commitments made by East Lothian Council as a Licensing Board and as an Education Authority. The plan outlines our commitments:</p> <ul style="list-style-type: none"> <li>Continue to lead a culture where respect, choice and understanding is fostered and diversity positively valued;</li> <li>Maintain a working environment where unlawful discrimination, harassment, victimisation or bullying is not tolerated;</li> <li>Continue to develop our understanding of the needs of different individuals and communities in a time of rapid change;</li> <li>Continue to embed the equality agenda in all our work, and contribute to the early intervention and prevention approach adopted by the Council and its Partners;</li> <li>Improve understanding of the impact of poverty and inequality on people's lives; and</li> <li>Ensure that we plan and deliver services which meet modern standards of delivery and that are inclusive of a wide range of different needs from digital services to face to face interactions</li> </ul> <p>The Integrated Impact Assessment Process is embedded and is now widely used. This includes consideration of poverty which should allow us to meet the requirements of the new socio economic duty. A programme of support, including training on the new IIA process is ongoing.</p> <p>The Health &amp; Social Care IJBs (East &amp; Midlothian and City of Edinburgh) along with NHS Lothian will use the 'checklist and IIA form' package, with East and Midlothian Councils using the IIA form only package.</p> <p>HR is annually capturing the employment monitoring information required under the Act, reporting it appropriately and carrying an Equal Pay Audit.</p> <p>E Learning equalities modules are available on Learn Pro and 'Get in on the Act' guides to the Council's legal responsibilities are available for all employees and Elected members. A new e learning package 'Understanding Poverty' has been added to support employees to understand about taking poverty into account when designing services and will be updated once details of the Socio Economic duty are known.</p> <p>The actions from the East Lothian Poverty Commission have been turned into a detailed Action Plan with clearly defined responsibilities and timelines.</p> <p>We will be working with Police Scotland to refresh the East Lothian Hate Crime Action plan.</p>	2	3	6				Depute Chief Executive – Partnerships and Community Services		<p>Risk further reviewed and updated July 2018 with no change to assessment of current scores.</p> <p>Risk register updated August 2017 to include the new Equality Plan and to flag the introduction of the Socio Economic duty. No change to assessment of current scores.</p> <p>Risk further reviewed and updated April 2017 with no change to assessment of current scores.</p> <p>Risk reviewed and refreshed May 2016 with both current and predictive scores reduced from 8 to 6 due to implementation of additional measures.</p>	

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency	Evidence held of Regular Review
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			L	I	L x I		L	I	L x I			
ELC CR 17	<p><b>Standards in Public Life</b></p> <p>Failure of corporate governance or to meet standards in public life.</p> <p>Failure of the Council's corporate governance or of officials or members to meet standards in public life could result in reputational damage.</p>	<p>The main internal controls are the Council's Standing Orders, Scheme of Administration, Scheme of Delegation and Financial Regulations.</p> <p>Standing Orders (the Schemes of Administration and Scheme of Delegation) were extensively revised and approved by Council in August 2013 and further revised on a regular basis since.</p> <p>Councillors, officials and employees conduct is governed by Codes of Conduct. The Standards Commission is responsible for encouraging high standards of behavior by Councillors and will adjudicate where there are allegations that Councillors have breached the Code of Conduct.</p> <p>The Council's Monitoring Officer, Depute Monitoring Officers, legal advisers and the Team Manager, Democratic and Licensing provide advice as required. Internal Audit conducted a review of the process for Councillors' Registers of Interests and Declarations of Gifts and Hospitality and a report was submitted to the Audit &amp; Governance committee in March 2015 for which the recommendations were implemented.</p> <p>A programme of briefings for Councillors established, as well as Ad Hoc briefings, with events currently scheduled every month during the committee session.</p> <p>The Council is developing its links with the Local Area Network of audit and inspection agencies and its Auditors.</p> <p>A comprehensive induction programme for Councillors was approved by Council in February 2017 and commenced immediately following the local government election in May 2017. Training continues to take place as required to ensure understanding of the importance of standards in public life including a specific session on the Councillors' Code of Conduct, and it was also referred to in several other sessions. Councillors are provided with a copy of the Code and the accompanying guidance and are provided with copies of any updates as those are issued.</p> <p>Councillors have an ongoing opportunity to participate in a CPD programme, which is currently being developed in conjunction with the Council's Organisational Development Team. This will be based on the offering available from the Improvement Service and the IS have offered to input into the final product. Councillors have an ongoing opportunity to attend Master classes run by the Improvement Service.</p> <p>A six monthly reminder is issued to Councillors regarding updating their Register of Interests and Declarations of Gifts and Hospitality.</p> <p>A 100-day review took place with our Elected Members between August and November 2017. This was carried out by way of face-to-face meetings with Elected Members and covered the Elected Member Induction Programme, the Councillors' Code of Conduct, PA support, office accommodation, Access to Council officers, committee papers, surgeries, and further training and development.</p>	3	2	6	The Council will progress training sessions specifically for Councillors on the Councillors' Code of Conduct later in 2018.	3	2	6	Depute Chief Executive – Resources and People Services Depute Chief Executive – Partnerships and Community Services	December 2018	<p>Risk reviewed July 2018 with no change to assessment of risk scores.</p> <p>Risk further reviewed and updated July 2017 with both current and predictive risk scores increased to 6 due to the number of newly elected Councillors.</p>



Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency	Evidence held of Regular Review
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			L	I	L x I		L	I	L x I			
ELC CR 18	<p><b>Development Plan</b></p> <p>Failure to maintain an up-to-date Strategic and Local Development Plans could result in an out of date planning strategy and policy context for planning decisions in East Lothian and lead to a shortfall in the effective 5 year housing land supply. This could prevent us from meeting the needs of our growing population and undermine our ability to defend local planning decisions due to planning by appeal. This could lead to unplanned development at odds with the Council's planning strategy for East Lothian, and consequent reputational damage. It could also contribute towards the Council not being able to achieve its Council Plan objectives – Growing our Economy and Growing our Communities – and related Single Outcome Agreement objectives.</p> <p>The Local Development Plan is also required to support and guide the provision of infrastructure required to meet the needs of our growing population and growing economy.</p>	<p>Finalisation and adoption of the proposed Local Development Plan is part of a Planning Business Plan objective (ongoing review). Details are set out in the Local Development Plan Scheme with timescales (to be reviewed by April 2019).</p> <p>Detailed timeline drawn up for LDP production, examination and adoption.</p> <p>ELC and SESplan Development Plan Schemes commit to a programme of Development Plan Scheme review (reviewed annually).</p> <p>SESplan Joint Committee, Project Board and Steering Group guide joint authority preparation of Strategic Development Plan for Edinburgh and SE Scotland.</p> <p>Community Planning Partnership liaison and involvement through East Lothian Strategic Land Use Planning Group.</p> <p>Proposed LDP approved September 2016, Schedule 4 responses to representations approved March 2017. This gives a basis to consider the principle of housing development on sites that may contribute to a 5 year housing land supply, subject to technical assessment including cumulative impacts. A fully collaborative and corporate approach prioritises the Council's case for Examination of the proposed plan. Work on schools consultation(s) and transport modelling completed.</p> <p>Infrastructure constraints identified collaboratively in accordance with proposed plan development work and integrated in terms of future financial planning. 2017 Housing Land Audit agreed with development industry as basis of 6.17 year effective housing land supply, backing up plan process.</p> <p>Examination report reviewed and plan amended in line with recommendations. Briefing and Council meeting considered and agreed intention to adopt the plan and that plan be adopted if Ministers make no amendments.</p> <p>ELLDP 2018 was submitted to Scottish Ministers for final review on 7th June 2018.</p> <p>Scottish Ministers have extended the period of review to the 27th of September 2018. A number of factors have contributed to delay including Planning Review and Parliamentary recess however ELC was also made aware, during the period of review, of a ruling of the European Court of Justice in relation to Habitats Regulation Appraisal (HRA) and how that should be applied in the United Kingdom. This may</p>	2	2	4	ELC has undertaken a review of relevant technical work with its Habitats Regulation Appraisal (HRA) in the context of the ruling and will now revert to Council on 11 September 2018 with the intention of approving a modified HRA record and confirming that ELLDP 2018 as submitted to Scottish Ministers is intended to be adopted.	2	2	4	Head of Development	September 2018	<p>Risk Refreshed by Head of Development and Service Manager – Planning July 2018. Current risk score reduced from 8 to 4 and predictive risk from 8 to 4 due to implemented measures over past 12 months.</p> <p>Risk Refreshed by Head of Development and Service Manager – Planning March 2017. Current risk score reduced from 12 to 8 and Predictive risk reduced from 8 to 6 due to implemented measures over past 12 months.</p> <p>Risk Refreshed by Head of Development and Service Manager – Planning February 2016. Current risk score reduced from 15 to 12.</p>

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency	Evidence held of Regular Review
			Likelihood	Impact	Total		Likelihood	Impact	Total			
			L	I	L x I		L	I	L x I			
		have implications for guidance prepared by Scottish Natural Heritage that advises plan making bodies how HRA should be applied in plan making. In turn this may have implications for development plans across Scotland.										
ELC CR 19	<b>Stability of the Council Plan</b> The 2017-2022 Council Plan (adopted by Council in June 2017) is a key element in securing long term stability for future service delivery planning. The risk of not fulfilling this would present challenge for the council in maintaining high quality service delivery, meeting the aspirations of our customers and the longer term effectiveness of the organisation.	The Plan is regularly monitored and reviewed by CMT and reported to Audit and Governance on an Annual basis.  The following are all currently in place:  2017-2022 Council Plan  Council Vision / Key priorities / Strategic Goals  Long term budget planning  Service Plans based around the Council Plan.  The implementation of the Council Plan is being monitored by the Council Management Team and through Annual Report to Council.	2	2	4				Council Management Team		Risk created July 2018 with no change to assessment of current scores.  Risk Refreshed August 2017. Current risk score reduced from 9 to 4 and Predictive risk reduced from 6 to 4 due to adoption of new Council Plan.	
	<b>Brexit</b> Uncertainty persists over the implications of the exit from the European Union. The Council has a Service Risk on Brexit and is currently developing a full Corporate Risk on Brexit.	Paul Ritchie – Aks regarding if he know if Council approached re make up of workforce  The Council continues to keep abreast of this area and monitor Government updates.				Early preparations are underway and the Council Management Team will establish a working group to review and consider implications.  The Council's Risk Officer is liaising with other Local Authorities in relation to their Brexit content on Risk Registers.			Council Management Team			

<b>Original date produced (Version 1)</b>	13 April 2011		
<b>File Name</b>	East Lothian Council Corporate Risk Register		
<b>Original Author(s)</b>	Scott Kennedy, Risk Officer		
<b>Current Revision Author(s)</b>	Scott Kennedy, Risk Officer		
<b>Version</b>	<b>Date</b>	<b>Author(s)</b>	<b>Notes on Revisions</b>
1	13/04/2011	S Kennedy	Original Version
2	05/12/2011	S Kennedy	2 <sup>nd</sup> version made available to BoD for review
3	23/08/2012	S Kennedy	Draft version updated
4	15/11/2012	S Kennedy	Updated following BoD meeting and Strategy update
5	07/12/2012	S Kennedy	Updates received from services following BoD recommendations
6	18/12/2012	S Kennedy	Updated with additional risks.
7	04/01/2013	S Kennedy	Updated following consideration by CMT
8	09/05/2013	S Kennedy	EP & BC Risks updated
9	31/07/2013	S Kennedy	Data Protection Risk Added
10	01/11/2013	S Kennedy	Welfare Reform Risk updated (no change to score)
11	04/03/2014	S Kennedy	New Corporate Risks added on Safe Driving at Work, VERS, Fuel Shortages and Lone Working
12	March/April 2014	S Kennedy	All risks reviewed and amended where required.
13	11/04/2014	S Kennedy	New Corporate Risk on Integration of Health & Social Care and Adult Wellbeing added.
14	25/04/2014	S Kennedy	Risks amended following consultation with CMT.

Risk Score	Overall Rating
20-25	Very High
10-19	High
5-9	Medium
1-4	Low

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			L	I	L x I		L	I	L x I			
15	01/05/2014	P Vestri	Amendments following review of latest draft by Chief Executive and Depute Chief Executives.									
16	27/05/2014	S Kennedy	Amendments following consultation with CMT/Risk Authors. Development Plan and Public Protection risks added.									
17	23/12/2014	S Kennedy	Climate Change Risk refreshed as well as adding column for date Planned Risk Measures will be completed by.									
18	February-April 2015	S Kennedy	All Risks Refreshed by authors and reviewed by CMT									
19	December 2015	S Kennedy	All Risks Refreshed by authors and reviewed by CMT									
20	January 2016	S Kennedy	Carbon Management, Flooding and Equality Risks refreshed.									
21	April – May 2016	S Kennedy	CMT met to amend. Further update of all risks including Duty of Care & Public Protection Risks combined.									
22	March – May 2017	S Kennedy	New risk created on Limitation and all other risks reviewed.									
23	August 2017	S Kennedy	All risks reviewed and updated where necessary by Risk Authors/Owners and Heads of Service.									
24	June-August 2018	S Kennedy	All risks reviewed and updated where necessary by Risk Authors/Owners and Heads of Service. New risk moved from Education Risk Register on Expansion of Early Learning and Childcare to 1140 hours.									
25	29 August 2018	S Kennedy	Register fully reviewed and updated by Board of Directors									

**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:** 25 September 2018  
**BY:** Chief Executive  
**SUBJECT:** Communities and Partnerships Risk Register

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7

## **1 PURPOSE**

- 1.1 To present to the Audit and Governance Committee the Communities and Partnerships Risk Register (Appendix 1) for discussion, comment and noting.
- 1.2 The Communities and Partnerships 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 Communities and Partnerships Local Risk Working Group (LRWG).

## **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Audit and Governance Committee notes the Communities and Partnerships 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 Communities and Partnerships 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 Communities and Partnerships 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 Communities and Partnerships LRWG. All risks have been evaluated using the standard (5x5) risk matrix (Appendix 2) producing 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 Communities and Partnerships Risk Register includes 1 High risks, 30 Medium risks and 16 Low Risks. Per the Council's Risk Strategy only Very High and High risks are reported to the Committee, however, given there is only 1 High Risk I have included all Medium Risks scoring 8 or 9.

#### **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 Communities and Partnerships LRWG 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 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 None

Appendix 1 – Communities and Partnerships Risk Register 2018

Appendix 2 – Risk Matrix 2018

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<b>DESIGNATION</b>	Emergency Planning, Risk and Resilience Officer
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<b>DATE</b>	13 September 2018





**Communities and Partnerships Risk Register** Date reviewed: 13 September 2018

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	East Lothian Plan Outcome Number Link	Evidence held of Regular Review
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C&P 1	<p>I.T. Systems (Customer Services)</p> <p>Failure of IT systems (including Telephony)</p> <ul style="list-style-type: none"> <li>Unable to deliver services some of which are vital services i.e. community alarm/telecare services for 3 Councils and 2 Housing associations/adult and children's social work calls/out-of-hours emergency calls</li> <li>Data unable to be inputted onto databases</li> <li>Activation of Business Continuity plan</li> <li>Customers unable to access self-service and get on-line</li> </ul> <p>The majority of I.T. systems are Public Sector Network (PSN) compliant with the exception of Integrated Room Booking System (IRBS), Customer Relationship Management (CRM) &amp; Closed Circuit Television (CCTV).</p> <p>Any of the above would result in the Council being unable to meet customer expectations resulting in reputational damage, poor publicity and failure to provide essential services.</p>	<p>Business continuity plan in place, tested annually and review actions implemented. Any short term outages/incidents test resilience and inform BC Plan.</p> <p>All software updated regularly.</p> <p>Regular meetings with staff to ensure they are aware of business needs; staff procedure up to date, staff trained and aware of outcomes and controls.</p> <p>3rd party provider support and BC plans held (IRBS/Qnomy/Capita/Bolinda/People's network/MODES).</p> <p>Manual procedures in place to support service provision, where possible: Social work service advised of any telephony problems in order that they can check on most vulnerable clients and make contacts, carers and emergency response service aware.</p> <p>Alternative backup solutions identified where possible e.g. CRM, Netcall 2nd server, Assure (libraries) etc.</p> <p>Wi-Fi contract extended to March 2019.</p> <p>IRBS support contract extended to October 2018.</p> <p>Staff ID cards system replaced April 2017.</p> <p>New telecare call and management system implemented March 2018.</p> <p>Peoples Network and Library Booking System contracts extended to March 2019.</p> <p>CCTV system upgraded June 2018 and now PSN compliant.</p>	4	4	16	<p>IRB system (bookings) is due to go out to tender in March 2019.</p> <p>CRM system to go out to procurement and awarded by September 2018.</p> <p>Netcall Call Management System contract expires September 2018. Reviewing procurement options.</p> <p>Review of Wi-Fi provision and re-tender for Peoples Network taking place in 2019.</p>	2	3	6	<p>Service Manager – Customer Services</p> <p>Customer Service Managers</p> <p>IT Service Manager</p>	<p>March 2019</p> <p>September 2018</p> <p>March 2019</p> <p>March 2019</p>		<p>Risk refreshed by Customer Service Managers March 2018 no change to assessment of scores.</p> <p>Risk refreshed by Customer Service Managers January 2017 with current score increased from 9 to 16 and residual score reduced from 9 to 6.</p>

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C&P 2	<p>Security and safety risks at the Brunton Hall (BH)</p> <p>Risk of reoccurring incidents of inappropriate and antisocial behaviour, damage to property, small fire outbreaks and security breaches.</p> <p>If these risks fail to be addressed, there is a continuing risk of:</p> <ul style="list-style-type: none"> <li>Inability to access office accommodation, equipment, data;</li> <li>Damage to building and contents including irreplaceable heritage assets e.g. museum objects, paintings and/or all other assets held within these premises;</li> <li>Serious injury to staff/members of public;</li> <li>Long term absences of staff</li> <li>Damage to the public reputation of the BH as a professionally managed and safe high class public service centre and events/theatre venue</li> <li>Loss of income to Brunton Theatre Trust and to ELC if customers put off using facilities due to anti-social and inappropriate behaviour.</li> </ul>	<p>The correct fire and security systems are incorporated in the building, including panic alarm systems in place.</p> <p>Regular fire drills, H&amp;S workplace inspections and Risk Assessments are conducted.</p> <p>Staff trained in aspects in relation to good working practices and fire drills and security procedures. Staff also trained in Suicide Awareness and receiving training in dealing with clients presenting with mental health issues.</p> <p>Regular visits to the building by members of Safer Communities team and Police Scotland Youth Protection Officer.</p> <p>CCTV system upgraded in July 2017.</p> <p>Problem solving partnership meetings and Brunton Hall User Group meetings held bi-monthly with reps from all services accommodated in the building to agree protocols /policies/ health and safety/awareness of issues/events and response to antisocial behaviour etc.</p> <p>All incidents reported on Sphera.</p> <p>Authorised building access and egress routes operate securely and are monitored – Temporary Caretaker deployed in foyer to assist customers and respond to any issues.</p> <p>Main Brunton hall back doors are closed whilst theatre performances are on to reduce inappropriate use of building.</p> <p>Primary Care Access Hub now located in Musselburgh Health Centre to support those who may require immediate assessment for those who have mental health or other issues.</p>	3	3	9	<p>Project team set up to identify library relocation to the Brunton hall, which will involve reviewing all use of accommodation.</p> <p>Undertaking Service Review of Facilities Support within the Brunton Hall.</p> <p>Review of impact of Temporary Caretaker in public access areas to determine future need.</p>	2	3	6	<p>Service Manager Customer Services</p> <p>Team Manager - Arts</p> <p>Service Manager – Facilities Support</p> <p>Service Managers</p> <p>Community Housing &amp; Homelessness</p> <p>Criminal Justice</p> <p>Area Manager - Musselburgh</p> <p>Team Manager – Public Health and Protection</p> <p>Team Manager – Safer Communities</p> <p>Group Manager – Mental Health Services</p>	<p>December 2018</p> <p>October 2018</p> <p>October 2018</p>		<p>New Risk created February 2018 by Service Manager Customer Services and further reviewed by Head of Service August 2018 with Current Score reduced from 12 to 9.</p>
C&P 3	<p>Service Capacity (Customer Services)</p> <p>Breadth of service delivery across East Lothian and staffing pressures, underpinned by budgetary constraint, stretches resources leading to an inability to sustain services which may impact on the ability to meet priority frontline services e.g. Customer Service desks and libraries.</p> <p>Failure to address this risk could lead to:</p> <ul style="list-style-type: none"> <li>Inability to develop service and staff skills/knowledge e.g. school librarians</li> <li>Inability to effectively meet stakeholder and customer demand</li> </ul>	<p>Service Plans and Business Continuity Plans in place.</p> <p>Partnership working with Midlothian and Scottish Borders Council expanding service provision and generating service sustainability and income.</p> <p>Staff Performance Review and Development deployed consistently.</p> <p>Managing Attendance Policy deployed consistently.</p> <p>Flexible deployment of staff and Locum/casual/relief posts within Local</p>	3	3	9	<p>Continue to explore further business opportunities and funding streams to maximise use of resources and achieve income potential e.g. Museum Scotland grants/ Historic Environment Funding etc.</p> <p>Develop graduate intern opportunities to meet service professional requirements e.g. graduate librarian, graduate communications interns.</p> <p>Work with Finance to review allocation of 2018/19 customer services budget across services to meet priority needs.</p>	3	2	6	<p>Service Manager – Customer Services</p> <p>All Customer Service Managers</p>	<p>Under constant review</p> <p>Ongoing</p> <p>October 2018</p>		<p>Risk refreshed by Head of Communities and Partnerships August 2018 with Current Score reduced from 12 to 9.</p> <p>Risk refreshed by Customer Service Managers March 2018 no change to assessment of scores.</p> <p>Risk Control measures refreshed to include library services– Risk rating increased due to</p>

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	<ul style="list-style-type: none"> <li>Reduced ability to introduce legislative changes effectively.</li> <li>Challenge in appropriately resourcing new services (staffing and equipment) e.g. new school library</li> <li>Workforce capacity pressures (e.g. attendance management, role redesign) resulting from service developments embedding new ways of working to meet strategic priorities e.g. digital strategy, asset management, financial strategy, within budget allocation.</li> </ul>	<p>Area offices /Libraries/ Contact Centre and Museum Service and use of volunteers within Library and Museum Service to meet peaks and troughs of service demand.</p> <p>Library HQ and school librarians working as one team supporting one another.</p> <p>Closure monitoring on RIVO in relation to staff experiences/stress and risk assessments completed.</p> <p>Provision of effective staff Induction and ongoing training e.g. CSPQ, Mindfulness, Mental Health etc.</p> <p>Performance Indicators analysed informing service delivery and management.</p> <p>Provide data and analysis to support bids for additional resources or business case to reduce/withdraw resources.</p> <p>Knowledge software deployed within key areas and evaluated and staff trained to extract, interpret and apply knowledge.</p> <p>Programme of Service Reviews ongoing e.g. Libraries Review</p> <p>Promote alternate customer service options i.e. channel shift to increase online service delivery, and reduce face-to-face and cash handling service provision</p> <p>New Jontek digital telecare platform implemented March 2018.</p>				Online Customer Service platform will improve linkages to other systems and enable access to self-serve for customers, reducing resource demand within services.					March 2019		<p>significant period of change which will result in increased likelihood of resource issues – May 2014</p> <p>Wide range of services being provided and so any long term absence becoming difficult to sustain.</p>
C&P 4	<p>Environmental Health's interventions on Health and Safety enforced premises allocated to ELC under appropriate legislation.</p> <p>Failing to respond satisfactorily to a major incident, death or serious personal injury in local businesses and organisations under Environmental Health's enforcement regime has negative impacts on financial and reputational risk. There could be</p> <ul style="list-style-type: none"> <li>further risk to life and limb if the occurrence allowed to remain unidentified/unresolved or continue for longer than necessary</li> <li>impact on public and business confidence within East Lothian.</li> <li>cause a reputational risk for the Council if the response was unsatisfactory</li> <li>attract significant media interest</li> </ul>	<p>Appointment, development and retention of sufficient authorised inspectors to investigate incidents and regulate duty holders through health &amp; safety inspection and intervention programmes.</p> <p>Associated enforcement action is taken where it is identified that controls have broken down or have been breached.</p> <p>Enforcement is conducted by trained and competent Environmental Health Officers, and Technical Officers, with ongoing CPD requirements.</p> <p>The business plan and inspection process are reviewed annually.</p> <p>Specialist knowledge/expertise sought from partners (HSE) if and when appropriate.</p>	2	4	8	<p>The Environmental Health App has the potential to be further developed. Its use has been profiled through social media and engagement with Community Councils.</p> <p>Through limited proactive engagement with business, as directed by UK Government, the variable nature of commercial sector and willingness of business operators means likelihood is realistically and accurately always above 1.</p>	2	4	8	Service Manager – Protective Services	December 2018		<p>Risk refreshed May 2018 with no change to assessment of risk scores.</p> <p>Risk refreshed February 2017 with current score reduced from 10 to 8 due to new staffing structure</p> <p>Risk updated January 2015 by Environmental Health Partnership Manager, current score increased from 8 to 10.</p>

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	<ul style="list-style-type: none"> <li>a public enquiry/formal investigation into the incident, which would impact on the deployment of Council resources to carry out day to day work.</li> <li>third party insurance claims made against the Council.</li> <li>Depending upon the nature of the incident, the area may require evacuation and/or decontamination.</li> </ul>	<p>Environmental Health will disseminate information to the general public to advise them of the risks and any appropriate precautions they should take to mitigate any risks.</p> <p>Of prime importance in an incident is the communication of the message, whether this message is primarily the responsibility of East Lothian Council, National Health Service, Scottish Government, Scottish Water, Food Standards Scotland. Therefore, the ELC Corporate Communications team has a vital role in relation to both the messaging and the use of the Environmental Health App. In addition, the Business Continuity Plans may have to be put in force should a serious incident occur that requires a community council response.</p>											
C&P 5	<p>Assets including, loss, damage, upkeep and facilities support of public buildings.</p> <p>Loss or damage due to fire, explosion, storm, flood, malicious damage, theft, lack of repair/maintenance, lack of adequate security measures, loss of utility supply or lack of facility support could result in</p> <ul style="list-style-type: none"> <li>Inability to access office accommodation, equipment, data;</li> <li>Damage to equipment including our irreplaceable heritage assets e.g. museum objects, paintings and/or all other assets held within these premises;</li> <li>Inability to retrieve data;</li> <li>Serious injury to staff/members of public;</li> <li>Long term absences;</li> <li>Loss of Income</li> </ul>	<p>Business continuity planning in place and alternative premises identified; plans and training records reviewed annually.</p> <p>Key equipment, maintenance contracts are kept up to date and in good working order.</p> <p>Regular fire drills carried out, H&amp;S workplace inspections and Risk Assessments.</p> <p>Currently, there are regular audits/inspections conducted within each facility with remedial actions undertaken within head of establishment authority.</p> <p>Staff trained in aspects relating to good working practices and in relation to fire drills and security procedures.</p> <p>Emergency planning procedures in place and regularly tested e.g. Service disaster plans for Museums.</p> <p>Alarm systems and CCTV systems in place for some museums and libraries. Prestonpans Library CCTV upgraded.</p> <p>Inventory held of all Council paintings, recording values, locations and conservation needs in accordance with the Councils Museum Collections Policy.</p> <p>Accreditation governing the quality of care for collections and museum buildings received from the Museums Association and reviewed tri-annually.</p> <p>The correct fire and security systems are incorporated in any new builds.</p>	2	4	8	<p>Considering new CCTV at Prestongrange Museum.</p> <p>Undertaking Service Review of Facilities Support within the Brunton Hall, which should result in improved use of staffing resources and increased staffing resources.</p>	2	4	8	<p>Service Manager Customer Services</p> <p>Team Manager - Arts</p> <p>Team Manager – Museums</p> <p>Service Manager – Community and Area Partnerships (Vacant)</p>	<p>December 2018</p> <p>October 2018</p>		<p>Risk refreshed February 2018 with no change to current risk scores.</p> <p>Refreshed November 2015 with current score reduced from 10 to 8.</p>

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		<p>All Museums have had security surveys carried out by Police Scotland, which will be refreshed every five years.</p> <p>Panic alarm systems review in all Libraries, John Gray Centre, John Muir Birthplace and Area Offices September 2017.</p> <p>Regular reporting and investigation of incidents and remedial action taken and highlighted to management if necessary.</p>											
C&P 6	<p>Communicable Disease incidents</p> <p>A major outbreak of food poisoning or a public health incident could result in serious illness or fatalities to the public. If such an incident is not adequately responded to this could:</p> <ul style="list-style-type: none"> <li>allow the outbreak or incident to remain unidentified or continue for longer than necessary. Thereby, possibly causing additional unnecessary illnesses.</li> <li>impact on public and business confidence within East Lothian.</li> <li>cause a reputational risk for the Council if the incident response was unsatisfactory</li> <li>attract significant media interest</li> <li>result in a public enquiry/formal investigation into the incident, which would affect the deployment of Council resources to carry out day-to-day work.</li> <li>cause a significant increase in workload as an enquiry or investigation could run for several years.</li> <li>cause third party insurance claims to be made against the Council.</li> <li>Depending upon the nature of the incident, the area may require evacuation and/or disinfection.</li> </ul>	<p>Appointment, development and retention of sufficient authorised officers to regulate food businesses through a food safety inspection programme including enforcement action where controls are known to have broken down or have been breached, including sampling.</p> <p>The Business Plan, inspection process and Business Continuity Plan overarch service delivery and are reviewed annually.</p> <p>Established major/ incident response arrangements with NHS Lothian.</p> <p>Rigorous monitoring of water supplies.</p> <p>Service delivery is conducted by trained and competent Environmental Health Officers and Food Safety Officers.</p> <p>Specialist Knowledge sought from partners (NHS and HPS) if and when appropriate.</p> <p>The Council has a major incident plan, which may be activated.</p> <p>Of prime importance in an incident is the communication of the message, whether this message is primarily the responsibility of East Lothian Council, National Health Service, Scottish Government, Scottish Water, Food Standards Scotland. Therefore, the ELC Corporate Communications team has a vital role in relation to both the messaging and the use of the Environmental Health App.</p> <p>Promote key public health campaigns and communicate safeguard actions as and when incidents occur.</p>	2	4	8	<p>The Environmental Health App has the potential to be further developed. Its use has been and will continue to be profiled through social media and engagement with Community Councils.</p>	2	3	6	Service Manager – Protective Services	December 2018		<p>Risk refreshed May 2018 with no change to assessment of risk scores.</p> <p>Risk refreshed February 2017 with current score reduced from 10 to 8 due to new staffing structure</p> <p>Risk refreshed November 2015 with residual score reduced from 10 to 8.</p>



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C&P 7	<p>Public Health/Nuisance Incident</p> <p>Major public health/nuisance incident such as environmental contamination or significant dust/noise/other pollution caused by individuals and/or local businesses would result in major public complaint to the Council.</p> <p>An inadequate response to any such incident and any resulting public complaints could result in reputational risk to the Council. There could be enforcement responsibilities for the Council resulting in an impact on the day-to-day service delivery.</p> <p>In relation to any environmental contamination, there may be a significant financial cost to the Council in organising a clean-up where a responsible third party cannot be identified.</p>	<p>Appointment, development and retention of sufficient authorised inspectors to investigate incidents and regulate duty holders regarding environmental protection matters.</p> <p>Trained and competent Officers to enable appropriate response.</p> <p>Council Emergency Planning arrangements include a Chemical Incident plan and an Oil Pollution plan, while multi-agency response arrangements are in place.</p> <p>The Council has Chemical Incident response arrangements in place with a specialist company (RAW Group).</p> <p>SEPA monitoring of bathing waters from June – September. Close liaison with SEPA and Scottish Water should incident involve pollution of watercourse/sea.</p> <p>Enhanced Blue green algae monitoring.</p> <p>Contact Centre issued with correct information in order to ensure a fast and appropriate response from relevant teams within the Council.</p> <p>Use of APP/Social Media/Council website to communicate general information and also during and after incidents.</p> <p>Public awareness raised following incidents and any enforcement action taken highlighted.</p>	2	4	8	Proportionate and effectively resourced out of hours / on-call service being devised.	2	3	6	Service Manager – Protective Services	December 2018		<p>Risk refreshed March 2018 with no change to assessment of risk scores.</p> <p>New risk added January 2015 by Environmental Health Partnership Manager</p>
C&P 8	<p>Building on Contaminated Land</p> <p>Allowing building on contaminated land without sufficient intervention to ensure that any relevant pollutant linkage is permanently broken could result in:</p> <ul style="list-style-type: none"> <li>• Allowance of any contamination to present a 'Significant possibility of Significant Harm' (SPOSH) to the receptor be that human health or the water environment</li> <li>• An impact on public and business confidence within East Lothian.</li> <li>• reputational risk for the Council</li> <li>• heightened local media interest.</li> <li>• require remedial works to be conducted</li> <li>• third party insurance claims to be made against the Council.</li> </ul>	<p>Contaminated Land Officer currently advises on all aspects of Contaminated Land Regime (Part IIA) and consults with Development Control on accordingly.</p> <p>Officer undergoes regular, relevant training with regards to all aspects of Contaminated Land and any enquiries, concerns or information concerning Contaminated Land issues are relayed to the Contaminated Land Officer.</p> <p>Appointment of external Consultants (suitably qualified) where required for more extensive Part IIA determinations (requiring SI's and risk assessments).</p> <p>All sites determined as being Part IIA are shown on the Contaminated Land Register held by the Council. There are currently no entries on this Register.</p> <p>Policies and procedures applying in any incident ensure prompt intervention, guidance and advice to members of the public and landowners.</p>	2	4	8	<p>Ongoing prioritisation and assessment of potentially contaminated sites according to the Council's Contaminated Land Strategy, specifically dealing with Part IIA. Any Council owned sites found to contain a pollutant linkage would be further investigated (SI) and remediated, if necessary.</p> <p>Ongoing consultation with Development Control regarding planning applications in relation to potential impact from contaminated land. Conditions would be specified on Planning Consent relating to investigation, remediation and validation.</p>	2	3	6	Service Manager – Protective Services	Ongoing		<p>Risk refreshed March 2018 with no change to assessment of risk scores.</p> <p>New risk added January 2015 by Environmental Health Partnership Manager</p>

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C&P 9	<p>Corporate Policy &amp; Improvement team's specialist roles/ skills</p> <p>The high number of specialist roles/skills within a small team means that for example service reviews, budget restrictions, long-term absence, cessation of contract etc. would compromise service delivery through 'single points of failure'.</p> <p>There is a risk that staff absence could result in loss of capacity, skills and experience to undertake key roles required to deliver key tasks.</p> <p>This would generate delay in production of key corporate plans and performance reporting and could limit the organisation's ability to take informed business decisions.</p>	<p>Individuals encouraged to work jointly, where appropriate.</p> <p>Project team approach to some areas of work.</p> <p>Staff encouraged to have detailed work plans.</p> <p>External support brought in if required.</p> <p>Employees have the ability to work from home.</p> <p>Continue to Identify critical 'specialist' work and contingency measures such as cross training, shadowing, alternative 'backup' provision and support arrangements.</p> <p>Staffing Review of Communications Team has provided more resilience.</p> <p>Cross team training on issues such as project management and developed good relations with partner organisations such as the Improvement Service which allows for secondment of staff with specialist skills.</p>				Service review involving all aspects of the Corporate Policy & Improvement team including Organisational Development, Performance Management and Transformation is to be completed with focus from new Service plan on collaborative working across the team.				Service Manager Corporate Policy & Improvement	October 2018	Not applicable	<p>Risk reviewed April 2018 – residual score reduced from 8 to 6.</p> <p>Risk refreshed February 2017 - current score reduced from 12 to 8 and residual score from 9 to 8.</p> <p>New risk created by Service Manager February 2015 and further refreshed January 2016.</p>
C&P 10	<p>Corporate Health &amp; Safety Controls &amp; Legislation</p> <p>Failure to implement adequate Corporate H&amp;S controls and to comply with H&amp;S legislation could result in poor performance, diminution of service and could result in injury to employees or the public leading to possible insurance claims and reputational damage to the Council.</p> <p>Inconsistent H&amp;S governance in respect of:</p> <ul style="list-style-type: none"> <li>The policies/practices in place</li> <li>Performance monitoring</li> <li>Statutory compliance</li> <li>Employee training</li> </ul> <p>would leave the Council more open to accidents, incidents litigation and reputational damage.</p>	<p>Safety policy and training in place and accessible to all employees.</p> <p>Management arrangements &amp; procedures and specialist staff in place.</p> <p>The ELC H&amp;S Safety Management System is in operation and H&amp;S controls are monitored through cross-departmental auditing, inspections and Sphera data analysis to identify control and risk issues.</p> <p>Reporting quarterly to JH&amp;S Committee ensures scrutiny by management and trades unions.</p> <p>Health &amp; Safety Policy, Management Arrangements and Guidance in place.</p> <p>Revised H&amp;S Policy, Management Arrangements and procedures have been developed.</p> <p>Performance monitoring framework, including KPIs being developed in-line with new management arrangements.</p> <p>Programme of employee health and safety training in place.</p>				New Health, Safety & Wellbeing Plan to be implemented during 2018.				Service Manager – Protective Services  Corporate Health & Safety Manager (Partnership)	October 2018		<p>Risk refreshed May 2018 with no change to assessment of risk scores.</p> <p>Risk refreshed February 2017 - Current score reduced from 12 to 8.</p> <p>Two risks reviewed and combined to form this one risk by Service Manager CP&amp;I February 2015 and refreshed January 2016</p> <p>Deleted Risk No 4 and include H&amp;S staff training in this risk.</p>

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			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
C&P 11	<p>Contact Centre Community Response</p> <p>This is a call service for telecare/community alarm customers for East Lothian Council, Midlothian Council and Scottish Borders Councils.</p> <p>A failure in Community Response processes i.e. staff not dealing with calls appropriately, not following scripts, not asking appropriate questions, making assumptions about what is wrong/who the caller is, not dealing with requests timeously/not noting key information etc. could result in:</p> <ul style="list-style-type: none"> <li>• Serious injury to customers</li> <li>• Fatality of customers</li> <li>• Loss in confidence by stakeholders/partners/customer</li> <li>• Financial loss due to liability claims</li> <li>• HSE involvement</li> <li>• The Council could become unable to respond to customer requests at the first point of contact.</li> </ul> <p>All of the above could lead to reputational and or financial damage to the council and poor publicity.</p>	<p>Staff recruited for key qualifications, skills &amp; attributes.</p> <p>Continual communication, training and staff development, which is aligned to good practice, industry standards and service delivery levels, monitored through PRDs.</p> <p>Monitor performance and service provision e.g. call monitoring.</p> <p>Working taken on from Scottish Borders Council in March 2018 i.e. telecare and out-of-hours calls, increased capacity and resilience.</p> <p>Solo Operating risk assessment and working procedure in place.</p> <p>Lessons learned report from incidents.</p> <p>Ongoing development of closer working between colleagues and stakeholders.</p> <p>Staffing review to increase flexibility in relation to shift cover within CRT completed February 2018.</p> <p>Additional staff recruited to Community Response Service July 2018.</p>	2	4	8	<p>Exploration of CECOPS (Community Equipment Code of Practice Scheme) accreditation.</p> <p>Staff development of other staff within the rest of the Contact centre will assist in cover/training support.</p>	1	4	4	<p>Service Manager – Customer Services</p> <p>Team Manager - Contact Centre</p>	<p>March 2019</p> <p>March 2019</p>		<p>Risk refreshed by Customer Service Managers March 2018 with Current Score reduced from 12 to 8 and residual score reduced to 4 by Head of Service.</p> <p>Risk refreshed January 2017 – current score increased from 8 to 12.</p>
C&P 12	<p>Emergency Planning, Incident Response and Management</p> <p>Failure to maintain, review and exercise Contingency Plans and to comply with current legislation or to contravene current legislation, which would result in severe penalties as well as an ineffective response to emergencies.</p> <p>Any ineffective preparation and planning for potential crises and disruptive events such as those reflected within the Community Risk Register, that directly relate to the council as a 'Category 1 Responder' may result in the council's inability to effectively respond and manage the event in a way that minimises harm to the community, our employees and the reputation of the council.</p>	<p>Contingency plans in place including generic, site specific, event specific and response specific plans while incident Response processes and resources are identified in contingency plans.</p> <p>Training and exercises to ensure emergency arrangements remain 'fit for purpose' and to test the robustness of contingency plans. In 2018 these include a Rest Centre exercise.</p> <p>The Council continues to work with the Community Councils and other community groups such as Tenants and Residents Associations to promote and progress 'Resilient Communities' as per the Scottish Government initiative 'Ready Scotland' and Communicates directly with community groups when risk warnings have been received (similar work has commenced with the Area Partnership Groups). The Council continues to offer assistance in this area including attending Community Council meetings.</p> <p>The Emergency Planning &amp; Risk Manager continues to communicate with community groups when risk warnings have been received while similar work</p>	2	4	8	<p>Several Community Councils are considering creating Resilient Communities plans.</p> <p>A further workshop, similar to the workshop completed in October 2014, has been organised by ELC to ensure the new Community Council officials are fully aware of 'Resilient Communities' as per the Scottish Government initiative 'Ready Scotland'. This will take in place in October 2018.</p>	1	4	4	<p>Emergency Planning and Risk Manager</p>	<p>October 2018</p> <p>October 2018</p>		<p>Risk refreshed May 2018 and combined with risk on Incident Response and Management with residual score reduced to 4.</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	East Lothian Plan 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						
		<p>has commenced with the Area Partnership Groups.</p> <p>Ensure employees receive adequate training and that 'key' ELC players continue to stay abreast of incident/emergency response arrangements and processes and are aware of their role and how they integrate with multi-agency partnership working.</p> <p>Corporate emergency planning arrangements are in place, including media and public information arrangements.</p> <p>Working with other Category 1 and 2 Responders e.g. Police Scotland, SFRS, Scottish Ambulance Service, Utility companies etc. as defined by the Civil Contingencies Act 2004 to ensure an effective and integrated response.</p> <p>A new Events and Resilience Officer commenced with the Emergency Planning, Risk and Resilience team on 6<sup>th</sup> August 2018 to deal with Events and Emergency Planning.</p> <p>Debriefing processes are followed to enable lessons to be learned and fed back into contingency planning.</p> <p>Training and exercise events are held for employees to ensure an efficient and effective response to emergency situations.</p> <p>North Berwick Community Council has completed their plan and a table top to ensure it is fit for purpose. This plan has been promoted to others as best practice.</p>													
<b>Original date produced (Version 1)</b>		06 May 2014										<b>Risk Score</b>	<b>Overall Rating</b>		
<b>File Name</b>		Policy and Partnerships Risk Register										<b>20-25</b>	<b>Very High</b>		
<b>Original Author(s)</b>		Scott Kennedy, Risk Officer										<b>10-19</b>	<b>High</b>		
<b>Current Revision Author(s)</b>		Scott Kennedy, Risk Officer										<b>5-9</b>	<b>Medium</b>		
<b>Version</b>		<b>Date</b>	<b>Author(s)</b>	<b>Notes on Revisions</b>										<b>1-4</b>	<b>Low</b>
1		May/June 2014	S Kennedy	Former Policy and Partnerships Risk Register altered to become the Communities and Partnerships Risk Register with risks transferred in and out following realignment.											
2		November/December 2014	S Kennedy	Community Partnerships, CP&I (Occupational Development, Health & Safety, Policy & Customer Feedback Risks refreshed)											
3		February 2015	S Kennedy	CP&I (EP, BC &RM) risks updated and all CP&I risks reviewed by Service Manager and Customer Services Risks reviewed by Service Manager. Community Housing Risks updated by Service Manager. Final review undertaken by Head of Service with minor changes made.											
4		November 2015	S Kennedy	Customer Service and Community Partnerships Risks updated by managers.											
5		January 2016	S Kennedy	Corporate Policy & Improvement Risks Reviewed											
6		February 2016	S Kennedy	Community Housing Risks Reviewed.											

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	East Lothian Plan 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				
7		December - February 2017	S Kennedy			Area Partnership Risks created and refreshed. Customer Feedback Risks transferred to Council Resources Risk Register. All risks refreshed by Service Managers and reviewed by Head of Service and CMT.							
8		November 2017	S Kennedy			Community Housing and Homelessness Risks moved to Development Risk Register while Protective Services and Trading Standards risks moved from Development Risk Register following Council Service Review.							
9		April/May 2018	S Kennedy			Protective Services, Customer Services, Community & Area Partnerships and Corporate Policy and Improvement Risks updated and then further reviewed by new Head of Service.							
10		July 2018	S Kennedy			Full Register Reviewed and Updated by Head of Service							

**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				
	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:** 25 September 2018

**BY:** Depute Chief Executive (Partnerships and Community Services)

**SUBJECT:** Councils' Use of Arm's-Length Organisations (Accounts Commission, May 2018)

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**8**

## **1 PURPOSE**

- 1.1 To review East Lothian Council's position in relation to the findings of the Accounts Commission report, '*Councils' use of arm's-length organisations*'.

## **2 RECOMMENDATIONS**

- 2.1 The Committee should:
- Note the position of East Lothian Council in regard to the key messages in the Accounts Commission report, '*Councils' use of arm's-length organisations*'.
  - Use the recommendations in the Accounts Commission report (para 3.29) to identify any further information or scrutiny activity it would wish to have reported back to future meetings of the Audit and Governance Committee.

## **3 BACKGROUND**

- 3.1 The Accounts Commission report defines the term Arm's Length External Organisation (ALEO) as "where a separate body with its own legal entity is set up by a council to deliver services." They will be separate from the council but subject to its control or influence. The broad scope of the definition of ALEOs taken by the Accounts Commission is shown by Exhibit 1 (page 7). The report states that ALEOs may take many forms (including companies, community enterprises, charitable organisations and trusts), but there is no legal definition.

- 3.2 The Accounts Commission has a long standing interest in how councils use Arm's-length External Organisations (ALEOs). In June 2011 it published a report in its '*How councils work series*' on '*Arm's-length external organisations (ALEOs): are you getting it right.*' This set out good practice and highlighted the risks and opportunities of using ALEOs.
- 3.3 In May 2018 the Accounts Commission published '*Council's use of Arm's-length organisations.*' This latest report provides an update on the use of arm's length organisations. The report is based on evidence from a sample of councils and on findings from Audit Scotland's audit activity across all councils on issues such as:
- Councils' reasons for using ALEOs
  - How councils oversee and govern ALEOs
  - What ALEOs have achieved.
- 3.4 This report has four parts:
- Part 1: How councils use arm's-length external organisations
- Part 2: How councils oversee ALEOs
- Part 3: What ALEOs are achieving
- Part 4: The future direction of ALEOs
- 3.5 The covering report will provide a summary of the key findings and messages of the Accounts Commission report, review East Lothian Council's position in relation to the report's recommendations.
- Part 1: How councils use arm's-length external organisations**
- 3.6 The Accounts Commission report points out that the range of ALEOs "is extremely diverse in size, function, and structure" and "there are inconsistencies in how councils identify ALEOs and make information about them available." The report suggests that all but five Scottish councils have ALEOs and a small number of councils have eight or more. The map (Exhibit 3, page 10) suggests that under the wider definition used by the Accounts Commission East Lothian has between 5 – 7 ALEOs.
- 3.7 The most 'popular' services to be provided through an ALEO sports and leisure (25), cultural services (20) {13 councils have joint leisure and culture ALEOs), and Economic development and regeneration (15). Three councils have ALEOs providing social care services. The report includes a useful Exhibit (Exhibit 4, page 11) which outlines recent and ongoing changes in the use of ALEOs. For example, Glasgow City Council is bringing its social care and facilities management ALEO, Cordia, and its community safety ALEO back into the Council. The same council has entered into a joint venture with the Wheatley Group to share ownership of its property maintenance ALEO City Building.

- 3.8 Whilst, as highlighted above (para 3.1) ALEOs can take many forms, most ALEOs in Scotland have been established as limited companies or limited liability partnership and are wholly owned by the council. Around half of ALEOs are registered charities.
- 3.9 The report makes the point that “Implementing an ALEO or any other new delivery option is a complex and expensive process”, which should “involve thoroughly appraising the options available and a sound business case.” ALEOs are seen as a “good compromise” between the two options of direct control of a service and contracting the service to the private sector. The business cases examined by the Accounts Commission identified various potential benefits of establishing an ALEO, including:
- Taxation benefits of a charitable organisation, principally relief on non-domestic rates
  - Ability to generate income from additional services
  - A stronger service or commercial focus under the direction of a dedicated board.
- 3.10 enjoyleisure is East Lothian Council’s sport and leisure ALEO. Before it was established the council undertook an options appraisal and prepared a business case supporting the creation of the ALEO and commissioned external financial and legal advice covering a range of issues.
- 3.11 The Barclay Review into non-domestic rates brought the availability of NDR relief into question. In November 2017 the Scottish Government announced that NDR relief offered to charitable ALEOs already operating will remain in place. However, it also indicated that it would offset any further charity relief benefit for future ALEO expansion by councils, for example, by limiting their grant funding. This removes one of the main benefits of forming ALEOs which might have benefitted from rates relief due to their charitable status.
- 3.12 Before embarking on the process of establishing an ALEO councils should have carried out an extensive options appraisal exercise to determine the most appropriate option for delivering the service. The report includes a useful exhibit (Exhibit 6, page 14) which summarises effective practice and where things can improve in relation to preparing options appraisal and business cases.
- 3.13 Any future proposal to by the Council consider either extending the scope of an existing ALEO (enjoyleisure) or to create a new ALEO would need to take the change in the NDR relief position into account.

## **Part 2: How councils oversee ALEOs**

- 3.14 The key message in Part 2 of the report is that Councils should continue to apply the principles of the Accounts Commission’s Following the Public Pound Code. Exhibit 7 (page 18) sets out the Codes six principles that Councils are required to follow in relation to ALEOs.

- 3.15 The Code states that having representatives as trustees or directors of ALEOs “does not in itself achieve effective governance. Regardless of any representation on boards, councils should monitor ALEOs and insist on regular reporting from them.”
- 3.16 Exhibit 8 in the report (page 19) provides examples of how three councils – Glasgow, Aberdeen and North Lanarkshire – have developed governance frameworks to achieve a more proportionate level of scrutiny of their ALEOs.
- 3.17 The report highlights the Musselburgh Joint Racing Committee as an example of where governance or operational issues have arisen. As the report notes the Council and the Lothians Racing Syndicate Ltd – the partners that made up the MJRC – commissioned an independent governance review. The findings of the review have been reported to and considered by the Council and Action has been taken to address the issues raised.
- 3.18 The Accounts Commission report includes useful information on the roles and duties of elected members who are appointed to the boards of ALEOs and reference is also made to the Councillors’ Code of Conduct and the Standards Commission’s Advice Note for Councillors on ALEOs. The report points out (Exhibit 10, page 22) that there are pros and cons of councillors or officers acting as trustees or directors.
- 3.19 The report recommends that councils should consider other approaches to limit conflicts of interest that may arise from elected members or officers being acting as trustees or directors of ALEOs and that councils should provide training and support to board members.
- 3.20 Council appointments to the Boards of ALEOs are made by the full Council. Some training on the role of elected members appointed to the Boards of outside organisations, including ALEOs was provided as part of the induction programme following the May 2017 council election. Further training and developments needs of members of ALEO Boards will be considered as part of the review of elected members training and development needs.
- 3.21 Perhaps the most significant statement in Part 2 of the report is that councils should take steps to make ALEOs more accountable. ALEOs bring a different kind of accountability than that provided to in-house services as they are foremost accountable to their Boards.
- 3.22 The Council ensures a level of accountability of its ALEOs through the presence of council appointed members of the Board or Trust and through the monitoring of contracts or Service Level Agreements that form the basis of any funding provided by the Council. In addition, ALEOs are asked to present reports to either the Audit & Governance Committee or the Policy Performance and Review Committee (PPRC) as appropriate. Over the last year these committees have considered the following reports:



- Audit & Governance Co; 28 Nov 2017 – Internal Audit report on Council Governance Arrangements with enjoyleisure
- Audit & Governance Co; 28 Nov 2017 – Council Governance Arrangements with enjoyleisure ALEO
- Audit & Governance Co; 28 Nov 2017 – enjoyleisure Performance and Governance, report by enjoyleisure
- Audit & Governance Co; 20 Feb 2018 – East Lothian Land Ltd 2016/17
- PPRC; 21 Feb 2018 – Council Arrangements with enjoyleisure ALEO
- Audit & Governance Co; 12 June 2018 – East Lothian Investments Ltd 2017/18

### **Part 3: What ALEOs are achieving**

- 3.23 The third part of the report highlights the benefits that ALEOs have brought. Using a range of sources the report concludes that sport and leisure ALEOs have increased uptake of their services and reduced costs and levels of funding / subsidy from councils. The average cost per visit to leisure facilities across 25 sports and leisure fell from £3.41 in 2010/11 to £2.91 in 2016/17 and satisfaction with sports facilities fell from 82% to 79%. This equates to a reduction in net costs of around 15% and an increase in service uptake by 20%
- 3.24 The cost per visit to enjoyleisure's sports facilities fell from £4.84 in 2011/12 to £3.33 in 2016/17. Satisfaction with swimming pools and sports centres recorded in the 2011 and then 2017 East Lothian residents' surveys increased marginally from 77% to 79%.

The report from enjoyleisure to the Audit & Governance Committee (27<sup>th</sup> November 2017) outlined the governance arrangements in place and provided a large amount of information on how the ALEO is contributing to the Council's objectives. It also outlined how the substantial increase in visitors to its facilities and additional income streams has meant it has reduced its reliance on subsidy from the council. The level of grant/ payment from the Council to enjoyleisure has fallen by just over 19% since the ALEO was established in 2009/10; and, the payment (£2.224m) now accounts for only 33% of enjoyleisure's total income (£6.629m).

- 3.25 The Accounts Commission report notes that although the ALEO model has brought benefits there are challenges going forward including: uncertainty over future taxation and NDR benefits; the impact of reduced funding from councils; the need to invest in leisure facilities and their ongoing maintenance costs; and, increasing competition.

#### **Part 4: The future direction of ALEOs**

- 3.26 The report's final part highlights that ALEOs remain an important option and that councils' use of ALEOs continues to change and evolve. Some councils are merging ALEOs, some are disbanding them and some are creating ALEOs in new areas such as affordable energy through Energy Services Companies (ESCOs).
- 3.27 The Accounts Commission found that recent options appraisals that have been carried out have considered community enterprises with the closer involvement of communities in considering and developing such options.
- 3.28 Appendix 3 of the report provides a useful checklist of factors that should councils should consider as they review their existing ALEOs and/ or undertake options appraisal around new service delivery models.

#### **Recommendations**

- 3.29 The report contains a small number of recommendations:

In deciding whether an ALEO is the best way to provide services over the longer term, while providing value for money, councils should:

- examine wider options that can bring similar benefits to ALEOs such as reorganising an existing service, sharing services with other councils, or involving the local community
- demonstrate how ALEOs help the council meet its objectives and improve outcomes for their communities
- set clear criteria for reviewing an ALEO, considering risks, performance and how it fits with council priorities.

Councils should continue to apply the Following the Public Pound (FtPP) principles ensuring that they:

- oversee the performance, financial position, and associated risks of ALEOs
- have clear reasons for appointing councillors and officers to ALEO boards, recognising the responsibilities and requirements of the role, and the risks of conflicts of interest
- provide training, support and advice from both the perspective of the council and the ALEO. This should include legal responsibilities, scrutiny and oversight, and conflicts of interest
- have processes in place to manage any potential conflict of interest of elected members and officers involved in the operation of ALEOs
- take an active role in managing their relationship with ALEOs, including their compliance to service level agreements, contracts and other obligations

- make information about ALEO funding and performance clear and publicly available.

3.30 The Committee should consider whether any further action is required by the Council to meet the recommendations set out in the Accounts Commission report.

#### **4 POLICY IMPLICATIONS**

4.1 The report does not have any direct policy implications for the Council. However, councils are required under the Local Government in Scotland Act 2003 to achieve Best Value in regard to economy, efficiency, effectiveness and equal opportunities. The Accounts Commission report provides useful guidance on issues that should be considered by councils in reviewing whether existing ALEOs provide Best Value and when considering new service delivery models which might include the option of establishing a new ALEO.

#### **5 INTEGRATED IMPACT ASSESSMENT**

5.1 This report is not applicable to the wellbeing of equalities groups and an Impact Assessment is not required.

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial – none.

6.2 Personnel – none.

6.3 Other – none.

#### **7 BACKGROUND PAPERS**

7.1 ‘Councils’ use of arm’s-length organisations’, Accounts Commission, May 2018

7.2 East Lothian Investments Ltd 2017/18; Audit & Governance Committee, 12 June 2018

7.3 Policy & Performance Review Committee, 21 February 2018

7.4 East Lothian Land Ltd 2016/17; Audit & Governance Committee, 20 February 2018

7.5 Council Governance Arrangements with enjoyleisure ALEO; Audit & Governance Committee, 27 November 2017

- 7.6 enjoyleisure Performance and Governance Report; Audit & Governance Committee, 27 November 2017
- 7.7 Internal Audit report on Council Governance Arrangements with enjoyleisure; Audit & Governance Committee, 27 November 2017

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<b>DATE</b>	18 September 2018

# Councils' use of arm's-length organisations



ACCOUNTS COMMISSION 

Prepared by Audit Scotland  
May 2018




# 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.

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- assessing the performance of councils in relation to Best Value and community planning
- carrying out national performance audits to help councils improve their services
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## Audit team

The core audit team consisted of: Carol Calder, Peter Worsdale and Derek Hoy, with support from other colleagues and under the direction of Ronnie Nicol.

## Links

-  PDF download
-  Web link

# Key facts



Number of ALEOs estimated in Scotland

**130**  
ALEOs  
turnover  
**£1.3bn**

**65**  
ALEOs  
turnover  
**£550m**

Number of charitable ALEOs. They receive an estimated relief of £45 million on non-domestic rates

**4**  
councils

Four councils have eight or more ALEOs

**3**  
councils  
turnover  
**£186m**

Number of councils with social care ALEOs. They employ over 5,300 FTE staff

**25**  
councils  
turnover  
**£430m**

Number of councils with leisure and/or culture ALEOs



# Summary



## Key messages

- 1** Arm's-length external organisations (ALEOs) are separate organisations used by councils to deliver services. They can bring both financial and operational benefits.
- 2** Councils should consider the risks associated with ALEOs at the outset. Oversight, accountability and good management are essential. In managing ALEOs, councils should continue to apply the principles in the Following the Public Pound Code (FtPP).<sup>1</sup>
- 3** Councils have improved and strengthened their oversight of ALEOs. They need to set clearer criteria for how councillors and officers are involved with ALEOs, and demonstrate more clearly how ALEOs secure Best Value.
- 4** Councils show improving practice in evaluating ALEOs as an option for delivering services. They could do more to involve the public and other stakeholders in the process.
- 5** Taxation advantages for registered charities have been a strong driver for councils establishing ALEOs. Following a Scottish Government review, these benefits are now less certain and some councils are exploring other options.
- 6** ALEOs have brought benefits including reduced service costs, increased uptake in sports and leisure, and improved standards of care. Councils need to better demonstrate how their use of ALEOs improves outcomes for people (by outcomes we mean the local improvements councils and their partners seek to make such as people's health and wellbeing, and a better-quality environment).
- 7** The context in which ALEOs operate is changing and cost pressures remain. Councils must have clear reasons for establishing ALEOs and consider alternatives. In doing so they should be clear on the risks involved, and work closely with local communities and businesses.

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**ALEOs have brought benefits but need to be managed carefully**

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## Recommendations

### We have identified the following recommendations for councils:

In deciding whether an ALEO is the best way to provide services over the longer term, while providing value for money, councils should:

- examine wider options that can bring similar benefits to ALEOs such as reorganising an existing service, sharing services with other councils, or involving the local community
- demonstrate how ALEOs help the council meet its objectives and improve outcomes for their communities
- set clear criteria for reviewing an ALEO, considering risks, performance and how it fits with council priorities.

Councils should continue to apply the Following the Public Pound (FtPP) principles ensuring that they:

- oversee the performance, financial position, and associated risks of ALEOs
- have clear reasons for appointing councillors and officers to ALEO boards, recognising the responsibilities and requirements of the role, and the risks of conflicts of interest
- provide training, support and advice from both the perspective of the council and the ALEO. This should include legal responsibilities, scrutiny and oversight, and conflicts of interest
- have processes in place to manage any potential conflict of interest of elected members and officers involved in the operation of ALEOs
- take an active role in managing their relationship with ALEOs, including their compliance to service level agreements, contracts and other obligations
- make information about ALEO funding and performance clear and publicly available.

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## Background

1. In local government, services can be delivered in a variety of ways. In Scotland the term arm's-length external organisation or ALEO, has come to be used where a separate body with its own legal identity is set up by a council to deliver services. Local government services are also delivered through community planning partnerships, integrated health and social care boards, valuation joint boards, and regional transport partnerships. Unlike these statutory arrangements, ALEOs can be created at the discretion of the council, within the boundaries set by local government legislation.

2. ALEO is a descriptive term for a delivery approach that can take many forms. It is not a legal definition. We describe an ALEO in [Exhibit 1](#).

## Exhibit 1

### What is an ALEO?



## Arm's-length external organisation



An arm's-length external organisation (ALEO) is a term used to describe an organisation that is formally separate from the council but is subject to its control or influence. The level of control or influence can vary.



ALEOs can take many forms including companies, community enterprises, charitable organisations and trusts. Services they deliver include leisure, transportation, property development, and care services.



The council might own the ALEO. It might have representatives on the ALEO board. It might be the main funder or shareholder of an ALEO.




ALEOs can be set up as non-profit-making organisations and as charities to promote public benefit in areas such as health, education, recreation and equal opportunities.

Source: Audit Scotland

3. ALEOs are an established feature of local government in Scotland. Their use grew throughout the 1990s in areas such as sports and leisure and urban regeneration, and they are now used by most councils to provide a range of activities. Arm's-length organisations are also long established in England and Wales and are used in areas such as buildings management, social care, housing and children's services. Depending upon their form and functions they may be referred to as arm's-length organisations (ALEOs); local authority trading companies (LATCs); and arm's-length management operations (ALMOs).

### The Accounts Commission has a continuing interest in ALEOs

4. The Accounts Commission has a strong and continued interest in how councils use ALEOs. This performance audit builds on the good governance messages of our earlier work. It also examines further the reasons councils use ALEOs, and the extent to which they are improving services and meeting their intended objectives. We will continue to examine councils' use of ALEOs in our audit work in councils.

- In June 2011, the Accounts Commission published its [How councils work: Arm's-length external organisations \(ALEOs\): are you getting it right?](#) . This set out good practice and highlighted the risks and opportunities of using ALEOs ([Exhibit 2, page 8](#)). The report provided checklists and a self-assessment tool to highlight good practice for councillors and officers.

## Exhibit 2

### 2011 How councils work ALEOs headline messages



- The Following the Public Pound principles provide the basis for sound governance
- Decisions to use ALEOs should be based on an options appraisal and sound business case
- Sound governance is needed from the outset
- Conditions attached to the use of public funds should be clear
- Clarity on roles and responsibilities is vital
- Councillors and officers require ongoing advice and training

Source: Audit Scotland

- The How councils work (HCW) report built on the principles set out in the FtPP code. This sets out how councils should manage their relationships and be accountable for ALEOs and other external bodies they are involved with. It is based on the premise that, to ensure public money is used properly, it must be possible to 'follow the public pound' across organisational boundaries.
- In March 2015, the Accounts Commission carried out follow-up work on its HCW report. This identified some improvements in councils' governance of ALEOs, and found that the standard of practice varied. The Commission wrote to all council leaders and chief executives to emphasise the need for good governance, including monitoring and reviewing the performance, costs and risks of ALEOs.

### About this report

5. We have examined practice across a sample of councils to highlight messages for all councils. The audit did not focus specifically on any individual council or ALEO. We also drew on findings from our audit activity across all councils. Our audit approach is set out in [Appendix 1 \(page 39\)](#), and our audit examined the following:

- Councils' reasons for using ALEOs.
- How councils oversee and govern ALEOs.
- What ALEOs have achieved.

6. This report has four parts:

- [Part 1 \(page 9\)](#) gives an overview of ALEOs and why councils use them.
- [Part 2 \(page 17\)](#) considers councils' oversight and governance of ALEOs.
- [Part 3 \(page 27\)](#) examines what ALEOs have achieved.
- [Part 4 \(page 35\)](#) considers the future direction of ALEOs.

# Part 1

## How councils use arm's-length external organisations



### Key messages

- 1** ALEO is not a legal definition but is a term that applies to separate organisations used by councils to deliver services. ALEOs provide many different services and can take many forms. Most councils use them to varying degrees. Around half are registered charities.
- 2** Councils need to examine a wide range of options to deliver the best outcomes for their communities. ALEOs bring the benefits of a more independent organisation, while allowing councils to retain some control or influence.
- 3** Councils show improving practice in how they plan to use ALEOs including detailed business cases. However, few have an overall policy for how they should consider options. Councils could do more to involve public and other stakeholders in the process.
- 4** Taxation advantages of charitable ALEOs have been a strong driver for their use. These are now subject to change and councils are considering other options.
- 5** ALEOs bring further benefits through their ability to trade more widely and attract new funding. They also provide a responsive and more focused operating model under the direction of a dedicated board.

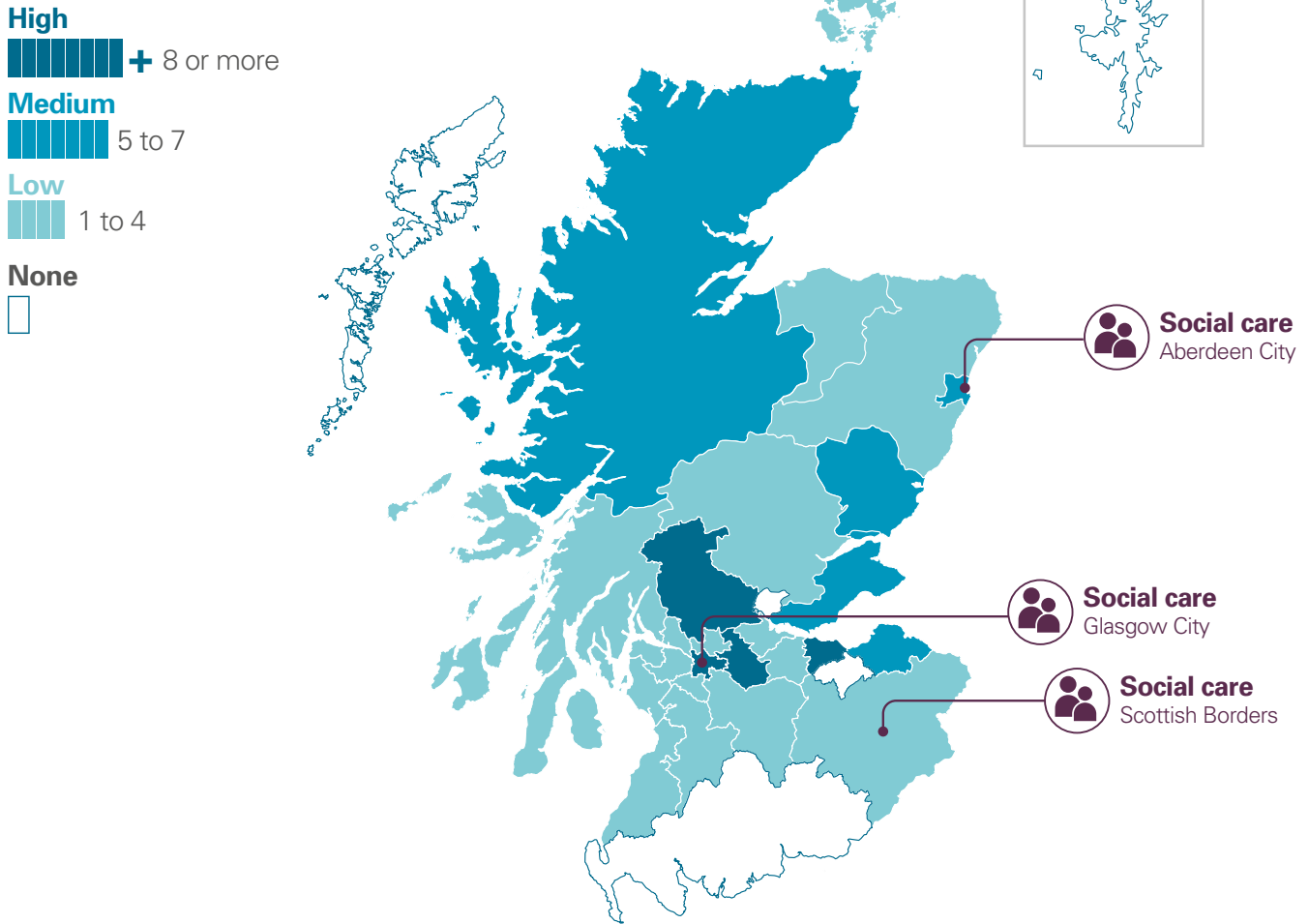
tax benefits have been a driver for ALEOs but these may change

### Most councils use ALEOs and their use continues to evolve

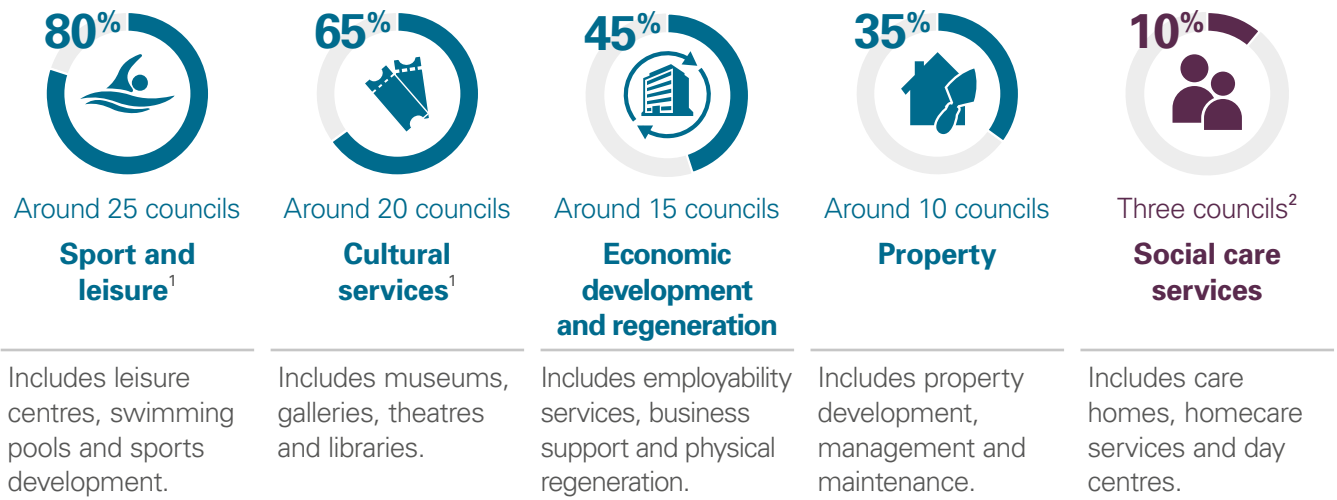
- 7.** The range of ALEOs in Scotland is extremely diverse in size, function, and structure. Almost all Scottish councils use ALEOs to varying degrees. Larger urban councils are more likely to have a higher number of ALEOs. They are also more likely to have ALEOs that have been set up to achieve more commercial objectives, such as property development, conference facilities and marketing.
- 8.** There are inconsistencies in how councils identify ALEOs and make information about them available. Indeed, there is little consensus even on what an ALEO is. This together with ongoing changes in their use, makes it difficult to quantify the number of ALEOs. [Exhibit 3 \(page 10\)](#) shows the use of ALEOs across councils and the functions they provide. This is based on information available to us from our 2015 follow-up work on ALEOs, councils' annual accounts, and ongoing changes we are aware of across councils, the most significant of which are summarised in [Exhibit 4 \(page 11\)](#).

### Exhibit 3

#### ALEO use across Scottish councils



Approximate numbers of councils using ALEOs to deliver the following services:



Other activities delivered through ALEOs include waste management, energy and community safety.

Notes:

- 1. Thirteen councils have joint leisure and culture ALEOs.
- 2. The three councils are Glasgow City, Aberdeen City and Scottish Borders.

Source: Audit Scotland

## Exhibit 4

### Recent changes with ALEOs



#### Recent and ongoing changes in the use of ALEOs

- The City of Edinburgh Council had consolidated its property development companies under one body – Edinburgh Development Initiative (EDI). It is now disbanding EDI to bring its property functions back into the council.
- Glasgow City Council has entered into a joint venture with the Wheatley Group to share ownership of its property maintenance ALEO, City Building.
- Glasgow City Council has wound up its city marketing ALEO and transferred its functions to its leisure and culture ALEO, Glasgow Life. It is bringing its social care and facilities management ALEO, Cordia, and its community safety ALEO back into the council.
- Some councils including Dundee and Scottish Borders have merged cultural and leisure services into a single ALEO.
- Some smaller ALEOs have been wound up, and their functions transferred to larger ALEOs, eg Dundee Ice Arena was transferred to Leisure and Culture Dundee.
- Some ALEOs are set up for a limited duration. For example, Steadfast Homes LLP is a partnership between Stirling Council and Scottish Futures Trust to provide mid-market rent properties, anticipated to operate for up to ten years.

Source: Audit Scotland

**9.** The diversity of financial arrangements across ALEOs makes it difficult to give a meaningful financial overview of them. In 2015, we estimated that spending through ALEOs was over £1.3 billion, with ALEOs accounting for around a quarter of the total spending for Glasgow City Council, their largest user.

#### ALEOs can be set up in many ways and take different legal forms

**10.** ALEOs are legally separate bodies from the council and can take different forms ([Appendix 2, page 40](#)) There are many possible variations within these, for example charities can operate trading subsidiaries such as a café in a museum or leisure centre.

**11.** Most ALEOs across our sample group of councils take the form of limited companies or limited liability partnerships and are wholly owned by the council. This means that the council is the ultimate decision-maker, with powers to wind up the ALEO or to determine board membership. It also sets the ALEO's objectives and powers. In the case of joint venture companies, third parties can also hold a stake in the ALEO, an example being property joint ventures with the council and private sector as partners.

**12.** We estimate that around half of ALEOs are registered charities. The majority of these provide leisure and cultural services, other examples include urban regeneration and tourism. ALEOs that have charitable status are regulated by the Office of the Scottish Charity Regulator (OSCR).<sup>2</sup> Charities must have a defined charitable purpose, for example in the areas of health, education, recreation or equal opportunities. Charities are non-profit making and are required to reinvest any surpluses to further their activities. The trustees of charitable ALEOs have duties over and above those of the directors of non-charitable ALEOs.

## Councils' reasons for using ALEOs

**13.** We examined councils' reasons for using ALEOs, including the effectiveness of their use of options appraisal and business cases to reach decisions. The statutory duty of Best Value, within the Local Government in Scotland Act 2003 (LGISA), requires councils to secure the best options for providing services to their communities. It requires them to demonstrate continuous improvement and deliver good-quality services at reasonable cost. The legislation aims to remove barriers to innovation, but put in place safeguards that make councils accountable for how they use public money.<sup>3</sup> The main options open to councils include:

- reorganising the way the council itself provides services
- 'outsourcing' or contracting services to private providers or the third sector such as voluntary groups and charities
- entering into partnerships with other councils or providers
- establishing 'arm's-length' bodies to deliver services
- any combination or hybrid of the above.

**14.** Implementing an ALEO or any other new delivery option is a complex and expensive process. It involves thoroughly appraising the options available and a sound business case. Councils must consider many detailed operational, legal, financial and commercial factors, and the risks involved. Set-up costs can be several hundred thousand pounds, and the time from the initial appraisal through to implementation can be more than a year. It follows that councils must proceed with caution when pursuing any new approach.

**15.** We found that councils have consistent reasons for using ALEOs. Generally, where councils provide services themselves they see direct control as an advantage. Contracting services to the private sector can save money, but reduces a council's control and influence. Councils see ALEOs as a good compromise between these two options. Though not without risk, the council can retain a degree of control or influence, and the ALEO can bring the benefits of a separate and more independent organisation. Business cases we examined identified these potential benefits of ALEOs:

- Taxation benefits of a charitable organisation including relief on non-domestic rates.
- Ability to generate income from additional services, and attract new income from funding, donations, sponsorship or loans.
- Strong service or commercial focus as a smaller more independent organisation under the direction of a dedicated board.
- Ability to involve public stakeholders in the management and direction of their services.
- Ability to foster a positive working relationship with an ALEO as a 'trusted partner'.



**16.** Councils saw the dedicated board of an ALEO as a strength. These can involve community and industry representatives and bring wider experience and new opportunities.

### Business case assumptions may change over time

**17.** Many councils had established charitable ALEOs such as those for leisure and culture to benefit from relief on non-domestic rates (NDR). Some business cases we examined identified this as a way for councils to meet their savings targets without having to cut services. Business cases identify NDR relief as a specific benefit provided that the ALEO meets the requirements for charitable status. While NDR relief can bring benefits locally, it offers no net financial gain to the public sector.

**18.** The ALEO model is also seen to bring a more commercial focus to generate income and attract new funding. In the case of charities, their charitable status is also seen as a safeguard against an overly commercial approach. Another unique benefit of charities is their ability to attract specific funding and donations.

**19.** In 2017, the Barclay Review into non-domestic rates brought the availability of NDR relief into question ([Exhibit 5](#)). It estimated that overall, charitable council ALEOs save £45 million annually through relief on NDR. Had the recommendation been accepted by the Scottish Government, the impact on the viability of leisure and other charitable ALEOs would have been significant. As things now stand, the policy changes make charitable ALEOs a less attractive option for councils. We are aware of at least one council that is reconsidering its proposal to form a culture and leisure ALEO following this development.

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## Exhibit 5

### The Barclay Review



### The Barclay Review

was set up in 2017 to examine and recommend reforms to the business rates system in Scotland.

One of the Barclay Review recommendations was to end the rates relief offered to ALEOs as this was seen to be an unfair advantage in a competitive market. In its response to the review, the Scottish Government announced in November 2017 that rates relief will remain in place for qualifying facilities already operated by councils. However it indicated it would offset any further charity relief benefit for future ALEO expansion by councils, for example by limiting their grant funding.

Source: Audit Scotland

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**20.** Councils can make a stronger business case where the benefits are clearly linked to improved outcomes for citizens and communities. That is, the choice is not based on a narrow financial advantage that may be subject to change.

**21.** The more recent business cases we examined do consider a wide range of financial and operational factors. Financial considerations, of NDR relief and the treatment of VAT were the most prominent features in the earlier business cases we looked at.

**22.** Business case assumptions may change and need to be reconsidered during the design and set-up of an ALEO. We found more effective practice where councils identified risks, and re-evaluated business case assumptions before taking a final decision.

### Councils are improving how they plan for and appraise ALEOs

**23.** Our sample group of councils have significant experience in contracting, options appraisal and implementing change. The options appraisal and business cases we examined were comprehensive and detailed. Councils use external consultancy expertise in more complex legal and financial matters. They also draw on evidence from similar organisations that have been set up elsewhere. [Exhibit 6](#) summarises good practice we identified and highlights areas where councils could improve.

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## Exhibit 6

### Options appraisal and business case

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#### Effective practice



- Clearly specifying service quality, financial, operational, accountability and other factors, on which to base decisions.
- Objective process to evaluate factors for example using scoring.
- Using external expertise for more technical, legal, financial, and other operational matters.
- Including all set-up and implementation costs in the appraisal.
- Using a third party expert to verify the process and assumptions.
- Revisiting assumptions throughout the process.
- Incorporating risk management from the outset through to implementation.

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#### Where things can improve



- Setting clear corporate guidelines for how options are to be considered.
- Being clear why the council identified its chosen range of options, and which options it may have excluded.
- Involving the public and interested communities, such as local businesses.
- Assessing the impact on local interested communities.
- Including contingency planning at the outset.

**24.** Councillors must provide strategic direction and understand the range of options the council is considering. Options appraisals should clearly set out the alternatives along with their respective benefits and risks. This is important as part of open and transparent decision-making and public scrutiny. We saw evidence of improving practice in this area. More recent options appraisals presented councillors with a good level of information across a range of options including contracting with private sector, or using community enterprises. However, we also found options appraisals that considered only a narrower set of options, and did not explain why options such as outsourcing had not been included.

**25.** Councils should also consider the risks of various options, and be clear what happens if an ALEO fails to meet its objectives. Such contingency planning should be considered at the outset. We found that while business cases tended to consider these factors in some detail, there was less evidence of contingency planning featuring at the initial options appraisal stages.

### **Few councils have guidelines for making service delivery choices**

**26.** Most of our sample councils undertook options appraisals on a case-by-case basis. Few have guidelines in place to set out the council's overall approach, for example the trigger points for reviewing a service and the criteria to apply when looking at options.

**27.** The Highland Council has introduced its redesign review process to examine delivery options across all services. This aims to strengthen councillors' and officers' understanding of options, including ALEOs, as part of all service reviews. North Lanarkshire Council has introduced an ongoing review process to cover all its significant ALEOs over a three-year cycle. These reviews consider how the ALEO contributes to the council's priorities and offers value for money.

**28.** One council from our sample had expressed 'a presumption of in-house provision unless there are service performance issues' within one of its organisational change programmes. This contrasts with another council that had expressed the presumption of 'using third sector parties or ALEOs where services can be delivered safely, more cost effectively and efficiently.'

**29.** What is important is that councils can demonstrate that any policy position enables them to secure Best Value. This means making an objective assessment of cost, quality and other service benefits. Otherwise there is a risk the council will miss the best options to sustain or improve a service.

### **Councils could do more to involve communities in their choice of options**

**30.** Councils could do more to involve local communities and businesses in their choice of options. Giving communities more say in their services is an area of growing national interest and the Community Empowerment (Scotland) Act 2015 brings new duties to public bodies. This is an area where councils are developing their practice.

**31.** We saw limited evidence of public opinion shaping options appraisals. The choice of option is treated mainly as a technical issue, but we would expect councils to show how they have considered the views of the public. This could include their expectations over service quality and the standard of facilities. Such dialogue can also make councils aware of options they may not have otherwise considered. [Part 4 \(page 35\)](#) of this report considers this topic further.

**Some benefits may not be unique to the ALEO model itself**

**32.** Some of the benefits associated with ALEOs may not be unique to the ALEO model itself. Councils should explore all options and understand the associated risks and alternatives. Ultimately, good management and staff commitment are key factors for success. [Appendix 3 \(page 41\)](#) outlines some of the benefits associated with ALEOs, along with alternative points to bear in mind. This provides a context for [Part 3 \(page 27\)](#) of this report which examines evidence of what ALEOs are achieving.

# Part 2

## How councils oversee ALEOs



### Key messages

- 1** Oversight, accountability and good management are essential to deliver effective public services however councils choose to deliver them. Councils should continue to apply the principles in our Following the Public Pound Code (FtPP).
- 2** Councils have improved and strengthened their oversight of ALEOs. This includes clear roles, scrutiny that is proportionate to risk, and officers taking a stronger liaison role with ALEOs.
- 3** Councils should put in place more formal processes to demonstrate that their use of an ALEO provides Best Value. They should take steps to be more transparent about their use of ALEOs.
- 4** Councils need to set clearer criteria for councillor or officer involvement with ALEOs. These should consider the associated risks and how conflicts of interest should be dealt with. Alternative arrangements can be made to reduce the risks of conflicts of interest.
- 5** Where councils appoint representatives to ALEO boards, they should foremost consider the skills, background and experience required of the role. Training and development is important both from the perspective of the council and the ALEO.

councils have strengthened their oversight of ALEOs, but they are not without risk

### Councils must apply the Following the Public Pound Code

**33.** Councils are ultimately accountable for how they spend public money, including the services they commission through ALEOs. This means having clear oversight and appropriate governance arrangements in place. The Following the Public Pound Code sets out the principles for how councils should do this ([Exhibit 7, page 18](#)). The Code states that having council representatives on a board as trustees or directors does not in itself achieve effective governance. Regardless of any representation on boards, councils should monitor ALEOs and insist on regular reporting from them.

## Exhibit 7

### Following the Public Pound



## Following the Public Pound principles and ALEOs

The principles of openness, integrity and accountability apply to councils in their decisions on spending public money. These apply equally to funds or other resources which are transferred to ALEOs.

The Code sets out six principles that require councils to:

- have a clear purpose in funding an ALEO
- set out a suitable financial regime
- monitor the ALEO's financial and service performance
- carefully consider representation on the ALEO board
- establish limits to involvement in the ALEO
- maintain audit access to support accountability.

Source: Following the Public Pound Code

**34.** An ALEO board needs to act independently to decide how it meets its objectives including its obligations to the council. For a registered charity this means acting in the interest of the charity and promoting charitable purpose. In practice the FtPP principles require a range of measures to be in place:

- Governance documents setting out the ALEO objectives and powers, along with contractual or service agreements between the ALEO and the council.
- Ongoing performance, financial and contract monitoring; and periodic review of the ALEO's business plans and objectives by the council.
- Assurance from internal audit over the council's governance and control processes for ALEOs. ALEOs may also have their own audit or finance subcommittees.

### Councils have better oversight of ALEOs, but issues can still occur

**35.** Councils need to understand how well ALEOs are performing, and be aware of risks and difficulties that may arise. All our sample councils had appropriate governance processes for overseeing ALEOs. More effective practice included scrutiny proportionate to the risks involved, and clear roles and responsibilities for councillor and officer oversight ([Exhibit 8, page 19](#)).

## Exhibit 8

### Improving practice in governance

## Councils have developed governance frameworks to achieve a more proportionate level of scrutiny for ALEOs



### Glasgow City Council's framework for councillor and officer oversight

Glasgow has a diverse portfolio of ALEOs. Its governance framework for ALEOs differentiates between democratic, strategic, and operational scrutiny as follows:

- Political decision-making and scrutiny: councillors oversee ALEOs through the Operational Performance and Delivery Scrutiny Committee and the Finance and Audit Scrutiny Committee.
- Strategic oversight and scrutiny: a Governance Management Group of senior officers meets with ALEO representatives on a six-monthly basis to review and discuss their financial and operational performance, business plans, and issues arising.
- There is regular liaison and monitoring between the council and ALEOs over operational issues: corporate teams within the council help to maintain the relationship between ALEOs and their client departments in the council.



### Aberdeen City Council's ALEOs Assurance Hub

Aberdeen introduced a new ALEOs Assurance Hub in 2017. This draws on expertise from CIPFA and the Good Governance Institute. The Assurance Hub has a clear focus on risk management, financial management and governance.

- The council has split its ALEOs into tiers based on the level of funding they receive and the level of control the council has over them. The Hub assesses the level of oversight required for individual ALEOs and reports to the council's Audit Risk and Scrutiny Committee.
- Service directorates and committees are responsible for monitoring performance and contractual compliance.
- An ALEO Strategic Partnership Group provides advice and support to the council's ALEOs including strategic planning and resource sharing. The group comprises ALEO chief executives, and council finance, legal, and procurement officers.



### North Lanarkshire Council's dedicated ALEOs committee

North Lanarkshire Council introduced a dedicated ALEOs and External Organisations Monitoring Committee in 2016. It meets in public and considers the financial management, performance, risks and governance of ALEOs.

- The frequency of ALEO monitoring reports to the committee is proportionate to risk and ranges from quarterly to annually. More detailed performance information is scrutinised by the relevant council service committee.
- Client officer roles are being reviewed, and a Monitoring Officer Working Group established to bring about consistency of approach across all areas of ALEO service delivery.

Source: Audit Scotland

**36.** Councils must oversee and manage many factors and be aware of the risks associated with ALEOs. Despite evidence of improving governance, we are aware of governance or operational issues that have arisen:

- Glasgow City Council's employability ALEO faced financial pressures in 2015/16 resulting from it having been required to repay European funding. As a result, it reduced its activities significantly and shed 150 posts through voluntary severance. The body has since restructured.
- East Lothian Council and the Lothians Racing Syndicate Ltd (LRS) jointly commissioned an independent governance review to evaluate the structure, composition and constitution of the Musselburgh Joint Racing Committee, and operational matters relating to the conduct of business at the racecourse. This identified options which are being considered by the council in consultation with the LRS.
- The creation of a subsidiary in 2011 by the council's ALEO, North Lanarkshire Leisure, had not been reported to a council committee. Also, the need for, and circumstances surrounding the setting up of, the company was not approved by, or reported to, the ALEO Board. There have since been a number of changes within the ALEO and North Lanarkshire Council has significantly strengthened its approach to the governance of ALEOs.
- In Stirling Council, a tender evaluation carried out in February 2017 following an options appraisal for the provision of sports and leisure services recommended the award of the contract to an external company. However, councillors decided that neither of the two bids submitted as part of the extensive tender process met the best value criteria and, as a result, the contract award was rejected. The council is now pursuing an alternative option involving reconstituting its existing sports and leisure ALEO.

### **Councils must have clear reasons for their appointments to ALEO boards**

**37.** It is up to councils to decide on the most appropriate governance arrangements. They must consider very carefully the question of council representation on the ALEO board. The main consideration is what skills or experience are required of the board and who is best placed to meet these. Where councillors or officers take such positions, they should be clear about the responsibilities and requirements of the role.

**38.** There are risks of conflicts of interest where councillors or council officers take board positions. The Accounts Commission has highlighted that such conflicts can become starker if an ALEO encounters difficulties. The Companies Act and Charities and Trustee Investment (Scotland) Act require board members or trustees to act in the best interests of the company or trust on which they serve, and to put these interests first ([Exhibit 9, page 21](#)). But there may be times where this requirement may conflict with councillor or officer duties in the council. This can be a difficult balance where council representatives may be privy to certain information, but are prohibited from sharing or acting on it because of their role. As a small council with fewer councillors, Stirling Council told us that it can be much more difficult to manage potential conflicts.



## Exhibit 9

### Duties within companies and charities law



#### **Companies Act** requirements for directors include:

- act within powers
- promote the success of the company
- exercise independent judgement
- exercise reasonable care, skill and diligence
- avoid conflicts of interest
- not accept benefits from third parties
- declare any interest in a proposed transaction or arrangement.

#### **Charities and Trustee Investment (Scotland) Act** requirements for trustees include:

- act in a manner consistent with the charity's purpose
- act with the care and diligence expected of someone managing another person's affairs
- put the interest of the charity before those of any person or organisation who appoints trustees where there is a conflict of interest, or withdraw from the decision-making involved.

Source: The Companies Act (2006); Charities and Trustee Investment (Scotland) Act 2005

**39.** The Councillors' Code of Conduct sets out principles that councillors must follow where they take a role on outside bodies including ALEOs.<sup>4</sup> The Standards Commission's Advice Note for Councillors on ALEOs provides supplementary guidance to help clarify this area of the Code. This sets out the practice required of councillors who are also board members or trustees:<sup>5</sup>

- Councillors who are also ALEO board members can participate in council committees, but they must declare interests.
- The Code prohibits councillors from taking 'quasi-judicial' decisions in the council that may affect any ALEO they are involved with, for example planning or licensing decisions.
- It is considered good practice for councillors not to participate in scrutiny or funding decisions within the council that may affect the ALEO they are involved with.

**40.** There is an ongoing debate about the advantages and disadvantages of using councillors as board members. Councillors bring their experience as elected community representatives and their knowledge of the council and its services; however, there are potential conflicts of interest between their roles on the council and the ALEO. [Exhibit 10](#) outlines some of the main advantages and disadvantages identified by our sample group of councils.

## Exhibit 10

### Pros and cons of councillors or officers acting as trustees or directors

#### Potential advantages of council nominees as board directors or trustees



- Can improve the relationship between the ALEO and the council.
- Can bring an insight into the council and its objectives and the broader community.
- Council representatives can gain valuable first-hand experience of service issues and different sectors.

#### Potential disadvantages of council nominees as board directors or trustees



- Can bring additional demands to their already diverse role.
- Representatives may lack the background, skills or understanding required of the role.
- Risk of conflict of interest between their role on the ALEO and their role on the council.
- Negative impact on council decision-making where councillors withdraw from committees owing to conflicts of interest.
- Exposure to legal risks and personal liability.
- Risk to continuity if councillors lose their position if not re-elected.

Source: Audit Scotland

**41.** We found a range of practice for councillors and officers taking trustee and director roles across our sample group:

- Across most of our sample councils, councillors and officers can take board positions on ALEOs. However, it is becoming less common to involve officers, and in Stirling and Edinburgh, for example, council officers no longer take director positions.
- Practice varied in social care ALEOs. Councillors and council officers are appointed as board directors in Glasgow's Cordia; this contrasts with the care ALEOs in Aberdeen City and Scottish Borders where councillors are not appointed as directors. In the Scottish Borders, councillors oversee the care ALEO through a dedicated Strategic Governance Group.
- OSCR recommends that the majority of trustees in a charitable ALEO should be independent of the council; we observed this to be the case across our sample group.

**42.** Officers and councillors holding director positions felt they could balance their dual roles, and saw this as very much part of their job. We are not aware of any significant breaches to the Councillors Code of Conduct regarding councillors' involvement with ALEOs. Our audit work in councils has emphasised the need for clear roles and responsibilities in relation to ALEOs to risk of conflicts of interest arising.

**43.** The City of Edinburgh Council highlighted a previous situation where an officer had been in a difficult position concerning the sale of assets from an ALEO back to the council. As an ALEO director, his aim was to achieve the best price for the company; but as the council's chief financial officer he had a duty to achieve value for money for the council. Council officer posts are no longer nominated as directors of that company.

**44.** We found that few councils have policies or guidelines setting out how councillors or officers should be involved with ALEOs. Stirling Council has guidelines that aim to focus councillors on their strategic role of providing direction, oversight and challenge over ALEOs. The policy restricts councillors from participating as directors on more commercial ALEOs, but allows them to be involved if the ALEO has a clear community benefit purpose that is in line with the council's objectives. [Case study 1](#) illustrates how the council applied these guidelines in the case of a joint venture company.

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## Case study 1

### Board representation on a joint venture (JV)



The council recognised that the board of a property development JV had an imbalance of expertise: it comprised councillors and a council officer, and property professionals from the council's private sector partner. In a governance review, the council replaced the councillors and officer with independent experts with knowledge of the commercial property market. This was to reduce the risk of conflicts of interest and to improve the knowledge and experience of the board for the benefit of both the council and its JV partner.

Source: Audit Scotland

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### Councils should consider other approaches to limit conflicts of interest

**45.** Some councils have chosen not to use council representatives as board members because of the risk of conflicts of interests. Having council nominees on boards was seen to blur the relationship between the council and the ALEO. It also brings personal liabilities to those taking such roles. Councils can achieve a much clearer separation by using secondments to ALEOs.

**46.** Councils need to put safeguards in place where they decide to involve a council representative in a decision-making position on an ALEO. These include procedures for dealing with conflicts of interest, making training and advice available, and personal liability insurance to protect board members in their role. Employment contracts can also be used to specify an officer's responsibilities if a conflict of interest arises, however we did not hear of this being used in practice.

**47.** Council representatives can take a monitoring and liaison role as an alternative to taking a board position. This allows them to oversee and advise the ALEO without taking a decision-making role on the ALEO. Most of our sample group of councils had strengthened the role of such officers to give them greater seniority and influence. Their role involves managing the relationship between the council and the ALEO, and monitoring the performance of the ALEO and its compliance with its contracts or service agreements with the council. Fife Council explained how the expertise and close involvement of its officers helps it to understand local opportunities and encourage the ALEO to improve its performance.

### **Council appointments to ALEOs should be driven by the requirements of the role**

**48.** We found that councillor appointments to ALEO boards tended to reflect the political balance of the council. This differs from the approach taken by ALEOs for their other board members. These appointments tend to be made through an appointments committee based on the skills, experience and other criteria required of the role. Councils should ensure that they consider the skills or background required of the role. More effective practice in this area included The City of Edinburgh Council where officers provide political groups with guidance on making appointments.

### **Councils and ALEOs should provide training and support to board members**

**49.** It is important that board members have the necessary training to perform their role effectively and understand what is required of them. Councillors we spoke to recognise that training is important from both the perspective of the council and the ALEO. All the councils we spoke to provide training, for example as part of the induction for new councillors, and more bespoke training in relation to their roles on ALEOs. In Glasgow, training is mandatory for elected members appointed to ALEO boards. OSCR provides guidance on the role of charity trustees.<sup>6</sup>

**50.** We saw good examples of training for board members, reflecting the growing maturity of councils' experience in this area. Our HCW report on roles and working relationships highlights both training and appropriate behaviours as essential to good governance.<sup>7</sup> It urges councils to provide councillors with training in the essential areas of scrutiny, audit, and financial decision-making. Indeed, some councillors we spoke to felt that in the case of ALEOs, training should also cover company accounts. More effective practice is described in [Exhibit 11 \(page 25\)](#).

### **Councils need to provide a systematic test of Best Value**

**51.** It is possible under certain conditions for councils to procure services directly from a third party such as an ALEO without a competitive public procurement exercise.<sup>8</sup> Generally, this requires the relationship between the council and the ALEO to be the same as that between the council and one of its own directorates. The ALEO must also provide most of its core activities on behalf of the council. Councils must also continue to observe procurement and competition law as part of any changes in their relationship with ALEOs, be it through contract renewal, or changes or diversification in the ALEO's activities.

## Exhibit 11

### Training and development for ALEOs



#### Provided by the council

- ✔ The council specifies advice and any necessary training for all councillors and officers who are decision-makers, advisers or observers of an external body.
- ✔ Training explores conflict scenarios, companies and charities law, and the Councillors' Code of Conduct.
- ✔ Training involves external expertise.
- ✔ All councillors are trained in essential aspects of their role in relation to scrutiny, audit and finance.



#### Provided by the ALEO

- ✔ Induction workshops for all board members.
- ✔ Directors' manual setting out the ALEO's aims, and the activities, responsibilities and duties of directors or trustees.
- ✔ Development programme for board directors including corporate governance standards.
- ✔ Appraising board members, and publishing their attendance record.
- ✔ Specialist training in companies and charities law.

Source: Audit Scotland

**52.** Councils should be able to demonstrate that their contracts or service agreements with an ALEO offer Best Value. Councils tend to do this by assessing the annual performance of the ALEO, along with its annual report and business plan. There is scope for some councils to put stronger arrangements in place for the interim review of contract performance. For example, one council we spoke to had introduced clearer performance objectives and formal review points in its contract with a joint venture ALEO. In another example, a council had revised its service agreement with a leisure trust to set out its social benefit objectives more clearly.

### Councils should take steps to make ALEOs more accountable

**53.** Services provided directly by councils are often seen as more accountable than services contracted with external providers such as ALEOs. Councillors direct and oversee council-provided services through council committees. Where services are delivered by ALEOs this relationship becomes less direct. The council will oversee the contract or service agreement with the ALEO, but will have less day-to-day influence over the service.

**54.** ALEOs bring a different kind of accountability. They are, foremost, accountable to their own boards. These can include wider stakeholders including business leaders, community and service users, and employee and trade union representatives. This can allow for a more 'user-driven' form of governance, as opposed to the more representative role that councillors take on a council committee.

**55.** Some councillors we spoke to felt that the council relationship with ALEOs was different from relationships with a fully outsourced service. As trusted partners they felt they could contact ALEO managers for information, and call ALEO management to committee to present evidence.

**56.** Making information publicly available is another important aspect of accountability. Measures we identified that can improve transparency include the following:

- ALEO websites making annual reports, board minutes, and governance documents publicly available.
- ALEOs proactively publishing as much information as possible, for example covering the categories of information identified in the Model Publication Scheme.<sup>9</sup>
- ALEOs acting in accordance with the Freedom of Information Act that applies to councils, by responding promptly to information requests, providing information where possible and explaining why information cannot be provided.
- ALEOs adopting customer feedback and complaints-handling standards such as the Scottish Public Services Ombudsman (SPSO) guidelines.

**57.** Most of the leisure ALEOs across our sample group gave useful service and pricing information. However, not all included performance or user satisfaction information or minutes of board meetings. This is an area that councils should improve and specify in their service agreements with ALEOs. We found that:

- all the ALEOs included information on pricing and concessions
- all included information on Freedom of Information
- most had clear information on how to make complaints or suggestions
- only around half made board minutes available
- only around half made annual and performance reports available.

**58.** A council's annual accounts are a further source of public information. The governance and financial relationship between a council and its ALEOs can be complex. The Code of Practice on Local Authority Accounting encourages councils to 'tell the story' of their activities and financial performance during the year. This should cover not only the council itself, but also other third parties it is involved with, including ALEOs where they are significant to a council in terms of their risks or their financial implications.

**59.** The extent to which councils provided a clear commentary on their use of ALEOs varied significantly, with some councils providing only limited information. More effective practice is for councils to give a fuller overview of the ALEOs they are involved with. This could include their purpose, the extent of council ownership if any, and the financial contribution to and from the council. Most of the accounts we reviewed did not provide this level of detail. Glasgow and Fife councils had more effective practice and provided a clearer breakdown of their interests with useful supporting commentary.

# Part 3

## What ALEOs are achieving



### Key messages

- 1** ALEOs are diverse in their range and the services they offer. Councils have used ALEOs to sustain existing services and offer additional services through reducing costs and generating income. However, financial and market pressures remain that can impact on their performance.
- 2** ALEOs have reduced the costs of sports and leisure services to councils through taxation benefits, new funding, and increased participation. Social care ALEOs have improved their care standards and reduced the costs of these services to councils. Financial pressures remain and not all social care ALEOs are achieving their financial targets. Performance in other areas such as property development has been more mixed.
- 3** We found many good examples of ALEOs providing innovation and benefit to communities. Councils need to better demonstrate how their use of ALEOs contributes to the council's priorities and improves outcomes for people.

**ALEOs have brought benefits but cost pressures remain**

**60.** The diversity of services provided by ALEOs and their individual circumstances makes it almost impossible to draw clear patterns of performance that apply in all cases. We have examined how ALEOs have contributed to improving services across a sample of ALEO services. This includes sports and leisure services where most councils use ALEOs; and social care, a service that vulnerable people and their families rely on. Our sample also includes examples from more commercial ALEOs.

**61.** We have based our assessment on the following sources of information:

- The Local Government Benchmarking Framework (LGBF) performance information for leisure services that applies across all Scottish councils. We have extracted data specifically for councils that operate sports and leisure ALEOs.
- Financial returns made by ALEOs to OSCR to identify broad sources of income.
- Care Inspectorate assessments to identify the quality of care for care homes, day centres and homecare services in relation to the three social care ALEOs.
- ALEO performance information and examples from across our sample councils. These include areas of service quality, efficiencies and financial performance.

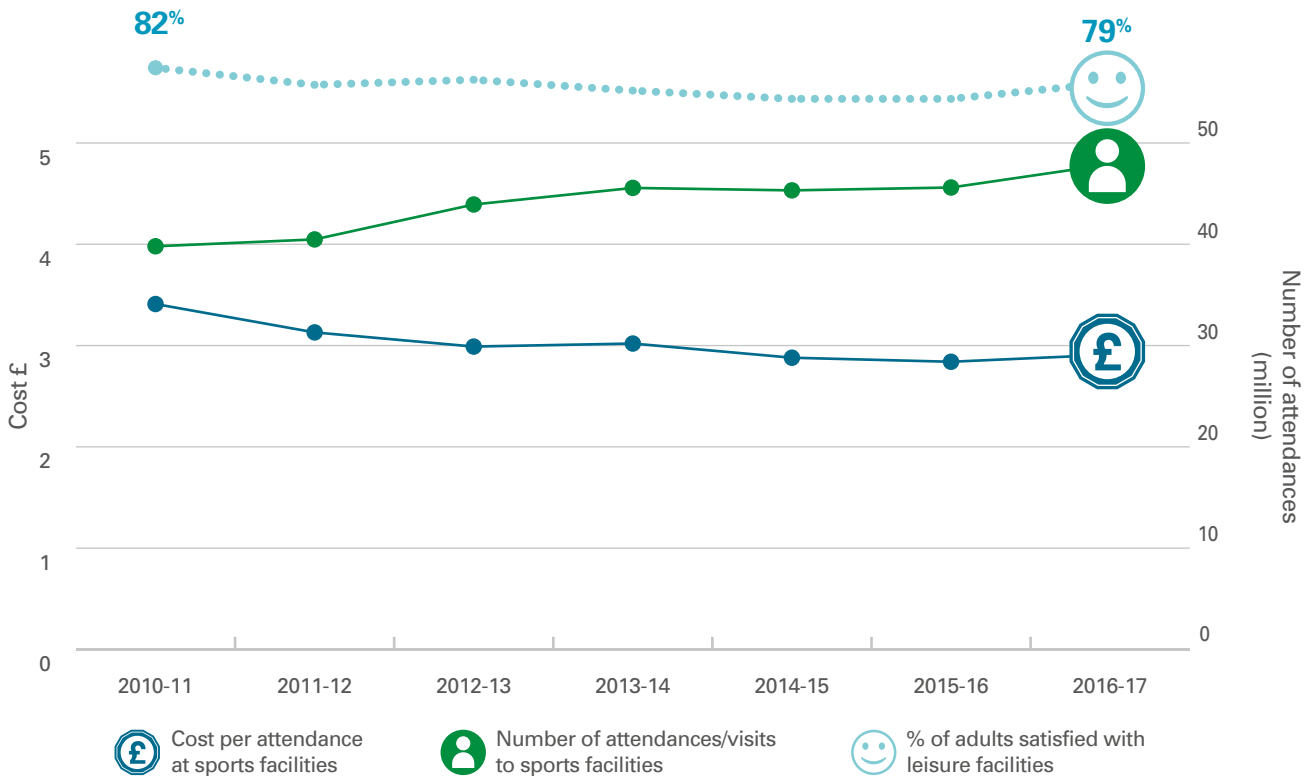
### Sports and leisure ALEOs have increased uptake and reduced costs

**62.** In Scotland over three-quarters of councils provide sports and leisure services through an ALEO. Sports and leisure services aim to encourage sports development, physical activity and wellbeing. These are provided through facilities including sports centres, swimming pools, and outdoor sports facilities. We estimate the total turnover of leisure and culture trusts to be approximately £430 million in 2016/17. Glasgow Life is a joint leisure and culture ALEO and operates on a significantly larger scale than other ALEOS in the sector, with total turnover of around £127 million.

**63. Exhibit 12** shows LGBF indicators for how the 25 ALEOs that provide sports and leisure services across Scotland have performed. This shows that from 2010/11 to 2016/17 the cost per visit to leisure facilities has fallen, while service uptake has increased. Public perceptions of the service show a slight decline:

- Net costs per visit have decreased from £3.41 to £2.91.
- Visits (per year) to sports facilities increased from 39.8 million to 47.9 million, although uptake has declined in recent years in some council areas.
- Satisfaction with sports facilities fell from around 82 per cent to 79 per cent.<sup>10</sup>

### Exhibit 12 The performance of sports and leisure ALEOs



Source: Local Government Benchmarking Framework 2016/17



**64.** This equates to a reduction in net costs of around 15 per cent, and an increase in service uptake by 20 per cent. The trend in these broad indicators was less marked for the seven councils that directly provide sports and leisure services without using ALEOs. Here there has been a reduction in costs of nine per cent, and an increase in uptake of ten per cent; user satisfaction is lower at 66 per cent and has declined by two per cent. These councils tend to be smaller or more rural councils.

### **Financial benefits have been a major reason for establishing leisure ALEOs**

**65.** Financial benefits have been a major reason for setting up charitable leisure ALEOs. This includes both taxation through NDR relief and VAT, and additional income through service uptake and new funding. We estimate that leisure and culture ALEOs generate around £61 million annually through donations, grants, fund-raising, investments, and other commercial activity.<sup>11</sup> This is equivalent to around 14 per cent of their overall income. Below are some examples of how ALEOs have reduced the costs of providing leisure services to councils include:

- The Glasgow City Council's service fee for Glasgow Life at £73 million is equivalent to around 57 per cent of the ALEO income in 2016/17, compared to around 71 per cent of income in 2008 (£69 million service fee).
- Leisure and Culture Dundee has made a cumulative saving of £15 million (2011 to 2017) allowing it to remove a £3.5 million funding gap and invest £1.2 million. Income generated by the ALEO now exceeds the funding paid by the council.
- High Life Highland has realised a saving of £9.1 million in its first five years of operation; with rates and VAT savings making up around 56 per cent of the savings, and the remainder being achieved through income and efficiencies.
- From 2008–16, Fife Council saw a 50 per cent reduction in costs, and a 50 per cent increase in service uptake for sports and leisure. The annual costs to the council fell by over £3 million, from 60 per cent of turnover to only 20 per cent.

**66.** Fife Council's capital investment programme has contributed to its improved performance. The council works in partnership with Fife Sports and Leisure Trust to plan and project manage this programme. This has led to £18 million of investment being targeted across sports centres and swimming pools, including easy-access changing rooms. The programme aims to ensure the investment continues to deliver financial benefits by increasing revenue as well as benefiting communities.

### **Councils need to improve how they measure the outcomes achieved by ALEOs**

**67.** Measuring the impact services have on improving health, wellbeing and other outcomes is an area where the public sector is still developing its practice. It is difficult to identify the contribution of ALEOs to wider outcomes. We have therefore limited our assessment in this area to more qualitative examples of how ALEOs contribute to their social or community benefit aims.

**68.** As charities, ALEOs have a charitable purpose in areas such as participation in sport, health and wellbeing and encouraging volunteering. Most of our sample group of leisure or culture ALEOs were also involved in their local community planning partnership, either through subgroups or as an additional or non-statutory partner. High Life Highland (HLH) has participated as a member of the Highland Community Planning Partnership since 2015, helping to find new opportunities, for example through partnership working with the NHS. We found many good examples of ALEO initiatives to meet their wider social or community benefit aims:

- Edinburgh Leisure worked alongside a GP practice in Leith to set up referrals to a physical activity programme run by the local swimming pool, targeted at men over 50 at risk of heart disease, stroke and diabetes.
- Linking leisure and wellbeing: High Life Highland working in partnership with NHS provides physiotherapy and rehabilitation services from community leisure facilities. HLH has encouraged participation of teenage girls in exercise through its dance programme, training 300 students to lead weekly sessions involving almost 2,600 participants.
- Fife Sports and Leisure Trust introduced summer free swimming and 'Quid a Kid', an initiative which enables juniors to play racket sports for just £1.
- Leisure and Culture Dundee secured private sector sponsorship for their Park Lives outdoor activities initiative.

**69.** Like councils and other providers, ALEOs operate concessionary schemes. These include low-cost leisure access schemes and activities for groups such as children or older people. Some councils saw ALEOs as helping to sustain services, such as affordable swimming for school-age children, that may otherwise not be provided.

**70.** The ALEO model has brought benefits but challenges remain. Financial constraints are impacting on the ability of councils to fund ALEOs. In the culture sector, for example, reduced council funding has led to library closures in some communities. One leisure ALEO from our sample group was also consulting the public over the impact of reduced funding from the council. Other councils indicated that they may need to limit their funding to areas of most need. Factors we have noted that can impact on ALEOs include:

- uncertainty over future taxation and NDR benefits
- impact of reduced funding from councils on the ability of ALEOs to generate income
- need for investment in leisure facilities and their ongoing maintaining costs
- increasing competition for what are limited charitable funding opportunities.

## Social care ALEOs have improved standards of care; cost pressures remain

**71.** The Public Bodies (Joint Working) (Scotland) Act 2014 introduced a significant programme of reform. This aims to bring health and social care services closer together, with Integration Joint Boards (IJBs) being introduced to plan and commission services in their areas. Our audit focused on the contribution of the ALEO model itself to social care services. We did not look at the wider partnership context of IJBs. Our performance audit, *Health and social care integration: Part 2*<sup>12</sup> will examine progress in this major reform programme including strategic planning and governance.

**72.** Three councils now deliver adult social care services through an ALEO. Services include older people's care, rehabilitation, and enablement to help people regain abilities they may have lost through poor health or disability:

- **Glasgow:** Cordia LLP, established 2008, about 4,000 full-time equivalent (FTE) staff.
- **Aberdeen:** Bon Accord Care Ltd, (BAC), established 2013, about 800 FTE staff.
- **Scottish Borders:** SB Cares LLP, (SBC), established 2015, about 500 FTE staff.

**73.** Cordia combines facilities management and catering services, along with Cordia Cares, its social care arm. Glasgow City Council has decided to bring the activities provided through Cordia back into the council. Aberdeen City and Scottish Borders councils both operate similar models for their social care ALEOs. These aim to sustain the level and quality of care services service through:

- achieving greater efficiency and flexibility through a more commercial management approach under a specialist board
- generating income through providing additional services.

**74.** The business cases for social care ALEOs identified potential new sources of income including providing care services as part of self-directed support (SDS), offering accredited training, and supplying aids and equipment. SDS allows clients more choice over their care services and providers, including the option to manage their own care budget.

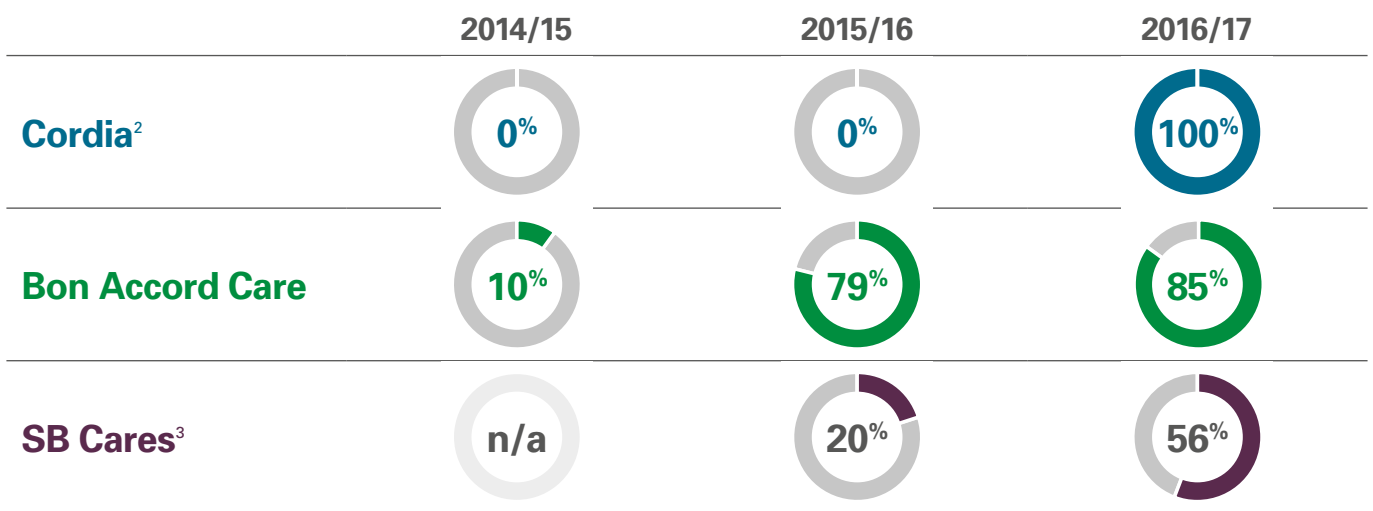
**75.** The councils' contracts with social care ALEOs allow for a financial contribution from the ALEO, with the ALEO setting out to achieve this through efficiencies and income generation. BAC and SBC are performing inline with their anticipated budgets. Cordia has not realised its planned contribution in recent years. This is mainly because savings from the council's transformation programme have taken longer to deliver than anticipated.

**76.** The social care ALEOs have increased income by offering additional services, but this is a small proportion of their total income. Social care ALEOs have not yet realised the anticipated levels of additional income from SDS.

**77.** The social care ALEOs have upheld and improved the quality of the services they provide. **Exhibit 13** gives an overview of Care Inspectorate (CI) grading assessments for services delivered by social care ALEOs in areas including care at home, residential care and day centres.<sup>13</sup> The table summarises overall movements in the proportions of these gradings rated as good or better over the three-year period from 2014/15 to 2016/17. There has been an improving trend across the three social care ALEOs. Within this, the improvement in care at home, and care home services, is consistent with, or better than, the trend across Scotland.

**Exhibit 13**

Percentage of ALEO services graded as good or better across all four inspection themes.<sup>1</sup>



Notes:

1. The CI grades registered services on four themes: Care and Support; Environment; Staffing; Management and Leadership.
2. Cordia has multiple services grouped into three area-based inspections.
3. SB Cares had no registered services until 2015/16.

Source: Care Inspectorate Datastore

**78.** The Scottish Health and Care Experience Survey measures user satisfaction for the parent council for the percentage of adults who:

- receive any care or support who rate it as excellent or good.
- are supported at home who agree that their services and support had an impact in improving or maintaining their quality of life.

**79.** The data is currently only available over two years (2014/15 and 2015/16). It shows that satisfaction levels at around 80 per cent are broadly comparable between councils that use care ALEOs and other councils.

**80.** We also found examples of innovative and responsive working practices across the social care ALEOs:

- Cordia worked in partnership with Glasgow City Council’s education service to develop a new food policy for Glasgow schools encouraging pupils to avoid local fast food outlets.

- BAC's enablement service has trained 187 care staff to encourage greater independence among older people and reduced demand for planned care.
- SB Cares and BAC each stepped in at short notice to take on clients from independent care providers that had failed to deliver the services required of them by the partnership.
- BAC reduced its agency staff hours by 35 per cent in 2015/16 by operating an internal staff pool arrangement to allow its staff to provide cover at short notice.

**81.** Councils we spoke to said they see a role for social care ALEOs to help regulate a market where low profit margins can impact on the service and its staff. They saw a role for ALEOs to stimulate the market to help meet future demands. By offering accredited training ALEOs were also seen to help uphold service quality and develop employees.

**82.** The ALEO operating model aims to use the workforce more flexibly to develop the services they offer. This can lead to employee terms and conditions being negotiated that differ from those of the council. We found that ALEOs do put assurances in place, for example over payment of the living wage, adopting council terms and conditions and allowing employees to access local government pension schemes.

**83.** It is important, however, that councils continue to oversee staffing issues, including how ALEOs comply with equal opportunities and good employment practice. They should also understand how future funding pressures may impact on the workforce. Even where services are provided through an ALEO, the council can be ultimately accountable for the treatment of staff. For example, it was ruled by a Scottish court that the employees of Cordia could compare their pay packages with employees of Glasgow City Council for the purposes of equal pay claims.

**84.** Healthcare Improvement Scotland (HIS) and The Care Inspectorate (CI) carry out joint inspections across Scottish local authorities of older people's health and social care services. Some recent reports have highlighted concerns over service quality, leadership and governance as some health and social care partnerships adapt to the ongoing changes in how health and social care is provided.

**85.** The role of social care ALEOs in the context of integrated care services is continuing to evolve. Health and social care partnerships, along with their service providers, must continue to adapt and innovate. And, as we said in our report on social work services, financial and demand pressures remain a major issue.<sup>14</sup>

### **Other more commercial ALEO activities**

**86.** It is difficult to comment generally on the effectiveness of the diverse range of commercial activities that ALEOs provide. We have seen both successes and areas that have not met their objectives across our sample.

**87.** Councils have used more commercial arrangements, including ALEOs and joint ventures for property development and buildings maintenance activities. The downturn in the commercial property market around 2012 has reduced opportunities for property development activity. Councils across our sample group have responded to these market pressures in different ways.

**88.** Stirling Council is reviewing its current joint venture ALEO to bring some development sites back within the council's control and align them more closely with its City Regions Deal programme. The ALEO will focus on other more commercial development opportunities. The City of Edinburgh Council has decided to wind up Edinburgh Development Initiative, its property development ALEO, and bring its activities in-house to be closer to the council's planning and development functions.

**89.** Examples of the activities and contribution from what is a diverse range of other commercial ALEOs are set out below. These include both financial benefits and contributions towards council and partner priorities:

- Glasgow City Building took on 70 new apprentices in 2016/17 and employs 324 apprentices in total with over 90 per cent completing their apprenticeship. Almost three-quarters of their expenditure goes to Glasgow-based small to medium enterprises. Around 100 school pupils benefited from work experience opportunities.
- Energy and waste ALEOs in Aberdeen and Fife have reduced fuel poverty for council housing residents, with Fife Resource Solutions ALEO generating renewable power equivalent to the demands of 1,250 households.

**90.** Business planning is an important feature of ALEOs for them to meet their objectives and contractual obligations. ALEOs need to be commercially viable in the longer term. As an example of longer-term planning, Fife Council and its waste ALEO are working together to deliver a long-term residual waste treatment solution for post-2020. This is a critical project for both parties since landfilling municipal solid waste will be prohibited from 1 January 2021.

# Part 4

## The future direction of ALEOs



### Key messages

- 1** Councils value ALEOs as an option to help them to sustain services and innovate. Their use of ALEOs continues to change and evolve: ALEOs are being merged, disbanded, or created in new areas such as affordable energy. There is only limited use of ALEOs to deliver shared services between councils.
- 2** Some councils are exploring alternatives to ALEOs following the Scottish Government's announcement that it would limit non-domestic rates relief for any new council charitable ALEOs. In doing so, councils should work closely with local communities and businesses.
- 3** Councils need to ensure ALEOs are sustainable in the longer term. At a time of financial constraints, market uncertainty and policy reform it is even more important that councils have clear reasons for establishing new ALEOs. They should continue to review how existing ALEOs are performing and how they fit with council and communities' priorities.

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**councils  
must keep  
ALEOs under  
review and  
consider  
alternatives**

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### ALEOs remain an important option for councils

**91.** Councils see arm's-length bodies as an important option that gives them room to manoeuvre in what are challenging times for local government. ALEOs can help to sustain services and bring innovation, but financial and demand pressures remain.

**92.** However, ALEOs are falling out of favour with some councils. Glasgow City Council has decided to bring both Cordia and its community safety ALEO back in-house. This has resulted from the council's ongoing transformation programme across all activities, and its response to wider legislative changes in community planning, community empowerment, and the integration of health and social care.

### Councils are exploring new ways to realise the benefits of ALEOs


**93.** Any decision to continue or discontinue with an ALEO must be objective and consistent with the requirements of Best Value. It should focus on outcomes not the method of delivering the service. We have emphasised that good management is a key factor for success, whatever way services are delivered.

**94.** The context within which any ALEO operates can and will change with time. The Barclay Review of non-domestic rates is already changing how councils think about different options. Aberdeenshire Council has found that its grant funding

would be reduced to offset NDR relief awarded, and so its proposal to create a culture and leisure ALEO is no longer viable. It is now looking at other ways to realise some of the benefits of the ALEO model to bring:

- closer involvement from businesses and communities
- innovation and faster decision-making to realise commercial or service opportunities
- expertise in service-specific areas such as marketing.

**95.** Possible alternatives include enhancing existing council services by creating a separate business unit, or alternatively using a different form of social enterprise to generate and reinvest income.

**96.** This example highlights that councils need to continue to work closely with businesses and local communities as they develop options. [Community Empowerment \(Scotland\) Act 2015](#)  brings a much stronger impetus for communities to play a stronger part in delivering services. Indeed, councils' experience with ALEOs brings lessons that could be applied to organisations that are more closely linked to communities, for example to:

- include community, business and service user representatives on boards
- protect assets by keeping them within public ownership
- allow limited liability protection for representatives taking director roles.

**97.** We found that some more recent options appraisals have considered community enterprises. We also saw examples where councils are involving communities more closely. Fife Council purchased a disused military site and leased it at nominal cost to a community organisation for use as a football venue. The arrangement enables community activity to take place and is self-sufficient with no revenue cost to the council. The council has also used planning contributions paid by developers to build a community sports hub. In another example, High Life Highland ALEO took a positive role in supporting community-run organisations that were facing financial difficulties.

**98.** Councils have also used the ALEO model to innovate and offer new services. As an example, Aberdeen City Council's Aberdeen Heat & Power ALEO has provided district heating schemes since 2002. The council is considering creating a new Energy Services Company (ESCO) to provide a wider range of energy services across Aberdeen as a whole.<sup>15</sup>

### **There is limited use of ALEOs to achieve shared benefits between councils**

**99.** Councils have made limited progress in working together to provide services jointly, and we saw limited evidence of ALEOs being used in this way. Lothian Buses is the most significant example we identified ([Case study 2, page 37](#)). Others include: Dundee Energy Recycling Limited which provides service on behalf of both Dundee and Angus councils; Cordia's social care equipment service trades with neighbouring councils; and Stirling and Falkirk jointly own an ALEO that provides Geographical Information Services (GIS).



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## Case study 2

### Lothian Buses Limited



Lothian Buses Limited is the largest municipal bus company in the UK. It carries about 120 million passengers per year, and contributes to wider transport objectives to deliver a healthy, inclusive, safe transport system.

It is owned 91 per cent by City of Edinburgh Council; and East Lothian, Mid Lothian and West Lothian councils own the remainder. Transport for Edinburgh is the holding company for Lothian Buses Limited and Edinburgh Trams Limited.

The company operates in the main a low fare, high passenger volume inclusive fares policy with a single flat fare across much of the network. As in the rest of Scotland, senior citizens travel free through a concessionary policy operated and funded by the Scottish Government.

Lothian Buses operates about 700 buses and has a vehicle replacement programme that procures vehicles that minimise emissions including hybrid and all electric vehicles. All buses are low floor and wheel chair accessible.

The company is profitable and makes a dividend payment to its constituent councils. For Edinburgh, the principle shareholder, annual dividends have risen from around £2 million in 2010 to over £6 million in 2017. The council has no restrictions on its use of the dividends; they are currently being used in part to fund the infrastructure costs of the Edinburgh Trams Project.

Source: Audit Scotland

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### Councils will need to consider the benefits and risks as ALEOs evolve

**100.** Financial constraints may reduce the funding councils provide to ALEOs. ALEO representatives have argued that funding cuts can be double edged as they reduce their ability to generate income and achieve the benefits that setting up an ALEO was meant to make possible.

**101.** We have seen examples of ALEOs merging to bring related services together and save costs. Mergers between leisure and culture ALEOs are an example. As ALEOs evolve and adapt, councils will need to carefully consider their viability including their ability to operate more independently. There is also a risk that 'super-ALEOs' become so large they lose the focus and flexibility that is seen to be one of their success factors. It is important that councils keep ALEOs under review and consider alternatives where they no longer meet their intended objectives.

# Endnotes



- 1 [Code of guidance on funding external bodies and following the public pound](#) , Accounts Commission and Convention of Scottish Local Authorities (CoSLA), 1996. In 2005, the Code was given statutory backing in the form of a Ministerial Direction under s51(1) and (2) of the Local Government (Scotland) Act 2003 which required every local authority to comply with the FtPP Code when entering into any arrangement or agreement with a body corporate or implementing such an arrangement.
- 2 OSCR's 2015 report *Arm's-Length External Organisations* lists the charitable ALEOs identified at that time.
- 3 The LGiSA 2003, and the provisions around Best Value, Community Planning, and the power to advance wellbeing.
- 4 *The Councillors' Code of Conduct*, Scottish Government, 2010. The Standards Commission publishes guidance for councillors on how to interpret the provisions within the Code of Conduct.
- 5 *Advice for Councillors on Arm's-Length External Organisations*, The Standards Commission, September 2016.
- 6 [www.oscr.org.uk/guidance-and-forms/guidance-and-good-practice-for-charity-trustees](http://www.oscr.org.uk/guidance-and-forms/guidance-and-good-practice-for-charity-trustees) 
- 7 [How councils work: Roles and working relationships in councils: are you still getting it right?](#) , Accounts Commission, November 2016.
- 8 Under what is known as the Teckal Exemption, codified in regulation 12 of the Public Contracts Regulations (PCR) 2015.
- 9 *Model Publication Scheme*, produced and approved by the Scottish Information Commissioner on 31 May 2017.
- 10 Scottish Household Survey data.
- 11 Financial returns submitted by charitable ALEOs to OSCR.
- 12 *Health and social care integration: Part 2*. To be published autumn 2018 on behalf of the Auditor General and the Accounts Commission.
- 13 Care Inspectorate (CI) grading assessments for registered services: care homes; support services; and housing support services (from The Care Inspectorate Datastore). The CI grades registered services on four themes: Care and Support; Environment; Staffing; Management and Leadership.
- 14 [Social work in Scotland](#) , Accounts Commission, September 2016.
- 15 The Scottish Government Scottish Futures Trust identifies Energy Services Companies (ESCOs) as a model for district heating schemes and other initiatives.

# Appendix 1

## Audit approach



Our audit work included a sample group of nine councils that make significant use of ALEOs, covering both urban and rural areas. We included the three councils that currently operate social care ALEOs.

### Sample councils and ALEOs of interest

<p><b>Aberdeen</b></p> <ul style="list-style-type: none"> <li>• Bon Accord, delivers social care</li> <li>• Aberdeen Heat &amp; Power</li> </ul>	<p><b>The City of Edinburgh Council</b></p> <ul style="list-style-type: none"> <li>• Edinburgh Leisure</li> <li>• CEC Holdings, a range of property companies</li> </ul>	<p><b>Dundee City Council</b></p> <ul style="list-style-type: none"> <li>• Leisure and Culture Dundee</li> <li>• Dundee Energy Recycling Ltd</li> </ul>
<p><b>Fife Council</b></p> <ul style="list-style-type: none"> <li>• Fife Sports &amp; Leisure Trust</li> <li>• Fife Resource Solutions (waste management)</li> <li>• Fife Cultural Trust</li> </ul>	<p><b>Glasgow City Council</b></p> <ul style="list-style-type: none"> <li>• Cordia (social care)</li> <li>• Glasgow Life (leisure and culture)</li> <li>• Jobs and Business Glasgow</li> <li>• City Building</li> </ul>	<p><b>The Highland Council</b></p> <ul style="list-style-type: none"> <li>• High Life Highland (leisure and culture)</li> <li>• Beinn Tharsuinn Windfarm Community Limited</li> </ul>
<p><b>North Lanarkshire Council</b></p> <ul style="list-style-type: none"> <li>• Culture North Lanarkshire</li> <li>• North Lanarkshire Leisure Ltd</li> <li>• Mears Scotland LLP (property)</li> </ul>	<p><b>Scottish Borders Council</b></p> <ul style="list-style-type: none"> <li>• SB Cares</li> <li>• Borders Sport and Leisure Trust</li> </ul>	<p><b>Stirling Council</b></p> <ul style="list-style-type: none"> <li>• Active Stirling Ltd (sports and leisure)</li> <li>• Stirling Development Agency Ltd</li> </ul>

The audit work comprised document review, research and interviews with representatives from the sample group. These included officers, ALEO representatives and focus groups with elected members. Much of our on-site and research work was undertaken in late 2017.

We looked at a cross-section of ALEOs from this sample group. We did not look at:







- housing associations
- public-private partnerships, private finance initiatives or other financial partnerships
- councils' funding of the numerous smaller-scale activities delivered through the third sector and other external parties
- trading operations within councils or other partnership arrangements.

# Appendix 2

## The common forms of ALEO



### Key features

	<b>Limited company</b>	Can be a company limited by shares (CLS) or guarantee (CLG). The 'articles of association' set out the rules for decisions, ownership and control between the company and its 'members' who formed the company (typically the council).
	<b>Limited Liability Partnerships (LLP)</b>	As with a company, it is a separate legal identity that offers limited liability to its members. Governed by a partnership agreement, it offers greater flexibility than a company over internal arrangements, eg for taking decisions and the treatment of profits.
	<b>Scottish Charitable Incorporated Organisation (SCIO)</b>	A bespoke legal form for registered Scottish charities that has been available since 2011. SCIOs need only register with the Office of the Scottish Charity Regulator (OSCR). Limited companies can also be charities but must register with both OSCR and Companies House.
	<b>Community Interest Company (CIC)</b>	A form of company (limited either by shares or by guarantee) created as a 'social enterprise' to use its profits and assets to benefit the community.  Related forms are community benefit societies (CBS) and cooperative societies that serve the interests of their members.
	<b>Joint Venture (JV)</b>	A general term for a commercial venture between partners, typically the council and the private sector. Can take different forms, eg CLS, LLP. Public-private partnerships, and private finance initiatives are also forms of JV partnerships.
	<b>Trust</b>	A body governed by 'trustees' through a trust deed. Unlike companies, they are not registered with a regulatory body and do not offer limited liability.

# Appendix 3

## Factors for councils to consider



### Business case assumption

### Factors for councils to consider

**ALEOs bring financial benefits through tax advantages, commercial trading and new funding opportunities**



ALEOs bring financial benefits through NDR relief, new funding and wider commercial trading.

Charitable status encourages donations and volunteering.

The ALEO model safeguards against contract over-pricing as any surpluses can be retained in the public sector.

#### However, points to bear in mind:

There are uncertainties about whether new sources of income will continue over the longer term. For example:

- Taxation benefits, eg NDR and VAT are subject to change.
- Future income is affected by market forces.
- Grants and new funding tend to be one-off, time limited or project specific; and there is increasing competition for them.

**ALEOs bring strong identity, focus and responsiveness**



Direction through an ALEO board can be more immediate and responsive than through a larger council body that has competing demands for attention. An ALEO's defined purpose, separate identity, and contractual obligations give a clear focus on performance. ALEO boards bring greater diversity and specialist expertise; ALEOs can compete to attract workforce talent.

#### However, points to bear in mind:

Councils can achieve similar benefits when ALEOs are not involved:

- Councils can create a service identity and focus, for example through setting up separate business units with a distinct brand.
- Councils already attract external expertise, eg through partnership working, and joint boards or committees.
- Outsourcing can also bring expertise and specialisms to the benefit of the service.

**ALEOs can bring workforce flexibility and efficiencies**




ALEOs have brought new and improved practice in areas of workforce deployment. They have negotiated more flexible employment terms, for example to extend opening hours; and make use of casual staff and volunteers.

#### However, points to bear in mind:

- The best performing councils also demonstrate good workforce management and practice. These features are not unique to ALEOs.
- Planned changes in an ALEO may be limited by expectations over workforce terms and conditions.
- Financial pressures in an ALEO may impact on its ability to uphold terms and conditions including access to pensions.
- If an ALEO is brought back into the council any differences in terms will need to be harmonised.



# Councils' use of arm's-length organisations

This report is available in PDF and RTF formats, along with a podcast summary at: [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk) 

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