

# East Lothian Council

2021/22 Annual Audit Report



 AUDIT SCOTLAND

Prepared for the Members of East Lothian Council and the Controller of Audit

1 November 2022

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# Key messages

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## 2021/22 annual accounts

- 1 Our audit opinions on the annual accounts of the council, its group and the section 106 charity administered by the council are unmodified.
- 2 The Covid-19 pandemic had a limited impact on audit evidence and the unaudited annual report and accounts were submitted in line with our agreed audit timetable.

## Financial management

- 3 The council has appropriate and effective financial management arrangements.
- 4 The council reported a £1.5 million underspend. The council incurred additional Covid-19 costs of £14.4 million, most of which was met by additional resources provided by the Scottish Government.
- 5 The council has appropriate budget setting and monitoring arrangements in place.

## Financial sustainability

- 6 The council faces significant uncertainty for 2022/23 and beyond. Scenario planning has identified a potential funding gap ranging from £41.1 million to £63.4 million by 2027/28 (inclusive of the delivery of existing, approved savings).

## Governance and transparency

- 7 The governance arrangements introduced in response to the pandemic remain in place, are appropriate and operate effectively.
- 8 There is effective scrutiny, challenge and informed decision making.

## Best Value

- 9 The council has an appropriate and effective best value framework in place.
- 10 The council's performance measures are aligned to key priorities and outcomes. There are appropriate arrangements for collecting and reporting on indicators with regular reporting to the appropriate committee.

- 11** The council has made the necessary arrangements for collecting, recording, and publishing the statutory performance information.

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# Introduction

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- 1.** This report summarises the findings arising from the 2021/22 audit of East Lothian Council (the council) and its group.
- 2.** The scope of the audit was set out in our 2021/22 Annual Audit Plan presented to the 15 February 2022 meeting of the Audit and 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](#) namely, financial management, financial sustainability, governance and transparency and value for money.
- 3.** The main elements of our audit work in 2021/22 have been:
  - an audit of the annual accounts of the council and its group including the statement of accounts of the Dr Bruce Fund, a section 106 charity administered by the council, and the issue of independent auditor's reports setting out our opinions
  - a review of the council's key financial systems
  - audit work covering the council's arrangements for securing best value
  - consideration of the four audit dimensions.
- 4.** The global Covid-19 pandemic and wider external factors including the war in Ukraine and Brexit has resulted in huge challenges on recruitment and retention of staff. This has had a considerable impact on the council during 2021/22 and implications for the services it delivers, sickness absence levels, and the suspension of non-essential projects and activities, such as capital construction. Throughout 2021/22 the council continued to operate in business continuity mode.
- 5.** According to the council's emergency planning procedures, invoking a business continuity plan ensures that business critical activities are prioritised, and available resources are deployed to safeguard delivery of those critical activities, ensuring key dependencies and partnering arrangements across services are effectively managed for the duration of the incident/emergency – and that incident recovery arrangements are planned alongside incident response. Business continuity plans are invoked under strict oversight of the Chief Executive and Executive Directors.

## Adding value through the audit

**6.** We add value to the council through the audit by:

- identifying and providing insight on significant risks, and making clear and relevant recommendations
- sharing intelligence and good practice through our national reports ([Appendix 3](#)) and good practice guides
- providing clear and focused conclusions on the appropriateness, effectiveness and impact of corporate governance, performance management arrangements and financial sustainability.

## Responsibilities and reporting

**7.** 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.

**8.** The council is also responsible for compliance with legislation, and putting arrangements in place for governance and propriety that enable it to successfully deliver its objectives.

**9.** 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.

**10.** As public sector auditors we give independent opinions on the annual accounts. Additionally, we conclude on:

- the effectiveness of the council's performance management arrangements
- the suitability and effectiveness of corporate governance arrangements and financial position
- the arrangements for securing financial sustainability
- Best Value arrangements.

**11.** Further details of the respective responsibilities of management and the auditor can be found in the [Code of Audit Practice 2016](#). and supplementary guidance.

**12.** This report raises matters from our audit. 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.

**13.** 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 the steps being taken to implement them.

## Auditor Independence

**14.** Auditors appointed by the Accounts Commission or Auditor General must comply with the Code of Audit Practice and relevant supporting guidance. When auditing the financial statements auditors must comply with professional standards issued by the Financial Reporting Council and those of the professional accountancy bodies. 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 therefore the 2021/22 audit fee of £258,700 (inclusive of the Dr Bruce Fund) as set out in our Annual Audit Plan remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.

**15.** 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) in due course. We would like to thank the management and staff who have been involved in our work for their cooperation and assistance during the audit.

## Audit appointment from 2022/23

**16.** The Auditor General for Scotland is responsible for the appointment of external auditors to central government bodies. External auditors are usually appointed for a five-year term either from Audit Scotland's Audit Services Group or a private firm of accountants. The current appointment round was due to end in 2020/21 but this was extended for a year so that 2021/22 is the last year of the current appointment round.

**17.** The procurement process for the new round of audit appointments was completed in May 2022. From financial year 2022/23, Audit Scotland will remain the appointed auditor for East Lothian Council although with a different Engagement Lead and audit team. We are working closely with the new auditors to ensure a well-managed transition.

**18.** A new [Code of Audit Practice 2021](#) applies to public sector audits for financial years starting on or after 1 April 2022. It replaces the Code issued in May 2016.

**19.** There are several significant changes introduced by the new Code, namely the integration of Best Value work into wider scope audit work.

**20.** We would like to thank council members, Audit and Governance Committee members, Executive Directors, and other staff, particularly those in Finance, for their co-operation and assistance over the last six years.

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# 1: Audit of 2021/22 annual accounts

The principal means of accounting for the stewardship of resources and performance

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## Main judgements

Our audit opinions on the annual accounts of the council, its group and the section 106 charity administered by the council are unmodified.

The Covid-19 pandemic had a limited impact on audit evidence and the unaudited annual report and accounts were submitted in line with our agreed audit timetable.

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## Our audit opinions on the annual accounts are unmodified

**21.** The accounts for the council and its group for the year ended 31 March 2022 were approved by the Audit and Governance Committee on 1 November 2022. As reported in the independent auditor's report:

- the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework
- 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 relevant regulations and guidance.

## The Covid-19 pandemic had a limited impact on audit evidence and the unaudited annual report and accounts were submitted in line with our agreed audit timetable

**22.** The unaudited annual report and accounts were received in line with our agreed audit timetable on 29 June 2022.

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

## Our audit opinions on the Section 106 charity are unmodified

**24.** Due to the interaction of section 106 of the Local Government in Scotland Act 1973 with the charities legislation, 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. In East Lothian Council, there is one section 106 charity known as the Dr Bruce Fund.

**25.** The Dr Bruce Fund was set up to provide relief for the poor of Musselburgh. Since 2016/17, the Dr Bruce Fund has provided a small award to the same two individuals. In 2021/22 a total of £70 was awarded (20/21 £70; 2019/20 £60; 2018/19: £60, 2017/18: £60, 2016/17: £50). There is a lack of grants being awarded by the Fund each year and Trustees are not meeting regularly to progress the aims of the Fund.

**26.** A consequence of the lack of capacity in key functions has meant that this area, and overall review of trusts in the council, has had to be deprioritised while the council continues to operate in business continuity mode.

**27.** There continues to be a risk that the Dr Bruce Fund is not operating effectively to meet its objectives and that the Trustees are not discharging their duties correctly. This is an issue that has been raised in previous years and is included again under 'follow up of prior year recommendations' in the Action Plan in [Appendix 1](#).

**28.** Our audit opinions on the Section 106 charity, the Dr Bruce Fund are unmodified.

## **There were no objections raised to the annual accounts**

**29.** The Local Authority Accounts (Scotland) Regulations 2014 require local government bodies 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 2021/22 accounts.

## **Whole of Government Accounts (WGA)**

**30.** We have completed the 2020/21 WGA assurance statement and submitted it to the National Audit Office (NAO) in accordance with the guidance recently issued.

**31.** The 2021/22 WGA exercise has yet to be confirmed by the NAO and Treasury.

## **Overall materiality is £4.4 million**

**32.** We apply the concept of materiality in both planning and performing the audit and in evaluating the effect of identified misstatement on the audit and of uncorrected misstatements, if any, on the financial statements and in forming the opinion in the auditor's report. We identify a benchmark on which to base overall materiality, such as gross expenditure, and apply what we judge to be the most appropriate percentage level for calculating materiality values.

**33.** The determination of materiality is based on professional judgement and is informed by our understanding of the entity and what users are likely to be most

concerned about in the annual accounts. In assessing performance materiality, we have considered factors such as our findings from previous audits, any changes in business processes and the entity's control environment including fraud risks.

**34.** Our initial assessment of materiality for the annual accounts was carried out during the planning phase of the audit. This was reviewed on receipt of the unaudited annual accounts and is summarised in [Exhibit 1](#).

## Exhibit 1

### Materiality values

Materiality level	Single entity	Group
Overall materiality	£4.4 million	£4.4 million
Performance materiality	£2.9 million	£2.9 million
Reporting threshold	£100,000	£100,000

Source: East Lothian Council 2021/22 Annual Audit Plan

## We have no significant findings to report on the annual report and accounts

**35.** International Standard on Auditing (UK) 260 requires us to communicate significant findings from the audit to those charged with governance, including our view about the qualitative aspects of the body's accounting practices. We have no issues to report from the audit.

**36.** We have obtained audit assurances over the identified significant risks of material misstatement to the financial statements. [Exhibit 2](#) sets out the significant risks of material misstatement to the financial statements we identified in our 2021/22 Annual Audit Plan. It summarises the further audit procedures we performed during the year to obtain assurances over these risks and the conclusions from the work completed.

## Exhibit 2

### Significant risks of material misstatement in the financial statements

Audit risk	Assurance procedure	Results and conclusions
<p><b>Risk of material misstatement due to fraud caused by management override of controls</b></p> <p>As stated in International Standard on Auditing (UK)</p>	<p>Assessed the design and implementation of controls over journal entry processing.</p> <p>Made inquiries of individuals involved in the financial reporting process about</p>	<p><b>Results:</b> We found no instances of material misstatement due to fraud caused by management override of controls.</p>

Audit risk	Assurance procedure	Results and conclusions
<p>240, management is in a unique position to perpetrate fraud because of management's ability to override controls that otherwise appear to be operating effectively.</p>	<p>inappropriate or unusual activity relating to the processing of journal entries and other adjustments.</p> <p>Tested journals at the year-end and post-closing entries and focused on significant risk areas.</p> <p>Considered the need to test journal entries and other adjustments during the period.</p> <p>Evaluated significant transactions outside the normal course of business.</p> <p>Assessed the adequacy of controls in place for identifying and disclosing related party relationships and transactions in the financial statements.</p> <p>Assessed any changes to the methods and underlying assumptions used to prepare accounting estimates compared to the prior year.</p> <p>Substantively tested income and expenditure transactions around the year-end to confirm they are accounted for in the correct financial year.</p> <p>Focussed testing of accounting accruals and prepayments.</p>	<p><b>Conclusion:</b> Satisfactory</p>
<p><b>Estimation in the valuation of land and buildings</b></p> <p>The council held land and buildings with a NBV in excess of £1.0 billion as at 31 March 2021.</p> <p>There is a significant degree of subjectivity in the valuation of land and buildings as well</p>	<p>Reviewed the information provided to the external valuer to assess for completeness.</p> <p>Evaluated the competence, capabilities, and objectivity of the professional valuer.</p> <p>Obtained an understanding of the management's involvement in the valuation</p>	<p><b>Results:</b> Based on our audit testing, we were satisfied with the estimates in the valuation of land and buildings.</p> <p><b>Conclusion:</b> Satisfactory</p>

Audit risk	Assurance procedure	Results and conclusions
<p>as in the classification of these assets.</p> <p>Valuations are based on specialist and management assumptions and changes in these can result in material changes to valuations.</p>	<p>process to assess if appropriate oversight has occurred.</p> <p>Critically assessed the approach the council has adopted to ensure that assets not subject to valuation are not materially misstated and consider the robustness of that approach.</p> <p>Tested the reconciliation between the financial ledger and the property asset register.</p> <p>Critically assessed the adequacy of the council's disclosures regarding the assumptions in relation to the valuation of land and buildings.</p>	

## Other areas of audit focus

**37.** We identified in our 2021/22 Annual Audit Plan areas where we considered there to be other risks of material misstatement to the financial statements. Based on our assessment of the likelihood and magnitude of the risk, we did not consider these to represent significant risks. The areas of specific audit focus were:

- The ongoing review of Common Good assets to identify those assets held by the council but which are properly owned by the Common Good.
- The pension liability valuation is an area of audit focus due to the material value and significant assumptions used in the calculation of the liability.
- The ongoing impact of Covid-19 and how related expenditure and additional funding is being accounted for in the annual accounts.

**38.** We kept these areas under review throughout our audit based on the findings of the audit procedures performed. There are no matters which we need to bring to your attention.

## There were no identified misstatements

**39.** There were no misstatements identified that exceeded our reporting threshold.

## Good progress was made on prior year recommendations

**40.** There were eight recommendations made in our 2020/21 Annual Audit Report including items brought forward from previous years. The council has made good progress in implementing the audit recommendations. For actions not yet implemented, revised responses and timescales have been agreed with management, and are set out in [Appendix 1](#).

## Good practice points

### Property, plant and equipment (PPE)

**41.** We noted good practice by the council with regard to their processes and approach to the management of PPE during 2021/22 including:

- An 'out of cycle' valuation for specific assets to ensure items were captured in the correct valuation cycles going forward.
- A council dwellings valuation exercise: Indexation exercise for council houses to better reflect the existing use value (social housing based) carrying amount as at the year-end. The council engaged the external valuer in 2021/22 and requested a desktop valuation review of the (original) 2019 full valuation. The purpose of the review was to provide a brief report to advise on whether there is likely to have been a change in the value of the housing stock held on the council's Housing Revenue Account in the three years from 31 March 2019 to 31 March 2022. The impact of the revaluation gains and losses on the net book value of council dwellings at 31 March 2022 is an increase of £22.1 million.
- An annual desk top review exercise (part of the valuation contracts in place) using indexation figures provided by management's expert, the external valuer.
- A revaluation of heritage assets which included a full catalogue of assets prepared by council officers with a detailed register now in place.
- Sample checking for PPE items not part for the formal valuation in intervening years to gain comfort that there are no substantial movements impacting the accounts.
- A review of the assets under construction (AUC) category and other asset classifications, and asset valuations. This provides additional comfort over the classification of AUC and other assets in the 2021/22 accounts.

### Post Balance Sheet events

**42.** As part of the audit clearance process, Finance provided the audit team with a useful, updated summary of their review of post balance sheet events of three key areas. The report was prepared with input from both Finance and Legal staff and highlighted:

- Provisions and contingent liabilities: status update on key cases.

- Key project developments: update on each significant project underway across East Lothian.
- Group entities: update on each entity of the East Lothian Group.

**43.** The report documented the judgement of officers as to whether any matters gave rise to a post balance sheet event.

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# 2: Financial management

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

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## Main judgements

The council has appropriate and effective financial management arrangements.

The council reported a £1.5 million underspend. The council incurred additional Covid-19 costs of £14.4 million, most of which was met by additional resources provided by the Scottish Government.

The council has appropriate budget setting and monitoring arrangements in place.

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## The council operated within their 2021/22 budget and reported a £1.5 million underspend

**44.** The council approved its 2021/22 General Services revenue and capital budgets on 2 March 2021. The budget was set at net expenditure of £256.6 million which included planned savings of £0.9 million and the planned use of £0.3 million of reserves. The 2021/22 end of year financial review presented to council on 28 June 2022 reported an underspend of £1.5 million and an associated increase in General Fund usable reserves of £1.5 million.

**45.** The underspend is mainly due to a combination of additional non-recurring national funding that was received late in the financial year and, a number of non-recurring financial variances including an underspend on staffing budgets largely caused by the challenging external recruitment market.

**46.** Significant variances relative to the 2021/22 budget include:

- Receipt of additional General Revenue Grant of £20.4 million, £9.5 million of which was on a non-recurring basis to support the costs of Covid-19. The remaining £10.9 million is provided to meet a number of Scottish Government initiatives, £2.5 million of which is earmarked for 2022/23.
- £0.9 million surplus from council delegated IJB budgets. The impact was an increase to the IJB's reserves in 2021/22.
- Covid-19 costs of £14.4 million, most of which was met by additional resources provided by the Scottish Government in 2021/22.

- £2.1 million of additional Covid-19 costs incurred on Health and Social Care Services has been met through national funding.
- £3.7 million surplus from Early Learning and Childcare revenue specific grant funding. £2.0 million has been diverted to support future capital costs. £1.8 million has been carried forward to 2022/23 to support and mitigate the £1.2 million reduction in specific grant funding for 2022/23.

### **Housing revenue account (HRA) operated within budget**

**47.** The council approved the HRA revenue and capital budgets on 23 February 2021. The council is required by legislation to maintain a separate HRA account and to ensure that rents are set at a level which will at least cover the costs of its social housing provision.

**48.** The HRA delivered a surplus of £2.7 million for 2021/22. An upwards revaluation during the year resulted in lower impairment and revaluation losses. Income was slightly under budget due to the timing of completion for new build housing and, capital financed from current revenue was £1.8 million higher than budgeted to help minimise future debt charges. This was offset by lower than planned interest charges and provision for bad debt.

**49.** The HRA General Reserve has reduced by £0.3 million to £1.7 million. Housing capital receipts of £0.1 million were received during the year, increasing the HRA share of the Capital Receipts Reserve to £0.7 million. The level of reserves has been maintained at a level consistent with the approved financial strategy and the 2022/23 budget.

**50.** HRA capital spend was £1.2 million over budget, reflecting accelerated new build council housing partially offset by additional grant funding and underspends in the Modernisation Programme due to delays arising from Covid-19.

### **The council has appropriate budget setting and monitoring arrangements in place**

**51.** The council's budget and savings plans are aligned to the council's objectives, priorities and strategic goals, as set out in the 2022-2027 Council Plan.

**52.** The full council receives regular revenue and capital monitoring reports and, from a governance perspective, conducts detailed scrutiny of financial performance. From our review of these reports, and attendance at council meetings throughout the year, we concluded that these reports provide an overall picture of the budget position at service level. The reports contain good explanations for significant variances against budget and allow both members and officers to carry out scrutiny of the council's finances. The council has appropriate budget setting and monitoring arrangements in place.



## The Covid-19 pandemic had a significant impact on the 2021/22 budget

**53.** The impact on public finances of the Covid-19 pandemic has been unprecedented, which has necessitated both the Scottish and UK governments providing substantial additional funding for public services as well as support for individuals, businesses and the economy. It is likely that the effects will be felt well into the future.

**54.** Covid-19 costs were £14.4 million with the majority being met by additional resources provided by Scottish Government during 2021/22. Additional, non-recurring funding of £9.5 million was received from the Scottish Government for Covid-19 during 2021/22.

**55.** A further £2.1 million of additional Covid-19 costs was incurred by the council on Health and Social Care Services and this has been met through national funding aligned to Local Mobilisation Plans.

**56.** The council's Covid-19 fund, an earmarked reserve, was established during 2020/21 and has been used to support on-going interventions to support both intervention and recovery resulting from the pandemic. During 2021/22, the Covid-19 fund balance decreased by £3.4 million and was used to offset Covid-19 costs incurred in-year. The balance of the fund at year end is £5.5 million. In the 2021/22 End of Year Financial Review (June 2022), it was recommended that the Covid-19 Fund requirement be expanded to support the broad range of financial risks which the council is experiencing as a direct result of Covid-19. This will be subject to on-going review with more detail to be considered at a future meeting.

## General Fund reserves have increased

**57.** One of the key measures of the financial health of a body is the level of reserves held. The level of usable reserves held by the body increased by £3.6 million from £35.1 million in 2020/21 to £38.7 million in 2021/22. The General Fund surplus represents £1.5 million of the increase, HRA reserves have decreased by £0.3 million and the Capital Receipts Reserve has increased by £2.4 million.

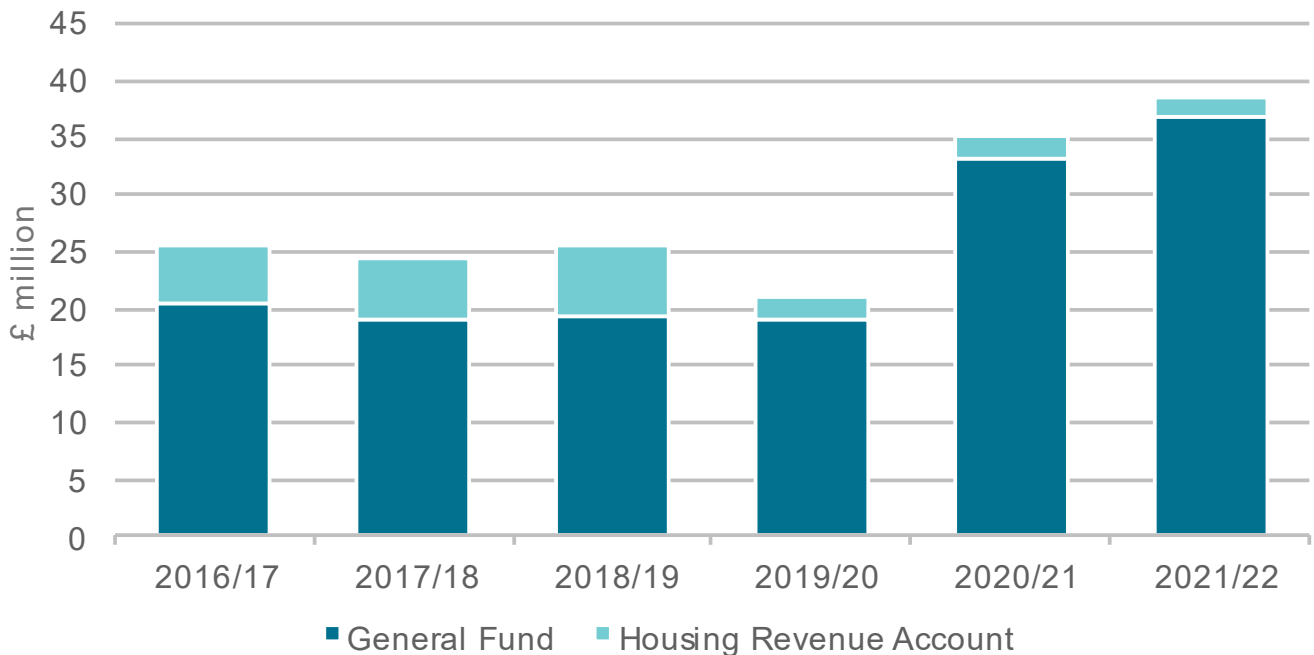
**58.** The general fund is the largest usable reserve. It provides a contingency fund to meet unexpected expenditure and a working balance to help cushion the impact of uneven cash flows. The council reviews the level of its uncommitted reserves when setting the budget each year. The council's reserves strategy recommends a minimum level of uncommitted general reserve balances which can be used to support any unforeseen / unquantifiable event.

**59.** The council is required to hold a minimum level of uncommitted reserves equivalent to 2% of annual running costs. The minimum level is updated annually, and reflected within the revised financial strategy which sets the context for approving budgets. For 2022/23, the approved minimum level of uncommitted reserves was £5.2 million. The financial strategy notes the increased running costs and significant risks facing the council, and that

consideration should be given to increasing uncommitted reserves. [Exhibit 3](#) provides an analysis of the general fund and HRA reserve balances for the last six years.

### Exhibit 3

Analysis of general fund and HRA reserve balances in last six years



Source: East Lothian Council Audited Annual Accounts (2016/17 to 2021/22)

### Planned efficiency savings were achieved

**60.** The 2021/22 budget included planned savings of £0.9 million and the planned use of £0.3 million of reserves to address the funding gap. The council did not need to utilise these budgeted reserves during 2021/22.

**61.** The council achieved actual savings of £0.9 million. Of this total, £0.5 million were on a recurring basis and £0.4 million on a non-recurring basis. Recurring savings are savings that, once achieved, recur year-on-year from that date. Non-recurring savings are one-off savings that apply to one financial year and do not result in ongoing savings in future years.

### Capital expenditure in 2021/22 was underspent by £31.5 million

**62.** Total capital expenditure in 2021/22 was £95.8 million of which £65.0 million related to general services and £30.8 million to the HRA.

**63.** General services capital budget for 2021/22 was £97.7 million. A significant element of the £32.7 million underspend has been reprofiled to 2022/23. In addition to the issues and challenges arising from Covid-19, supply chain problems and the war in Ukraine have increased certain costs as well as the council's risk exposure for capital investment.

**64.** The HRA capital budget for 2021/22 was £29.7 million. The overspend of £1.2 million reflects accelerated new build council housing, the costs of which have been partially offset by additional grant funding above the budgeted figure.

### Infrastructure assets

**65.** Across the UK, a technical accounting issue has been identified covering infrastructure assets, which we have considered as part of our audit this year.

**66.** Infrastructure assets typically include highways, footpaths, bridges and culverts and are included at historical cost in the accounts: £133 million (gross book value) at East Lothian Council. A replaced component of an asset has to be derecognised and, at some councils, the records of additions were not detailed enough to comply with accounting code requirements. A failure to derecognise assets correctly would have resulted in double-counting and an overstatement of the gross book value, accumulated depreciation and, potentially, the net book value of the assets.

**67.** CIPFA/LASAAC considered the matter and proposed amendments to the 2021/22 accounting code to allow a reasonable assumption that the net book value of replaced parts of infrastructure assets are £nil and a temporary adaptation to remove the requirement to disclose gross book value and accumulated depreciation in the financial statements. In August 2022, the Scottish Government issued [Finance Circular 9/2022](#) to implement these changes.

**68.** At East Lothian Council the above statutory override was applied for 2021/22 and the accounts have been amended for infrastructure disclosures, which have been further explained in Note 14 to the Annual Accounts. There is no impact on the overall financial position.

### Borrowing levels have remained static

**69.** At 31 March 2022, long term borrowing stood at £412.6 million, an increase of £66.8 million on the March 2021 level of £345.8 million. During the same period, short term borrowing decreased from £32.3 million to £14.8 million, representing an overall increase in borrowing of £49.2 million.

**70.** Total external debt, which includes the council's long-term liabilities, was within the authorised limit and operational boundary set by the council's treasury management strategy.

### Financial systems of internal control operated effectively

**71.** We concluded that the controls tested during 2021/22 were operating effectively. No significant internal control weaknesses were identified during the audit 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.

## Internal audit

**72.** The council's internal audit function is provided by an in-house function. Each year we consider whether we can rely on internal audit work to avoid duplication of work.

**73.** We reviewed the council's internal audit arrangements in accordance with 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. As set out in our 2021/22 Annual Audit Plan we are not placing formal reliance on Internal Audit work. However, we did say that we would consider their findings in the following areas and we include the internal audit opinions on each below:

- Lower Value Purchasing: limited assurance
- IT Schools Procurement: reasonable assurance
- Payroll Overtime Payments: moderate assurance
- Covid-19 Grants: reasonable assurance.

## Covid-19 Grants

**74.** Internal audit carried out an audit of Covid-19 grants as part of their 2021/22 plan and concluded that the system of internal control provided reasonable assurance. The report noted that the council distributed £10.4 million of Covid-19 grants in 2021/22, including £6.5 million of Strategic Framework Business Fund (SFBF) funding; £1.3 million of discretionary funding; £1.3 million of further specific hospitality and leisure funding and £0.6 million for the taxi driver and operator support fund. The report noted that adequate arrangements are in place to prevent fraudulent grant payments being made including; evidence of a business bank statement and trading; checks being made to Companies House where applicable and the grant assessors undertaking online checks to verify whether the applicant had a business website.

**75.** Additionally, internal audit reported that adequate separation of duties exists between the decision to award the grant and the authorisation of the payment. However due to the rapid development of some processes during the pandemic, the report noted a lack of detailed procedures in place to provide clear guidance to staff responsible for administering Covid-19 grants. Overall there were no significant weakness and management have agreed to the improvement actions.

## Information and Communications Technology (ICT)

**76.** As part of our 2021/22 audit, the council agreed to take part in an ICT pilot. This involved obtaining an overview of service delivery management and provision, and an understanding of the general IT control environment including:

- Digital Strategy
- Cyber Security Awareness

- Business Continuity Management
- Policies.

**77.** Key points to note for the council to take forward include:

- The update to the digital strategy was put on hold due to Covid-19. A new digital strategy is scheduled to be formally approved in February 2023.
- There are 55 system applications that require to be replaced or upgraded over the next five years.
- The council has a process in place to test and recover staff data on a regular basis as part of 'business as usual'. However, there is no process in place to routinely test the back-ups of key systems.
- The council has drafted a cyber incident response plan. However, this was last reviewed in June 2018, is out of date and, has not been formally approved.
- The disaster recovery plan still requires to be updated following changes in processes as a result of Covid-19.
- The council's acceptable use policy was last updated in 2013 and is out of date given the changes implemented due to the Covid-19 pandemic including the introduction of hybrid working arrangements.
- The council's data protection policy was last updated and approved in June 2018 with a review schedule of three years. However, no review has been undertaken.

**78.** Findings, recommendations and actions have been shared with the council who have agreed to review these over the following year. These will be followed up as part of the 2022/23 audit. A full summary of the findings and recommendations are included in [Appendix 2](#).

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## Recommendation 1

We have highlighted a number of improvements that could be made to strengthen the digital strategy, cyber security, business continuity management and associated policies (refer [Appendix 2](#)). There is a risk of key policies and processes not keeping pace with internal demands and external risks.

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**79.** The pilot exercise will help inform how we apply this to all our audits in the future and we thank the staff for their help and cooperation.

## **Standards of conduct and arrangements for the prevention and detection of fraud and error were appropriate**

**80.** East Lothian Council is responsible for establishing arrangements for the prevention and detection of fraud, error and irregularities, bribery and corruption. Furthermore, it is responsible for ensuring that its affairs are managed in accordance with proper standards of conduct by putting effective arrangements in place.

**81.** The risk profile of public bodies during 2021/22 has been significantly affected by the Covid-19 pandemic. This is likely to have increased the risk of fraud and error as control environments and internal controls have had to change to allow for services to operate effectively and respond to issues in a timely manner. We have reviewed the arrangements put in place by the council to address any heightened risks and concluded that there are appropriate arrangements for the prevention and detection of fraud, error and irregularities.

**82.** In addition, we have reviewed the arrangements in place to maintain standards of conduct. There are established procedures for preventing and detecting any breaches of these standards including any instances of corruption.

# 3: Financial sustainability

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

## Main judgements

The council faces significant uncertainty for 2022/23 and beyond. Scenario planning has identified a potential funding gap ranging from £41.1 million to £63.4 million by 2027/28 (inclusive of the delivery of existing, approved savings).

## We have obtained audit assurances over the wider audit dimension risk relating to financial sustainability identified in our 2021/22 Annual Audit Plan

83. [Exhibit 4](#) sets out the risk relating to financial sustainability as identified in our 2021/22 Annual Audit Plan, our assurance procedures and the results and conclusions from our work. These risks influenced our overall audit strategy, the allocation of staff resources to the audit and informed where the efforts of the team were directed.

## Exhibit 4

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

Audit risk	Assurance procedure	Results and conclusions
<p><b>Financial sustainability</b></p> <p>The council continues to operate in an increasingly complex and challenging environment, where core national funding is reducing, relative to rising demand for services.</p> <p>A wide range of financial uncertainties has been further complicated due to the Covid-19 pandemic and the council faces significant challenges to remain financially resilient and deliver services sustainably.</p>	<p>Reviewed the council's annual budget setting arrangements.</p> <p>Reviewed and assessed budget monitoring arrangements.</p> <p>Reviewed the council's medium to longer-term financial planning processes.</p> <p>Reviewed the council's financial position and delivery of planned savings.</p>	<p><b>Results:</b> The council faces significant financial risks and challenges going forward. The potential funding gap identified by 2027/28 ranges from £41.1 million to £63.4 million. From 2023/24 onwards, budget planning will be undertaken on a five-year basis, bringing consistency between the financial and capital strategies.</p> <p><b>Conclusion:</b> Appropriate budget setting and monitoring arrangements and processes are in place recognising the challenges noted above.</p>



Audit risk	Assurance procedure	Results and conclusions
There remains a risk to financial sustainability and the sustainability and quality of services in future.		

## The council faces significant uncertainty for 2022/23 and beyond

**84.** The 2022/23 budget and financial plans are based on a one-year financial settlement which results in a year-on-year reduction in recurring funding and includes some non-recurring funding. The council faces significant uncertainty for 2022/23 and beyond in terms of financial settlement, recovery from Covid-19, inflation and rising living costs.

**85.** The approved budget for 2022/23 includes the use of £8.7 million of reserves and additional recurring savings of £0.4 million. At the end of June 2022, the council reported a £0.9 million overspend for General Services Revenue. This reflects the current increases in utility costs and wider inflation. The current budget incorporates recurring staffing efficiencies of £2.0 million which are likely to be achieved in-year but there are risks over the council's ability to continue to deliver these savings on a recurring basis.

**86.** The approved budget for 2022/23 to 2024/25 incorporates recurring annual savings totalling £15.6 million over three years. The savings are based on a range of assumptions made as part of the 2022/23 budget setting process, including flat lined national funding and a 5% increase in council tax charges for 2023/24 and 2024/25.

**87.** The Financial Outlook and Budget Development Framework 2023/24 Onwards report, presented to the council in June 2022, notes updated scenario planning and the potential scale of the council's funding gap. The funding gap ranges from £41.1 million to £63.4 million by 2027/28 (inclusive of the delivery of existing, approved savings). Variables include pay, revenue support grant, council tax and inflationary assumptions.

**88.** The council have agreed options going forward, to mitigate the range of uncertainties faced, including:

- Service commitments to be delivered within budget, with cost pressures offset by savings within the service budget where possible.
- Avoidance of new and additional purchasing commitments where possible.
- Application of workforce management measures.
- Corporate Management Team to oversee delivery of planned efficiencies or identification of alternatives if required.



- Use of the Cost Reduction Fund to reduce cost base through efficiency savings.

## From 2023/24 onwards, budget planning will be undertaken on a five-year basis

**89.** From 2023/24 onwards, budget planning will be undertaken on a five-year basis. This will bring consistency between the financial and capital strategies. The capital strategy is already prepared on a five-year rolling basis. Planning over a longer timeframe joined up with other key strategies will help identify transformation initiatives for investment, to generate future savings.

## Common Good Fund

**90.** In April 2021, the council presented the budgets for the Common Good Fund for 2021/22 and indicative budgets for 2022/23 to 2023/24. The budget for each of the Common Good Funds include provision for the maintenance of assets and any committed items of expenditure.

**91.** The council meeting in August 2022 included a paper regarding work on the Common Good Review. This paper sets out a background to the Common Good and the issues identified in the previous year. The paper includes proposals for managing and reviewing the Common Good Fund going forward. However there has not been any progress with carrying out reviews during 2021/22 due to the council prioritising business critical activities as a result of ongoing Covid-19 challenges.

**92.** The council initially commenced their review of Common Good in 2019/20 and as noted above it remains ongoing. The main focus of the review relates to a legal review of Common Good properties; and a review of Common Good properties to ascertain the scale of potential maintenance, capital investment and operational cost commitments, which may be required to support Common Good assets/properties going forward. At year-end these areas remained under review and we have included a recommendation in the action plan at [Appendix 1](#).

## Trust funds review

**93.** The council acts as a majority or sole Trustee for a number of trusts, bequests and other funds, which are administered in accordance with the individual terms of each trust. 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. If charitable objectives are not being met, there is scope for OSCR to withdraw the charitable status of the funds.

**94.** We have recommended previously for work to be carried out by the council to consider whether there is scope to consolidate any/all of the 46 trusts. This should include a review of the method(s) used to promote the Dr Bruce Fund and other charitable trusts to ensure that the potential availability of these funds is known to the wider community.

**95.** Progress on the Common Good and Trust Funds Review during 2020/21 and 2021/22 was affected by the council's adoption of the 'business continuity' approach in response to Covid-19 with finance and legal services continuing to operate in this way. This limited but did not stop activity and progress.

**96.** Although limitations remained in 2021/22, a meeting of finance and legal staff in August 2022 discussed the actions required. A list of trust funds and their balances and transactions, including historical review information, has been prepared to identify:

- Trust funds and deeds specifying the objectives, purposes and restrictions relating to each fund
- Appropriate potential groupings or amalgamations of trust funds dependent on their objectives etc.
- The assessment of materiality and value for money in considering aggregation/amalgamation of funds.

**97.** Legal services have undertaken to commence identification of trust fund deeds etc. This remains within the context of business continuity arrangements for legal services and is dependent on staff capacity. In support of the overall review process, the council will appoint a graduate intern for one year, to help the council progress Common Good and Trust Funds audit actions. We have included a recommendation in the action plan at [Appendix 1](#).

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# 4: Governance and transparency

The effectiveness of scrutiny and oversight and transparent reporting of information

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## Main Judgements

The governance arrangements introduced in response to the pandemic remain in place, are appropriate and operated effectively.

There is effective scrutiny, challenge and informed decision making.

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## Governance arrangements operating throughout the Covid-19 pandemic have been appropriate and operated effectively

**98.** East Lothian Council has appropriate and effective governance arrangements in place which support effective scrutiny, challenge and decision making. This is informed by our regular attendance at the Audit and Governance Committee, review of Full Council and Cabinet papers and other committee papers as appropriate. The meetings and business to be scrutinised were not disrupted by the pandemic and continued to operate using MS Teams and other virtual platforms. We have confirmed that the majority of these arrangements have been maintained in 2021/22 and remain appropriate.

**99.** We have concluded that overall, East Lothian Council has appropriate governance arrangements in place which support effective scrutiny, challenge and decision making.

## Performance reporting was of a good standard

**100.** Management commentaries included in the annual accounts should provide information on a body, its main objectives and the principal risks faced. It should provide a fair, balanced and understandable analysis of a body's performance as well as helping stakeholders understand the financial statements.

**101.** The Management Commentary in the unaudited accounts submitted to audit provided information on the council, its main objectives and the principal risks faced during 2021/22. It is fair, balanced and an understandable analysis of the council's performance for the year. It adequately explains to stakeholders, in plain English, the performance of the council and group and is consistent with the performance shown in the financial statements.

**102.** We note that there is transparency in reporting the impact of Covid-19 on outturn and reserves. The Management Commentary also explains the Covid-19 agency payments made during the year and this is supported by comprehensive notes in the financial statements. We comment more on performance reporting in [Part 5](#) of this report.

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# 5: Best Value

Using resources effectively and continually improving services.

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## Main judgements

The council has an appropriate and effective best value framework in place.

The council's performance measures are aligned to key priorities and outcomes. There are appropriate arrangements for collecting and reporting on indicators with regular reporting to the appropriate committee.

The council have made the necessary arrangements for collecting, recording, and publishing the statutory performance information.

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## The council is making good progress in securing Best Value

**103.** Best value is assessed over the audit appointment, as part of the annual audit work. In addition, a Best Value Assurance Report (BVAR) for each council has been considered by the Accounts Commission at least once in this period. The BVAR report for the council was published in November 2018.

**104.** The council's assessment of how it is performing against its duty of best value is reported through the Council Improvement Plan. The 2018-2020 Council Improvement Plan was approved by Full Council in December 2018 and took account of, and reflected, the recommendations for improvement made in the BVAR.

**105.** The seven actions in the Improvement Plan were based on the recommendations and actions identified by the BVAR. The Improvement Plan was subsequently updated and approved by the Audit and Governance Committee in June 2019 with a further seven actions arising from the 2019 Corporate Governance Self-evaluation.

**106.** A December 2021 report to council informed members that there was no report produced in 2020 due to the council operating under business continuity which prioritised business critical activity. The easing of lockdown in 2021 and the return to some non-business critical activity made it possible to produce a 2021 report.

**107.** The revised council Improvement Plan was approved in February 2021. The current 2021-22 Improvement Plan incorporates outstanding actions from the BVAR report. However, limited progress has been made against improvement actions, as the council has continued to operate in business continuity mode throughout 2020 and 2021. Actions not deemed critical activity

have been put on hold. Revised timescales and deadlines have been given to all the actions to be completed in 2022.

**108.** In addition, Part 2 of the council's Annual Performance and State of the Council Report outlines how the council is endeavouring to deliver best value and good governance.

**109.** We conclude that the council has an appropriate and effective best value framework in place.

**110.** The Controller of Audit will consider the results of this follow up work, and report to the Accounts Commission on the extent of improvements made.

## **Performance management arrangements provide a sound base for improvement**

**111.** We reviewed the performance information submitted to the Performance and Policy Review Committee (PPRC) to assess whether performance measures are aligned to the council's key priorities and outcomes.

**112.** The council has four key objectives which are set out in the 2017-2022 Council Plan. The objectives are to grow the economy; communities; people; and the capacity of the council. The council's outcomes stem from the Council Plan aims and objectives and are reflected in the 2017-2027 East Lothian Plan (ELC's Local Outcome Improvement Plan) prepared by the East Lothian Partnership.

**113.** The PPRC receive quarterly performance reports. The report on key performance indicators is grouped under the council's four key objectives. The 2021/22 Quarter 4 Performance Report and the Covid-19 Performance Report were submitted to the June 2022 PPRC.

**114.** The Covid-19 Performance Report contains weekly data submitted to the Scottish Government on Covid-19 related activities. The Improvement Service developed a weekly Covid-19 dashboard using national and publicly available data sources as well as council provided data on some key input, output and outcome indicators of the impact of the pandemic. The weekly dashboard includes 25 indicators for which various comparisons are provided such as Scottish average, Family Group (Deprivation), Family Group (Geography), and Family Group (Vulnerability).

**115.** Overall the latest report indicates that East Lothian Council is performing better than the Scottish average on several key indicators including:

- Unemployment claimant count
- Rent arrears
- Delayed discharge
- Staff absence
- Child and adult protection registrations/ referral.

**116.** Standardised Complaints Handling Reporting was introduced to all local authorities by the Scottish Public Services Ombudsman. The 2021/22 Customer Feedback Performance Report (Complaints Handling Procedure) was reported to the June 2022 PPRC. The report's purpose is to raise awareness of implemented and planned improved processes. The report summarises complaints received, provides comparators, explanations and service improvements as a result of feedback.

**117.** The council has also established a consultation hub to consult the public on major issues and to help inform policy. The consultations set out what the council asked, the responses received and the actions with findings reported to council or relevant committee as appropriate.

**118.** The council's performance measures are aligned to key priorities and outcomes. There are appropriate arrangements for collecting and reporting on indicators with regular reporting to the appropriate committee.

**119.** We identified that the council has an established performance management framework that managers and councillors clearly understand, and that this provides a sound base for improvement.

### **Statutory performance information (SPIs) is being met**

**120.** The Accounts Commission has a statutory responsibility to define the performance information that councils must publish. In turn, councils have their own responsibility, under their best value duty, to report performance to the public. 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.

**121.** The Accounts Commission issued a revised 2018 Statutory Performance Information Direction in December 2018 which requires a council to report:

- Its performance in improving local public services provided by the council (on its own and with its partners and communities), and progress against agreed desired outcomes;
- Its own assessment and independent audit assessments of how it is performing against its duty of Best Value, and how it plans to improve these assessments and how it (with its partners where appropriate) has engaged with and responded to its diverse communities.

**122.** We have evaluated the council's arrangements for fulfilling the above requirements and concluded that the council have made the necessary arrangements for collecting, recording, and publishing the statutory performance information. For example:

- Quarterly performance indicators: The council has established a suite of performance indicators to help monitor progress against the outcomes detailed in the Council Plan and East Lothian Plan. These indicators are updated quarterly and reported through the PPRC. The performance information is grouped under the council's four key priorities. The reports are readily accessible on the council's website and show actual

performance against target performance, performance trend (whether improving or deteriorating) and a brief commentary on performance.

- Annual reporting of performance information: The council reports on a series of annual performance measures; the most recent covered 2020/21 and was considered at the June 2021 meeting of the PPRC. Additionally, the council reports annually on its Top 50 Council Plan measures. The most recent report was submitted to the PPRC in September 2021 and covered 2020/21. The report shows performance over three years against target and includes narrative explaining variations in performance.
- Annual Performance and State of the Council Report: The Annual Report and State of the Council Report is collated from the suite of performance information that is reported through council committees throughout the year. The current report covers 2020/21 and was submitted to the full council in December 2021.
- Council Improvement Plan: The council's assessment of how it is performing against its duty of Best Value is reported through the Council Improvement Plan (refer [paragraphs 103-110](#) above).

## National performance audit reports

**123.** Audit Scotland carries out a national performance audit programme on behalf of the Accounts Commission and the Auditor General for Scotland. During 2021/22, Audit Scotland published a number of reports which may be of interest to the council. These are outlined in [Appendix 3](#).

**124.** East Lothian Council has well established and satisfactory arrangements in place for considering and reviewing national reports including any locally agreed actions. The reports are presented with a covering paper to the relevant committee(s), put into the 'East Lothian' context and there are opportunities for members to scrutinise and ask questions.



# Appendix 1: Action plan 2021/22

## 2021/22 recommendations (includes prior year recommendations)

Issue/risk	Recommendation	Agreed management action/timing
<p><b>1. Information and Communication Technology (ICT)</b></p> <p>Public sector bodies are increasingly dependent on ICT systems for the provision of services and management information.</p> <p><b>Risk:</b> There is a risk of key policies and processing not keeping pace with internal demands and external risks.</p>	<p>We have highlighted, in <a href="#">Appendix 2</a>, a number of improvements that could be made to strengthen the digital strategy, cyber security, business continuity management and associated policies.</p>	<p><b>Management response:</b> Officers are currently considering all recommendations, and progress has been made with updating strategies and relevant policies.</p> <p><b>Responsible officer:</b> Service Manager - IT</p> <p><b>Agreed date:</b> Ongoing</p>
<p><b>2. Dr Bruce Fund</b></p> <p>Minimal payments are being paid out of the Fund.</p> <p><b>Risk:</b> There is a continuing risk that the trust fund is not operating effectively to meet its objectives (e.g. lack of provision of grants annually) and the trustees are not discharging their duties correctly.</p>	<p>The council and the Dr Bruce Fund Trustees should work together to ensure the Fund is being actively managed and used for the purposes intended.</p>	<p><b>Ongoing</b></p> <p><b>Revised action:</b> The capacity to progress with further review and amendments to date has been restricted due to business continuity requirements. While the Council as a whole has emerged from business continuity arrangements some service areas, in this respect notably both Finance and Legal services, have remained in business continuity.</p> <p>The Council has been progressing with temporary recruitment to support this work, but has face delays due to external market challenges. A Graduate Intern is currently being recruited to support progress in relation to the wider review of</p>

Issue/risk	Recommendation	Agreed management action/timing
		<p>Common Good and Trust Funds audit actions (including Dr Bruce).</p> <p><b>Responsible officer:</b> Executive Director for Council Resources / Head of Finance</p> <p><b>Revised date:</b> Ongoing</p> <hr/> <p><b>2020/21 response:</b> Management action: A wider review of Trusts is ongoing but has been delayed due to Covid-19 in support of business continuity priorities. Any wider disbursement of funds will be considered in due course.</p> <p>Responsible officer: Executive Director for Council Resources Service Manager - Legal</p> <p>Agreed date: Ongoing</p>
<p><b>3. Common Good (CG) review</b></p> <p>Following a review by the council's legal team, a significant number of council assets (land and buildings) have now been identified as belonging to the common good. This was despite an annual corporate review arrangement and the council's formal five year valuation cycle both of which were intended to identify common good assets.</p> <p><b>Risk:</b> There is a continuing risk that not all common good assets have been identified.</p>	<p>Processes for identifying and confirming assets held should be reviewed and amended. The formal valuation cycle itself is insufficient to gain the appropriate assurances that assets are classified correctly. The council should continue to progress the CG review. Having recognised that the council is using common good assets for the provision of council services, an appropriate lease arrangement must be set up.</p>	<p><b>Ongoing</b></p> <p><b>Revised action:</b> Although limitations due to business continuity arrangements, including specifically Finance and Legal services continued, a report on the progress of the Common Good review was submitted to the Council on 23 August 2022.</p> <p>The Council is currently in the process of appointing a Graduate Intern, on a one-year basis. This post is intended to assist and support the capacity of the council to achieve progress in relation to the Common Good and Trust Funds audit actions (including Dr Bruce).</p> <p><b>Responsible officer:</b> Executive Director for Council Resources / Service Manager – Governance</p> <p><b>Revised date:</b> Ongoing</p> <hr/> <p><b>2020/21 response:</b> Management action: Work on review and consolidation is ongoing; COVID-19 demands limited progress.</p> <p>Responsible officer: Executive Director for Council Resources; Service Manager - Legal</p> <p>Agreed date: Report will be brought to Council June 2020</p>
<p><b>4. Low Cost Home Ownership (LCHO)</b></p> <p>The Finance Team were not sighted on the existence of this category</p>	<p>The Finance and Place teams need to establish a policy and associated procedures, including a detailed register of the</p>	<p><b>Complete</b></p> <p><b>Revised action:</b> A specification of the evidence requirements was agreed with the Housing Enabler officer and Legal Services.</p>

Issue/risk	Recommendation	Agreed management action/timing
<p>of affordable homes until it was presented to the council as a purchase option. It equates to a S.75 developer contribution.</p> <p><b>Risk:</b> There is a risk that policy objectives are not met if the assets with which an 'in kind' developer contribution is linked, are not closely monitored over time.</p>	<p>low cost homes as part of the S.75 agreements, in order to effectively manage the process and ensure the policy objectives are being appropriately delivered</p>	<p>The Housing Enabler officer is maintaining a schedule and liaising with legal services regarding transactions (e.g. disposals / purchases).</p> <p>An LCHO properties schedule and relevant items (e.g. specification paper) was provided as part of the audit working papers.</p> <p>Fewer new LCHO units are anticipated to arise in future.</p>

## 5. Trust fund review

We repeat our recommendation that the council should progress and conclude on their review of common good and trust funds including an exercise to consider whether there is scope to consolidate any/all of the 46 trusts. This should include a review of the method(s) used to promote the Dr Bruce Fund and other charitable trusts to ensure that the potential availability of these funds is known to the wider community.

## Ongoing

**Revised action:** Although limitations due to business continuity arrangements, including specifically Finance and Legal services remain, work has been initiated.

Despite this, progress has been made to establish actions. To support the progress of this review the council is currently in the process of appointing a Graduate Intern, on a one-year basis. This post is intended to assist and support the capacity of the council to achieve progress in relation to the Common Good and Trust Funds audit actions.

**Responsible officer:** Executive Director for Council Resources / Head of Finance

**Revised date:** Ongoing

**2020/21 response: Common Good** – refer [point 3 above](#).

**Trust Funds** - Progress was more limited, affected primarily by the Covid-19 business continuity arrangements, as well as the loss of a staff member with Trust Funds experience. For 2021/22 the Council is actively assessing the options available for supporting a reorganisation of Trust Funds, without adversely affecting the Council's General Services and HRA management responsibilities. The Finance Service structure is also undergoing a consultation process, and the financial management provided for Trust Funds and Common Good is being considered as part of this process. We have raised a new recommendation in Exhibit 2 regarding the Common Good fund.

Responsible officer: Executive Director for Council Resources

Revised date: Update report will be delivered during 2022

Issue/risk	Recommendation	Agreed management action/timing
<p><b>6. Common repairs' review</b></p> <p>In 2018/19 we recommended that a reconciliation be carried out to confirm that the common repairs' balances are correctly stated. We found that no reconciliation was undertaken during 2019/20 and that the majority of the high value debtors selected for testing were unchanged from the prior year.</p> <p><b>Risk:</b> There is a risk that irrecoverable balances are not being provided for nor written-off, as appropriate.</p>	<p>A review of the common repairs' balances should be undertaken to confirm whether any debts require to be written off or if further action needs to be taken to recover outstanding amounts.</p>	<p><b>Complete</b></p> <p>The historic balance of common repairs debtors, and common repairs not previously invoiced, have been reviewed. Amounts identified as not being collectable have been written off in 2021/22. The Council now has processes and oversight in place to manage the common repairs charges.</p>
<p><b>7. Reporting outcomes against improvement actions</b></p> <p>The council monitors performance through its annual Corporate Governance Self-evaluation and Annual Governance Statement (CGSAGS) with the most recent report presented to the Audit and Governance Committee in June 2020.</p> <p>The corporate governance self-evaluation tends to list policy documents or assurance frameworks, rather than evaluate evidence of their effectiveness of delivering against improvement actions. The report contains</p>	<p>The council's reporting and monitoring against its improvement plan could be further improved to update members on what has been achieved through its improvement actions.</p>	<p><b>In progress</b></p> <p>The council considered and approved the East Lothian Council 2021 Annual Performance and 'State of the Council' report, How Good Is Your Council in December 2021.</p> <p>In March 2022, the Outline of the Council Plan 2022-27 was approved and included an update on progress with strategic goals, commitments and actions set out in the 2017-2022 Council Plan.</p> <p>In June 2022, the Audit and Governance Committee considered the progress in achieving the Council Improvement Plan 2021-2022.</p> <p>Subsequently in August 2022, the council approved the 2022-2027 Council Plan. A detailed Action Plan supporting implementation of the new Council Plan 2022-2027 will be presented to East Lothian Council on 25 October 2022.</p>

Issue/risk	Recommendation	Agreed management action/timing
<p>comprehensive detail on what the council does / has in place, without evidencing what results have been achieved. The report against the council's improvement action plan focuses more on the number of actions completed, rather than the improved ways of working or delivery of services through improvement actions, such as implementation of the council's workforce plan.</p>		<p>Work is in progress to review the Council Plan's Top 50 Performance Indicators, taking account of the recently approved Council Plan, and these will be presented to the Policy and Performance Review Committee for consideration before coming to full Council for approval in the coming months.</p> <p>The Annual State of the Council 2022 report, which is presented to council at the end of each year, will provide a summary of progress of the Council Plan 2022-2027, Action Plan and review Council Plan Performance Indicators.</p> <p><b>Responsible officer:</b> Council Management Team / Service Manager Policy, Improvement &amp; Partnership</p> <p><b>Revised date:</b> Ongoing</p>
<p><b>2020/21 response:</b> Outstanding - Due to the impact of Covid-19 there has been no progress made against this point. The update on the Council Improvement Plan using a revised format will be prepared in the autumn (by November 2021). We continue to recommend that the council's reporting and monitoring against its improvement plan should be improved to update members on what has been achieved through its improvement actions.</p> <p>Responsible officer: Service Manager – Policy, Improvement &amp; Partnerships</p> <p>Revised date: 31 March 2022</p>		
<p><b>8. Fairness and equalities</b></p> <p>East Lothian continues to work proactively with a local network to reach out to people and communities affected by equalities considerations. While the council has worked with partners to deliver some successful initiatives, reporting against equalities and Fairer Scotland duties needs to be more joined up and less disperse.</p>	<p>It is important the council ensures its performance reports are improved so that it is easier for elected members and the public to evaluate performance across equalities. We recommend that implementation of the single framework is closely monitored to ensure adherence and success.</p>	<p><b>Complete</b></p> <p>In November 2021, Cabinet, considered and approved the East Lothian Council Equality Plan 2021-2025.</p> <p>Progress in meeting the seven outcomes and 38 actions within the Plan will be reported on in bi-annual Equality Outcomes and Mainstreaming Progress Reports.</p> <p>In addition, East Lothian Council, approved a new East Lothian Council Poverty Pan 2021-2023 (November 2021). This is aligned to the East Lothian COVID-19 Recovery and Renewal Plan and has subsequently</p>

Issue/risk	Recommendation	Agreed management action/timing
		<p>been encompassed within the new East Lothian Council Plan adopted in August 2022.</p> <p>These plans set out the ambitions and actions that the council and its partners will need to fulfil over the next few years to achieve its goal of reducing inequalities in the face of the growing challenges posed by growing levels of poverty and inequality.</p>

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# Appendix 2: ICT pilot findings and recommendations

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Our ICT overview identified council-wide challenges over the short and medium term. These have been raised with officers and will be followed up as part of the 2022/23 audit. The overview and subsequent recommendations have been categorised into four parts:

- Digital Strategy
- Cyber Security Awareness
- Business Continuity Management
- Policies.

## Digital Strategy

**1.** The council's digital strategy was last updated in 2017 and was planned to be refreshed in early 2020. However this was delayed as a result of the prioritisation of business critical activities due to Covid-19. A new digital strategy is scheduled to be formally approved by February 2023.

**2.** A key challenge for the council in developing their new digital strategy is how they use digital platforms to transform service delivery. This remains an important part of transformational change as there are approximately 55 system applications that require to be replaced or upgraded over the next five years.

**3.** We plan to monitor progress in developing and implementing the new digital strategy during 2022/23 to ensure that sufficient funding and resources are in place to deliver all outcomes, especially the delivery of the new applications that require to be replaced.

## Cyber Security Awareness

**4.** The council obtain cyber assurance via the following areas:

- Ownership at the highest level: Council Management Team (CMT) has overall oversight of the cyber security risks.
- Public Services Network (PSN) accreditation, as well as ongoing discussion with the Scottish Local Government Digital Office regarding the new Future Network for Government (FN4G) accreditation that will replace PSN in the medium term.

- Independent IT Health Checks undertaken with remediation actions agreed as a priority to ensure PSN connectivity compliance.
- Cyber security Internal Audit review undertaken in June 2021 resulting in recommendations being actioned as well as two currently being progressed regarding policies and training.
- National Cyber Security Centre guidance followed, and all staff email alerts sent out.
- The council has drafted a cyber incident response plan. However, this was last reviewed in June 2018, is now out of date and has not been formally approved.

**5.** The Council should continue to engage with the Digital Office to discuss cyber security assurance measures and should consider:

- Adopting cyber essentials+, the Scottish Government's Cyber Resilience Framework or an equivalent standard as a baseline.
- Providing an annual cyber assurance update to the Audit and Governance Committee.
- Providing all staff and members with cyber security refresher training especially due to the heightened risk due to the ongoing conflict between Russia and Ukraine.
- Updating the cyber incident response plan.

## **Business Continuity Management**

**6.** The ICT business continuity plan and disaster recovery plans were last updated in October 2021 and January 2022 respectively. The council has been in formal business continuity mode since March 2020 due to Covid-19. The business continuity plan is scheduled for review in November 2022.

**7.** The council acknowledge that their disaster recovery plan requires to be updated following changes in processes since the start of Covid-19.

**8.** Previously, a process was in place where the council would routinely undertake a "round table" business continuity test. However, this process has not been undertaken since Covid-19 arrangements were introduced in 2020.

**9.** Whilst the council has a process in place to test and recover staff data on a regular basis as part of business as usual, there is no process in place to routinely test the back-ups of key systems.

**10.** The council should consider the following in response to emerging threats:

- To review disaster recovery plans to include new processes that have evolved due to hybrid working and routinely test these to ensure the plan will work in the event of an incident.



- To routinely test and restore key systems' back-ups to ensure in the event of a cyber-attack that data can be fully recovered.

## Out of date policies

**11.** The council's acceptable use policy was last updated in 2013 and is out of date following the changes implemented as a result of a focus on business critical activities during the course of the Covid-19 pandemic.

**12.** The council's data protection policy was last updated and approved in June 2018, with a review schedule of three years. However, no review has been undertaken.

**13.** The council should formally:

- Review and refresh their acceptable use policy and data protection policy, and
- Develop a key policy review schedule that includes the last date a policy was reviewed and future review dates, to help ensure that policies are kept up-to-date.

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# Appendix 3: 2021/22 national performance reports

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## May

[Local government in Scotland Overview 2021](#)

## June

[Covid 19: Personal protective equipment](#)

## July

[Community justice: Sustainable alternatives to custody](#)

## September

[Covid 19: Vaccination programme](#)

## January

[Planning for skills](#)

[Social care briefing](#)

## February

[NHS in Scotland 2021](#)

## March

[Local government in Scotland: Financial Overview 20/21](#)

[Drug and alcohol: An update](#)

[Scotland's economy: Supporting businesses through the Covid 19 pandemic](#)

# East Lothian Council

## 2021/22 Annual Audit Report

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