



MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 25 OCTOBER 2022
VIA DIGITAL MEETING FACILITY

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Committee Members Present:

Provost J McMillan (Convener)	Councillor C McFarlane
Councillor S Akhtar	Councillor C McGinn
Councillor R Bennett	Councillor G McGuire
Councillor L Bruce	Councillor S McIntosh
Councillor D Collins (from Item 5)	Councillor K McLeod
Councillor F Dugdale	Councillor L-A Menzies
Councillor J Findlay	Councillor B Ritchie
Councillor A Forrest	Councillor T Trotter
Councillor N Hampshire	Councillor C Yorkston

Council Officials Present:

Ms M Patterson, Chief Executive
Ms L Brown, Executive Director for Education and Children's Services
Ms S Fortune, Executive Director for Council Resources
Mr D Proudfoot, Executive Director for Place
Ms E Dunnet, Head of Finance
Ms M Ferguson, Head of Corporate Support
Ms W McGuire, Head of Housing
Mr T Reid, Head of Infrastructure
Ms S Saunders, Head of Communities
Ms M Sullivan, Head of Development
Ms J Tait, Head of Children's Services
Dr L Binnie, Principal Educational Psychologist
Mr S Cooper, Team Manager – Communications
Ms R Crichton, Committees Officer
Ms F Currie, Committees Officer
Ms A-M Glancy, Service Manager – Corporate Accounting
Mr C Grilli, Service Manager – Governance
Mr M Kennedy, General Manager – Adult Social Work
Ms L Kerr, General Manager – Planning and Performance (Adult Wellbeing)
Ms C Molloy, Project Manager – Growth and Delivery
Mr R Montgomery, Project Manager
Ms J Morton, Service Manager – Statutory Services (Criminal Justice)
Mr C Price, Project Manager
Ms D Pringle, Corporate Accountant
Mr P Ritchie, Service Manager – People and Council Support
Mr A Stubbs, Service Manager – Roads
Mr P Vestri, Service Manager – Policy, Improvement and Partnerships
Mr T Renouf, Executive Officer

Visitors Present:

Mr J Baxter, Jacobs (Item 5)

Clerk:

Mrs L Gillingwater

Apologies

Councillor E Allan
Councillor C Cassini
Councillor N Gilbert
Councillor L Jardine

Declarations of Interest:

None

The Provost advised that the meeting was being held remotely, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. He noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for up to six months from the date of the meeting.

The clerk recorded attendance by roll call.

Prior to the commencement of business, the Provost paid tribute to two former employees who had recently died – Graham Duncan, formerly of the Planning Service, and Susan Smith, formerly of the Economic Development Service.

1. MINUTES FOR APPROVAL

The minutes of the following meeting were approved: East Lothian Council, 23 August 2022.

2. MINUTES FOR NOTING

The minutes of the following meeting were noted: Local Review Body (Planning), 18 August 2022.

3. 2022-27 COUNCIL PLAN ACTION PLAN

A report was submitted by the Executive Director for Place, presenting the 2022-27 Council Plan Action Plan to Council for approval.

The Service Manager – Policy, Improvements and Partnerships, Paolo Vestri, presented the report, reminding Members that the Council Plan had been approved by Council at its meeting on 23 August. He drew Members' attention to the 68 actions set out in the Action Plan (Appendix 1 to the report), which would be delivered via various policies and strategies, noting that progress on these actions would be reported to the relevant committees and in the annual 'State of the Council' report. He also highlighted progress made on the 2017-22 50 key performance indicators (set out at Appendix 2 to the report), adding that a new set of indicators would be produced to reflect the priorities of the new Council Plan, including COVID-19

recovery and renewal and climate change; these indicators would be reported to the Policy & Performance Review Committee before being presented to Council for approval.

Councillor Hampshire commented on the current situation with the UK economy and the potential impact on Council funding, and asked if the Action Plan would need to be reviewed in light of this. Mr Vestri assured him that the Council Plan was constantly under review, and that the key priorities would be reviewed as part of the budget-setting process.

In response to questions from Councillor McIntosh on growth and cohesion between various plans/strategies, Mr Vestri explained that sustainability and growth, as well as climate change, featured in the Council Plan, and that Action Plan point 2 focused on the circular economy and wealth-building; the forthcoming revised Economic Development Strategy and Regional Economic Strategy would include 'green economy' measures. On cohesion between plans, Mr Vestri pointed out that Members had oversight for policies and strategies, both on adoption and when reported on, e.g. through the 'State of the Council' Annual Report, annual accounts or Climate Change Strategy Annual Report. Michaela Sullivan, Head of Development, added that the Local Development Plan included policies covering climate change.

Councillor Menzies asked how certain aspects of the Plan, e.g. meaningful employment, happiness and mental health were measured. Mr Vestri advised that the indicators encapsulated these aspects, and that the employment aspect would also feature in the Economic Development Strategy. He invited Members to contribute ideas for performance indicators. The Provost added that he would be happy to discuss economic development-related matters with Councillor Menzies.

Councillor Yorkston asked a question in relation to waste recycling. Tom Reid, Head of Infrastructure, pointed out that data for recycling was collected on a calendar-year basis, and that it would be the end of the year before he could report on a full year's data. He advised that 70% was the national recycling target, and that he did not think the Council would achieve this in Phase 1 of the new recycling system.

On point 27 of the Action Plan, relating to the school curriculum, Councillor Dugdale asked for further details on 'non-academic focused pathways'. Lesley Brown, Executive Director for Education and Children's Services, reported that the curriculum was under review, with a focus on meeting the needs of all young people, including through vocational pathways and apprenticeships in addition to academic qualifications. A report on this would be presented to the next meeting of the Education Committee.

Councillor Menzies opened the debate, welcoming in particular the action in relation to supporting initiatives towards ending violence against women and girls.

Councillor Hampshire commended officers for their work on the report, noting that monitoring was important to ensure that plans did not conflict with other plans. He made reference to pressure on services, as well as the need to work with external partners to ensure that investment programmes were aligned. For example, he noted that infrastructure such as health services would be required to be delivered at the same time as new housing developments.

Councillor Forrest spoke on the investment in Council housing and the modernisation programme, and praised staff for the delivery of energy efficiency measures.

Councillor McGinn praised the efforts of local 'In Bloom' groups following recent successes, and thanked all those involved, including Council officers. He also highlighted the contributions made by volunteers throughout East Lothian, and the positive impact they had made on communities.

Councillor Dugdale commented on the investment in the school estate, and action being taken to raise attainment and achievement. She also welcomed the introduction of trauma-informed practitioners. She echoed Councillor McGinn's comments on the importance of working in partnership with volunteers and other partners.

Councillor Akhtar provided a summary of progress made within health and social care services, with reference to the Integration Joint Board Performance Report. She noted that East Lothian was outperforming other Scottish areas as regards delayed discharge which, she believed, was a result of effective partnership working.

Concluding the debate, the Provost highlighted the challenges facing the Council. He also mentioned the importance of partnership working in relation to economic development, and welcomed the inclusion of manifesto pledges in the Action Plan.

The Provost moved to the roll call vote on the recommendations, which were approved unanimously.

Decision

The Council agreed:

- i. to approve the 2022-27 Council Plan Action Plan (attached at Appendix 1 to the report); and
- ii. that a new set of Top 50 Council Plan indicators would be presented to the Policy & Performance Review Committee for consideration before coming to Council for approval.

4. FINANCE UPDATE

A report was submitted by the Executive Director for Council Resources providing Council with the Quarter 1 financial performance, which was reported to Cabinet on 27 September 2022, and providing an update on the financial position at the end of August 2022, as well as a wider review of the financial outlook and current risks.

The Head of Finance, Ellie Dunnet, presented the report, drawing Members' attention to challenges facing the Council, including the current financial position, high levels of inflation, increasing demands on services, the local government pay settlement (for which partial Scottish Government funding would be provided), and external market conditions. She also advised that the cost of living crisis was creating further pressures, and that the Council would need to use reserves in excess of planned levels. She noted that interest rate volatility created a significant risk for delivery of the capital programme, and this was being closely monitored. Members were advised that the cross-party budget working group had now met twice, and that the development of the 2023/24 budget process was underway.

Councillor Hampshire informed Members that at a Special CoSLA Leaders' meeting earlier in the day, agreement on the pay award and the additional day's annual leave had been reached, with the pay increase to be partially funded by the Scottish Government. On inflation, he asked about the impact on the Council budget agreed in April 2022, and if additional funding from the UK Government would be provided to mitigate the impact. Ms Dunnet advised that inflation remained a significant risk to the Council and that the current level was in excess of what had been built into the budget. She added that various aspects of Council expenditure was being reviewed in light of this, but that a further drawdown from reserves in the region of £1m was likely to be required. She undertook to highlight unavoidable cost increases within services in future finance reports.

Responding to a question on energy costs from Councillor McLeod, Ms Dunnet advised that measures would be taken to reduce energy consumption, including more effective use of Council buildings, temperature controls, and the heating of primary schools during holiday periods. She stressed that action was required now in order to mitigate the risk. Michaela Sullivan, Head of Development, added that funding had been allocated to councils to recruit a Local Heat and Energy Efficiency Strategy (LHEES) Officer.

Councillor Forrest asked about the impact on inflation on the Council house modernisation programme. Wendy McGuire, Head of Housing, advised that contracts were in place for the modernisation and new-build programmes; however, the contractors were now indicating that they could no longer deliver the contract due to rising costs. She pointed out that the situation was under continual review and that the impact of this would be clearer at the end of Quarter 2.

Sarah Fortune, Executive Director for Council Resources, explained that there were currently many external factors which were impacting on the Council, and that the position was constantly monitored and reviewed. She spoke of the pressure on the Council to deliver more houses, noting that although there were means of estimating future Council Tax yield, this was being impacted by external factors.

In response to a question from Councillor Findlay regarding the underspend within Education and Children's Services, Ms Dunnet reported that there had been a reduction in the 1140 hours grant, and that the underspend would be used to fund the shortfall this year.

In relation to the pay award, Councillor Dugdale asked about using capital funding to support revenue expenditure. Ms Dunnet advised that it was not common but it could be done as a temporary measure and built into the revenue budget for future years.

Opening the debate, Councillor McIntosh remarked that moving to renewables and better insulation was the only way to tackle the impact of rising energy costs.

Councillor Forrest paid tribute to staff in the Property Maintenance Team and Housing Officers for their efforts to turn void properties around quickly, and to the Rent Team for their engagement with tenants.

Councillor Hampshire spoke of the challenge of balancing the budget in the current financial environment. He warned that difficult decisions would need to be made, but he hoped that the cross-party budget working group would work together to protect services. He assured staff that the Council would do everything possible to project jobs and services.

Councillor Menzies hoped that the Scottish Government would be given additional funding to deal with the current challenges. She also suggested that new funding streams should be sought, and she looked forward to working in a progressive way in order to benefit communities.

Concluding the debate, the Provost welcomed cross-party working and the sharing of ideas, but also noted that Members needed to be mindful of the pressure on Council officers.

Decision

The Council agreed:

- i. to note the outcome of the Quarter 1 financial performance, which was reported to Cabinet on 27 September 2022 (continued from 13 September 2022);
- ii. to note the update on key developments since the Quarter 1 report;

- iii. to note that future financial review reports would be presented to Council for scrutiny until the financial position improves; the Quarter 2 position would be reported to Council on 13 December 2022; and
- iv. to note the update on the wider financial environment and current risks.

5. MUSSELBURGH FLOOD PROTECTION SCHEME – UPDATE ON SCHEME DEVELOPMENT

A report was submitted by the Executive Director for Place updating the Council on progress made in a number of key areas in advancing the development of the Musselburgh Flood Protection Scheme (the Scheme) and in respect of specific recommendations at the Council meeting of 23 August 2022, and seeking Council approval and authorisation of key elements of project work.

The Service Manager – Roads, Alan Stubbs, presented the report. Mr Stubbs reminded Members of progress made to date, and went on to highlight a number of key aspects, stressing that the Preferred Scheme remained a concept at this stage; that nature-based solutions would be included in the Scheme; that further consultation with the community would take place; and that the projected costs of the project continued to evolve as the Scheme progresses, with the final costings and funding details to be presented to Council in due course.

In response to questions from Councillor Forrest, Mr Stubbs advised that, in response to the public consultation, there was a commitment to consider nature-based solutions. He confirmed that the Scottish Government would fund 80% of the Scheme, with the Council funding the remaining 20%; however, he noted that the costs would evolve as the Scheme is developed, and that there may be opportunities to access other funding streams. He suggested that measures could be taken to mitigate the risk of graffiti on walls, but pointed out that the design of walls, etc. had not yet been produced. Councillor Forrest indicated that he had a number of additional questions that he would discuss with Mr Stubbs outwith the meeting [post-meeting note: Mr Stubbs has now responded to these questions].

Councillor Bruce asked for reassurance on the flood protection risk model. Jim Baxter of Jacobs responded, advising that prior to carrying out the modelling work, discussions had taken place with officers and strategic stakeholders, and that there was a collective understanding of how the flood model would be set up. A separate team would carry out the modelling, which would then be checked by Jacobs. Further discussions would then take place with stakeholders before the final plans were presented to Council. He noted that local, national and international guidance had been followed, and that indicative temperature rises were based on data from the International Panel on Climate Change (IPCC).

On the cost of implementing the Scheme, Mr Stubbs assured Members that a full update on the total scheme cost would be provided to the Council at the end of the Outline Design. This would include a full report on the available sources of funding required for the Council to deliver the Scheme. Conor Price, Project Manager, accepted that any increase in indicative costs would present a risk to the Council, and it would be for the Council to make a determination, taking account of the risks.

Councillor McIntosh asked when further information on 'Model C' would be available to the public. Mr Price indicated that that the website would be updated with all relevant information. However, he noted that 'Model C' was not yet ready as modelling work was ongoing. Mr Baxter explained that the model itself was not easily accessible due to the high number of files. As regards the Dynamic Coast project, Mr Stubbs reported that officers had agreed to work with experts from the Scottish Government, NatureScotland and the University of Glasgow; he hoped to be able to share information on outputs in due course. He noted that

the inclusion of Inveresk Estate in the Scheme was still to be determined by the Project Board before being brought back to Council.

Councillor Bennett remarked that there was concern among the Musselburgh community as regards communication. Mr Stubbs outlined efforts to improve this and to take account of the views of the public, noting the inclusion of nature-based solutions in the Scheme. He pointed out that as well as information being available on the website, a communications plan would be developed, and a newsletter would be produced. He suggested that Members could also assist through engagement with constituents.

Responding to a question from Councillor Dugdale on preparing for severe flood events, Mr Price advised that local, national and international guidance was monitored and updated on an ongoing basis, and that the development of the Scheme would take account of this up until the point of its approval by Council in 2025. Mr Baxter added that the Scheme would need to be flexible so that higher levels of protection could be provided in future, but that it would not evolve beyond the point of it coming to Council for approval.

Councillor Forrest asked about the consultation with businesses in Musselburgh, and he also questioned whether the Scheme could go ahead without the inclusion of the seawall. Mr Stubbs undertook to provide details of the consultation with businesses. On the seawall, he confirmed that it was integral to the Scheme. He offered to discuss 'Model C' further with Members.

Opening the debate, Councillor Menzies commented that the community wanted to be involved in the development of the Scheme, and that it was important for the public to know what the Scheme would look like. Her views were shared by Councillor Forrest, who expressed concern that the Musselburgh community felt that they weren't sufficiently involved in the process. He stressed the need to give the community a range of options.

Councillor McIntosh reported that she had received a lot of correspondence from members of the public on this matter, who were concerned about the Scheme. She welcomed the changes made since 2019, and also the commitment to scenario planning. She also spoke of the importance of giving the community a say on options for the Scheme.

Councillor Hampshire concluded the debate, remarking that all Members had received communications from the public on this issue. He warned of the impacts of climate change and the flood risk to Musselburgh, asserting that it was important that the Council tries to provide a solution to protect the community, homes and businesses. He assured Members that the community would be consulted, but it would be for the Council to determine the final Scheme. He also highlighted the need for the Scheme to be affordable.

The Provost moved to the roll call vote on the recommendations, which were approved unanimously.

Decision

The Council agreed:

- i. to note the work undertaken to achieve a full and final review of the Scheme's Hydrology, the development of the Hydraulic 'Model C' to ensure the Scheme is applying the best approach to modelling the flood risk to Musselburgh;
- ii. to approve the defined flood risk as the relevant flood risk to the town of Musselburgh, and authorise the Scheme to now go and determine the flood defences, and thereby the standard of protection, through which the flood risk to Musselburgh could be reduced, noting that the appropriate defences would be evolved through consultation;

- iii. to note the work undertaken on the incorporation of the Ash Lagoons Seawall into the Scheme including the options appraisal process and the identification of an emergent 'preferred option' including its range of estimated costs;
- iv. to approve the Scheme timeline for the advancement of the outline design (attached at Appendix D to the report), including the presentation of the prepared outline design for review and approval by a meeting of the Council at the end of that timeline;
- v. to note the revised estimate for the £42.1m Preferred Scheme, as approved by Cabinet in January 2020, to £43.5m – which has been revised due to the loss of time to programme due to the COVID-19 pandemic and inflation between 2020 and 2022;
- vi. to note the inclusion of £122k of 100% grant allocated new budget from the Sustrans-funded Places for Everyone 'Musselburgh Active Toun' project to allow the Scheme's Project Team to work in partnership with that multiple-benefits project;
- vii. to approve the Scheme's Strategic Communications Plan (attached at Appendix E of the report); and
- viii. to approve the Scheme's Consultation Plan for the outline design (attached at Appendix F of the report).

6. CHIEF SOCIAL WORK OFFICER ANNUAL REPORT 2021/22

A report was submitted by the Chief Social Work Officer presenting her Annual Report 2021/22 (attached at Appendix 1 to the report)

The Chief Social Work Officer, Judith Tait, presented the report, advising Members of the statutory requirements of the report. She drew attention to the key aspects of the report, including the key achievements for 2021/22; the challenges and risks facing the service; and forthcoming governance changes in respect of social work services.

In response to questions from Councillor Dugdale on recruitment and retention challenges, and referrals to children's services, Ms Tait highlighted the ongoing recruitment difficulties, noting that some posts had been advertised several times; she added this was a national issue. She referred to incentives being offered by other local authorities to attract applicants, and believed a national response to this matter was required. On referrals to the service, Ms Tait provided examples to demonstrate that there was an increase in demand for services. She noted that schools were reporting an increase in stressed and distressed pupils, and she anticipated that the full impact of COVID-19 was not yet clear. The cost of living crisis was also impacting families. She made reference to the pressure on staff within the service, particularly as training was required for new initiatives which involved a significant time commitment, and to changes in legislation and policy, which put further pressures on the service.

Councillor McLeod requested an update on the new residential facility for young people. Wendy McGuire, Head of Housing, reported that her team was working with Ms Tait's team on this issue, and that a potential site had been identified in Wallyford. It was hoped that the planning application would come forward early in 2023.

Councillor Akhtar asked questions on waiting times for assessments in adult social care, recent service improvements, and the restructuring of some services. Matt Kennedy, General Manager for Adult Social Work, explained that the service had undergone a restructure to allow it to be more responsive, and as a result of this work waiting lists for assessments had now been eradicated. The next phase of this work would focus on delivering positive outcomes for people going through the assessment process. Ms Tait informed Members of

the changes within the community justice service, which would allow for a more holistic view of workstreams, as well as delivering more effective services to deal with violence against women and girls. She also referenced partnership working with other agencies to improve community safety.

Responding to questions from Councillors McIntosh and Menzies on tackling stress-related absence and recruitment and retention issues, Ms Tait advised that it was important that Members understood the role of social work staff and the services provided. She stressed the need to create working conditions for staff to deliver services to the best of their ability, whilst acknowledging that resources were finite. Dr Lynne Binnie urged Members to support forthcoming initiatives to improve recruitment and retention of staff, as vacancies within the services had an impact on staff who were having to deal with increased casework. Ms Tait agreed to consider including testimonies from service users in future annual reports.

Councillor McIntosh welcomed the report, highlighting in particular the ongoing positive relationships between the staff of Lothian Villa and former residents of the facility.

Councillor Akhtar noted that the report demonstrated the ongoing impacts of COVID-19, with demand for services increasing. She highlighted the importance of social work services in tackling poverty and inequality. She voiced her concern about the uncertainty facing the service with the proposed establishment of a National Care Service. Councillor Akhtar thanked Ms Tait and her team for their work in developing and delivering services at a time when East Lothian's population was growing.

Councillor Dugdale drew attention to a number of achievements within Ms Tait's service, in particular the reduction in the number of looked after children, and the improvement in support to families. She paid tribute to the staff in the service for their vision and professionalism. However, she was concerned at the recruitment challenges and pressure on staff, commenting that sufficient funding was required to ensure that staff had capacity.

Welcoming the report, Councillor McGinn concurred with comments made by Councillor McIntosh regarding the staff at Lothian Villa. He also praised the work of social work staff during the pandemic, and emphasised the need for Members to continue to support staff through forthcoming challenges.

Decision

The Council agreed to note the content of the 2021/22 Annual Report of the Chief Social Work Officer and its implications for the provision of social work services in East Lothian and their role in assuring the safety and welfare of vulnerable children and adults across the county.

7. EDINBURGH AND SOUTH EAST SCOTLAND CITY REGION DEAL – ANNUAL REPORT AND INNOVATION HUB

A report was submitted by the Executive Director for Place summarising the key findings of the City Region Deal Annual Report, approved by the City Region Deal Joint Committee on 2 September 2022). The report also provided an update on the date of the Annual Conversation; a summary on progress on the delivery of the Innovation Hub and wider Edinburgh Innovation Park, and an update on the delivery of the grade separated junction at the A1/Queen Margaret University road junction.

Catherine Molloy, Project Manager for Growth and Delivery, presented the report, drawing attention to key aspects, including the summary of progress set out in the Annual Report, key milestones for the year ahead, and an update on the grade separated junction at Queen Margaret University and the Innovation Hub.

Councillor Hampshire welcomed the progress made on delivering City Region Deal projects. He anticipated that the planning application for the Innovation Hub would come forward early in 2023 and, all being well, the construction work could start in the autumn of 2023. He praised the work of the junction contractor as regards maintaining traffic flow during the works, noting that it was hoped the junction would be completed by May 2023. Tom Reid, Head of Infrastructure, advised that although the work on the junction would continue until May, it was anticipated that it would be open to traffic from February/March 2023.

Echoing Councillor Hampshire's comments, Councillor Forrest remarked that he was looking forward to the benefits of the Innovation Hub and new junction to the Musselburgh community.

Decision

The Council agreed:

- i. to note the summary findings of the fourth Annual Report;
- ii. to note the date of the next Annual Conversation;
- iii. to note the summary of progress on the delivery of the Innovation Hub and the wider Edinburgh Innovation Park; and
- iv. to note the update on the delivery of the grade separated junction at the A1/Queen Margaret University road junction.

Sederunt: Councillor Bruce left the meeting.

8. AMENDMENT TO EAST LOTHIAN COUNCIL'S POLLING PLACE SCHEME

A report was submitted by the Executive Director for Council Resources seeking approval to formally amend East Lothian Council's Polling Place Scheme in respect of EL3A polling district.

The Head of Corporate Support, Morag Ferguson, presented the report, explaining that Tranent Town Hall was no longer available to be used as a polling place. She proposed that the Fraser Centre would be a suitable alternative, noting that no objections had been raised by local Members.

Councillor McLeod welcomed the proposed change. However, he suggested that in the long term, a single polling place should be considered, with the Loch Centre providing suitable facilities. He argued that with the increase in postal votes, and to save on energy costs, this would be a good solution. Other local Members also welcomed the change of venue, although Councillor Menzies was not in agreement with Councillor McLeod's views on centralising polling places in the town.

Mrs Ferguson advised that polling places were subject to regular reviews, to take account of population changes, new housing, and postal vote numbers, etc. She noted that the next review would take place in 2023, and that all Members would be consulted on their views as part of the review.

The Provost moved to the roll call vote on the recommendation, which was approved unanimously.

Decision

The Council agreed to approve the permanent amendment to the polling scheme for the East Lothian Constituency for polling district EL3A.

9. LOTHIAN PENSION FUND: VOLUNTARY SCHEME PAYS 2021/22

A report was submitted by the Executive Director for Council Resources seeking determination of whether the Council should exercise its annual discretion to adopt the Lothian Pension Fund Voluntary Scheme Pays mechanism in respect of the tax year 2021/22.

The Service Manager for People and Council Support, Paul Ritchie, presented the report, reminding Members of the annual requirement to determine whether the Voluntary Scheme Pays mechanism should be adopted. He provided a summary of the obligations on the Council in this regard, noting that in recent years Option 1 (as set out in Section 3.3 of the report) had been adopted.

Councillor Hampshire explained that Option 1 had been adopted in previous years as it put the Council in a stronger position when seeking to recruit to chief officer roles. He pointed out that there was currently no risk to the Council, as no employee was paid more than £200,000; even if that were the case, the risk to the Council would be limited.

The Provost moved to the roll call vote on the recommendation as set out in the report:

Option 1 (10): Councillors Akhtar, Bennett, Dugdale, Forrest, Hampshire, McFarlane, McGinn, McMillan, Ritchie, Yorkston

Option 2 (7): Councillors Collins, Findlay, McGuire, McIntosh, McLeod, Menzies, Trotter

Decision

The Council agreed to adopt Option 1, namely to participate in the Voluntary Scheme Pays mechanism (as set out in Section 3.3 of the report), and to authorise officers to communicate that decision to the Lothian Pension Fund.

10. NOTICE OF MOTION: DIVESTMENT OF LOTHIAN PENSION FUND FROM FOSSIL FUEL COMPANIES

A motion was submitted by Councillors McIntosh and Ritchie

It is noted that East Lothian Council unanimously approved the declaration of a Climate Emergency in 2019, and that following this declaration, the then-Leader of the Council, Councillor Willie Innes, wrote to the Lothian Pension Fund on behalf of the Labour administration, making clear that 'as a group, we are of the view that it is time for the Lothian Pension Fund to disinvest from fossil fuel shares'. [A copy of this letter was appended to the motion.],

This motion is intended to build on the good work done under Councillor Innes' leadership and asks the Council to state to Lothian Pension Fund our collective view that public pensions should not be invested in fossil fuel firms. This is in line with the wishes expressed by members though one major trade union, although it is noted that the Pension Fund does not currently have any mechanism for consultation with all members.

The Council therefore instructs the Council Leader, Norman Hampshire, to write to the Lothian Pension Fund

- a) to advise of East Lothian Council's position that LPF should act immediately to divest in Fossil Fuels to meet the aims of the Paris Agreement and keep the extent of global temperature rise to under 1.5C;
- b) to request that LPF, starting in 2023, produces an annual report on the extent and value of fossil fuel investment holdings, together with a clear strategy to divest from the same and annual updates on the progress of this divestment; and
- c) to request that Lothian Pension Fund develop, in conjunction with the trade unions, a meaningful consultation mechanism with Fund members, and that employers, such as East Lothian Council, are consulted on the Fund's investment strategies and divestment policy.

Councillor McIntosh presented the motion, reminding Members of the Council's 2019 declaration of a climate emergency. She made reference to scientific reports on climate change and the potential impacts of fossil fuels on the planet. She noted that the Lothian Pension Fund had published a new responsible investment strategy in 2021, which included a commitment to manage funds in line with the Paris Agreement. However, the strategy also stated that the Fund would not divest for 'purely non-financial reasons'; their holdings in fossil fuel companies increased by 40% between 2020 and 2021, standing at £229m in 2021. Councillor McIntosh illustrated measures which could be taken by the Lothian Pension Fund by way of a transition to the renewables economy. She took the view that the environmental and social impacts of strategy should be considered, and she stated that there was no conflict between fiduciary data and investment. She also pointed out that this was not just a moral and environmental issue, but was also a financial issue, indicating that fossil fuel companies were losing value, while stocks in renewables were growing. She objected to the fossil fuel industry being funded through pension contributions, especially at a time when she believed companies were aggressively pursuing new oil and gas fields, despite the scientific evidence on the impacts of this. Councillor McIntosh disagreed with the argument made by Lothian Pension Fund that as ethical investors, they could use their shares for good, rather than sell them to another party who may not. She also argued that engaging with and lobbying fossil fuel companies was not effective. She urged Members to continue the work of the late Councillor Innes in calling for divestment from fossil fuels by supporting the motion.

Councillor Ritchie seconded the motion, supporting Councillor McIntosh's views on ethical and responsible investment of pension funds. She pointed out that investments were not future-proof if the industry in which they were invested was itself not future-proof. As the Council's Champion for Young People, she claimed that many young people were not investing in pensions as they saw no point in having a pension unless action was taken on climate change. She stressed that the motion was not about the immediate divestment from the fossil fuel industry, but was concerned about starting the divestment process. She urged Members to continue to pressure Lothian Fund on this issue. She made reference to the Council's declaration of a climate emergency and the late Councillor Innes' letter to the Lothian Pension Fund, urging Members to continue this work by supporting the motion.

Councillor McFarlane welcomed the motion, but stressed the importance of protecting the pension funds.

Speaking in support of the motion on behalf of the SNP Group, Councillor Menzies indicated that divestment alone was not a solution to the climate crisis, but as a precursor to increasing investment in renewable energy, it was a starting point. She pointed out that people starting their working lives now would not retire until after 2070, and that it was important to ensure

that they had a comfortable retirement and future, and that people should be prioritised over profit.

Councillor Bennett declared that he would be supporting the motion, believing that responsible divestment from fossil fuels would benefit future generations and lead to a more climate-stable world.

Councillor Hampshire echoed comments made by other Members, but highlighted the need for alternative energy sources. He pointed out that most homes were currently heated by gas, and questioned how this could be replaced; there would need to be investment in alternatives, otherwise the drilling of oil and gas would continue. He called on the government and other agencies to do more to tackle this issue.

Councillor Dugdale commented on recent extreme weather events around the world, and noted the impact of various industries on climate change. She welcomed the call for divestment, but also spoke of the need to consider how funds could be invested ethically to meet the needs of pension fund members and the planet.

Welcoming the contributions by Members, and particularly the calls to continue the work started by the late Councillor Innes in his letter of 2019, the Provost spoke in support of the motion. He agreed that the proposal for a clear strategy and an annual report on the matter, as well as meaningful consultation, should be supported. He noted that the Council Leader would need to be very clear about the Council's views on this matter in his letter to the Lothian Pension Fund, and that it should be considered as the first step in meaningful action on better investment.

Summing up, Councillor McIntosh thanked Members for their support and contributions. She welcomed the opportunity for a cross-party approach on this issue.

The Provost moved to the roll call vote on the motion, which was approved unanimously. The motion was therefore carried.

11. SUBMISSIONS TO THE MEMBERS' LIBRARY SERVICE, 9 AUGUST TO 9 OCTOBER 2022

A report was submitted by the Executive Director for Council Resources noting the reports submitted to the Members' Library since the meeting of the Council in August 2022.

Decision

The Council agreed to note the reports submitted to the Members' Library Service between 9 August and 9 October 2022, as listed in Appendix 1 to the report.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Council unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

Scottish Power Musselburgh Agreement: Seawall

A private verbal update by the Executive Director for Place advising Council of the situation with Musselburgh seawall was noted.

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**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 6 OCTOBER 2022
VIA THE DIGITAL MEETINGS SYSTEM**

2

Committee Members Present:

Councillor J Findlay (Chair)
Councillor K McLeod
Councillor C Yorkston

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Mr L Taylor, Planning Adviser to the LRB

Other attendees:

None

Clerk:

Ms B Crichton, Committees Officer

Apologies:

None

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the Local Review Body to reach a decisions on the planning applications before it. He also asked the Members to confirm that they had viewed all of the documentation which had been available to the planning case officers during their consideration of the applications. All members did so.

The Legal Adviser then invited nominations to chair the meeting. Councillors McLeod and Yorkston indicated that they would be content for Councillor Findlay to chair the Local Review Body (LRB) on this occasion.

1. PLANNING APPLICATION NO. 22/00233/P: ALTERATIONS AND CHANGE OF USE OF BANK TO FORM 1 FLAT, 12 WESTGATE, NORTH BERWICK EH39 4AF

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Leigh Taylor, Planning Adviser, outlined the proposals contained in planning application no. 22/00233/P. He set out in detail the proposals contained within the application and provided details of the site and surroundings. There had been 11 objections and one letter of support.

He reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicated otherwise: in this case, the South East Scotland Development Plan (SESplan); the adopted East Lothian Local Development Plan 2018 (LDP); and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Mr Taylor outlined the most relevant policies of the LDP, which were: TC2 (Town and Local Centres); CH1 and CH2 (Development Affecting Conservation Areas); T2 (Transport Impact); and DP5 (Conversion of an Existing Building); and the SPG Design Standards for New Housing Areas.

The case officer had considered the proposal under Policy TC2, which required marketing evidence to be provided to demonstrate the building was no longer viable for town centre commercial use. The applicant had provided marketing information, and the case officer sought the views of the Economic Development Team and a report from the District Valuer (DV). The DV report concluded that the property value was around £400,000, and considered that seeking offers over £595,000 had been excessive. The property had not sold during the marketing exercise. After seeking clarification from the applicant on aspects of the marketing, and the number of offers made remaining undisclosed, the case officer had stated that the marketing exercise was not reasonable. They determined that it had not been demonstrated that acceptable marketing of the property had been carried out, nor that the property was no longer viable as a town centre commercial premises, and concluded that the application was contrary to Policy TC2.

Regarding Policy DP5, the case officer had concluded that a sufficient level of amenity would not be afforded to the occupants of the newly-formed residential property or the neighbouring property, despite an attempt to protect privacy by blocking up of windows and use of opaque glazing. There would be no windows on the northern elevation except for the bay window fitted with opaque glazing; most rooms would have only a single south-facing aspect. There would only be garden ground to the front, which was

not considered private space. The proposal was therefore considered to be contrary to Policy DP5.

The case officer had concluded that the proposed exterior works would not significantly detrimentally impact the character or the category B listed building or the North Berwick conservation area; the application was therefore not deemed to be contrary to Policies CH1 or CH2.

No objection had been made by the Roads Service because the requirement for parking at a residential property was calculated at less than that of the building when used as a bank. On-street parking had been available during the commercial use, and therefore the case officer concluded that the proposal was not contrary to Policy T2.

Mr Taylor then turned to the applicant's appeal submission. They sought to prove that appropriate marketing evidence had been provided that made comparison with nearby properties in relation to their value. They also sought to challenge the meaning of viability within the policy in relation to whether the property should remain as commercial. Further, they challenged the application of Policy DP5 and the impacts the proposal were deemed to have upon amenity. They challenged the use of the term 'scheme of development' within the case officer's report and the decision notice on the application.

Mr Taylor responded to questions from Members. He advised that the window at the rear was in use by a neighbouring property, and the window with the balcony did not belong to the bank.

Carlo Grilli, Legal Adviser, also responded to questions from Members. He advised that responsibly for the roof would be contained within the title deeds, which were not available as part of the planning process.

Councillor Yorkston asked whether a similar report taking into account the property's commercial value had been produced in 2018 prior to the purchase of the property for £225,000 as a commercial premises. Mr Taylor was not aware of such a report, and only the current DV report had been taken into account by the case officer.

Councillor Yorkston asked whether the price paid for a property in relation to its value would be relevant in terms of viability, as a business plan would take this into account. Mr Taylor advised that any uplift potential and redevelopment costs had been taken into account by the DV. He advised that the LDP included definitions of viability and vitality, and an element of judgement was required, but it had been felt that the property was not marketed at a reasonable cost compared to its actual market value.

Councillor Findlay asked about the opaque glass to protect the privacy of neighbours. Mr Taylor said that concerns had been raised over amenity as secondary glazing could be easily removed, but noted that this could be managed through conditions.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor McLeod felt that there were possible business opportunities in North Berwick, and the property should be used for this purpose. He supported the original decision of the case officer.

Councillor Yorkston also supported the original decision of the case officer and felt there was potential for business use on the thriving high street.

Councillor Finlay also supported the original decision of the case officer due to concerns over the privacy of neighbouring gardens. He also agreed that the property still had commercial viability.

Decision

The ELLRB agreed unanimously to dismiss the appeal and to refuse planning permission for this application, for the reasons set out in the original decision notice.

2. PLANNING APPLICATION NO. 21/01364/P: ERECTION OF 1 HOUSE WITH INTEGRAL GARAGE AND ASSOCIATED WORKS, LAND TO REAR OF SPEEDWELL HOUSE, MAIN ROAD, DIRLETON

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Mr Taylor outlined the proposals contained in planning application no. 21/01364/P. He set out in detail the proposals contained within the application and provided details of the site and surroundings. There had been six objections to the proposals, including one from the Dirleton Village Association.

He reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicated otherwise: in this case the South East Scotland Development Plan (SESplan); the adopted East Lothian Local Development Plan 2018 (LDP); and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Also material to the determination was the site history including an earlier application seeking permission for two detached dwellings. This was refused in 2009 and dismissed at appeal by the DPEA in 2010. The Planning Adviser outlined the most relevant policies of the LDP, which were CH2, RCA1, and DP7.

Mr Taylor advised that the case officer assessed that the proposal would not have a detrimental effect on the neighbouring properties in relation to privacy and overlooking, and the dwelling itself would benefit from sufficient privacy and amenity. There were also no objections from council services in relation to transport impact and access and contaminated land, with any matters able to be addressed through conditions.

The case officer's assessment reiterated comments from the appeal that was dismissed for an earlier application for two dwellings, including observations that the proposals would not integrate well with its surroundings and would extend the northern edge of the village into undeveloped countryside. The previous proposal was deemed to represent an intrusion that would have been out of character with the surrounding agricultural land and would conflict with the objective of preserving and enhancing Dirleton Conservation Area. The case officer concluded that there was no reason to take a different view on the application before them; there had been no significant change in relation to applicable policies since the determination of the earlier application for two dwellings, and no other material considerations that would outweigh the conflict with the LDP. The decision notice's stated reason for refusal for the current application was: the development would be a conspicuous and incongruous outward

extension of Dirleton, harmful to the form, character and appearance of the village and of the conservation area, and would not preserve or enhance the special architectural or historic character or appearance of the Dirleton Conservation Area.

Mr Taylor then turned to the applicant's appeal submission, which focused on the application of policies RCA1, DP7, and CH2, It also discussed the sustainability of the proposal, the DPEA appeal decision on the previous application for two dwellings, and the fact that there were no objections from the council services consulted.

Mr Taylor advised that Policy RCA1 was challenged on the basis that it actively encouraged development in designated areas, thereby supporting the principle of the development. Policy CH2 was challenged in relation to the overall impact of the conservation area, discussing the Dirleton Conservation Area Character Statement, and providing evidence in the form of historic maps and photos of the site showing buildings situated on it. Differences from the earlier application were also highlighted, including a comparison of building footprints and floor space, as well as differences in relation to works on trees on the site boundary.

Councillor McLeod enquired as to the previous use of the neighbouring ground, prior to it being wasteland. Mr Taylor advised that the previous use was described as a market garden.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillors Yorkston, McLeod, and Findlay all confirmed that they supported the original decision of the case officer.

Decision

The ELLRB agreed unanimously to dismiss the appeal and to refuse planning permission for this application, for the reasons set out in the original decision notice.

Signed

Councillor Jeremy Findlay
Chair of Local Review Body (Planning)

East Lothian Council

2021/22 Annual Audit Report



Prepared for the Members of East Lothian Council and the Controller of Audit
1 November 2022

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Key messages

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.

Introduction

- 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 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.

1: Audit of 2021/22 annual accounts

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

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.

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>Risk of material misstatement due to fraud caused by management override of controls</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>Results: 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>Conclusion: Satisfactory</p>
<p>Estimation in the valuation of land and buildings</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>Results: Based on our audit testing, we were satisfied with the estimates in the valuation of land and buildings.</p> <p>Conclusion: 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.

2: Financial management

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

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.

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.

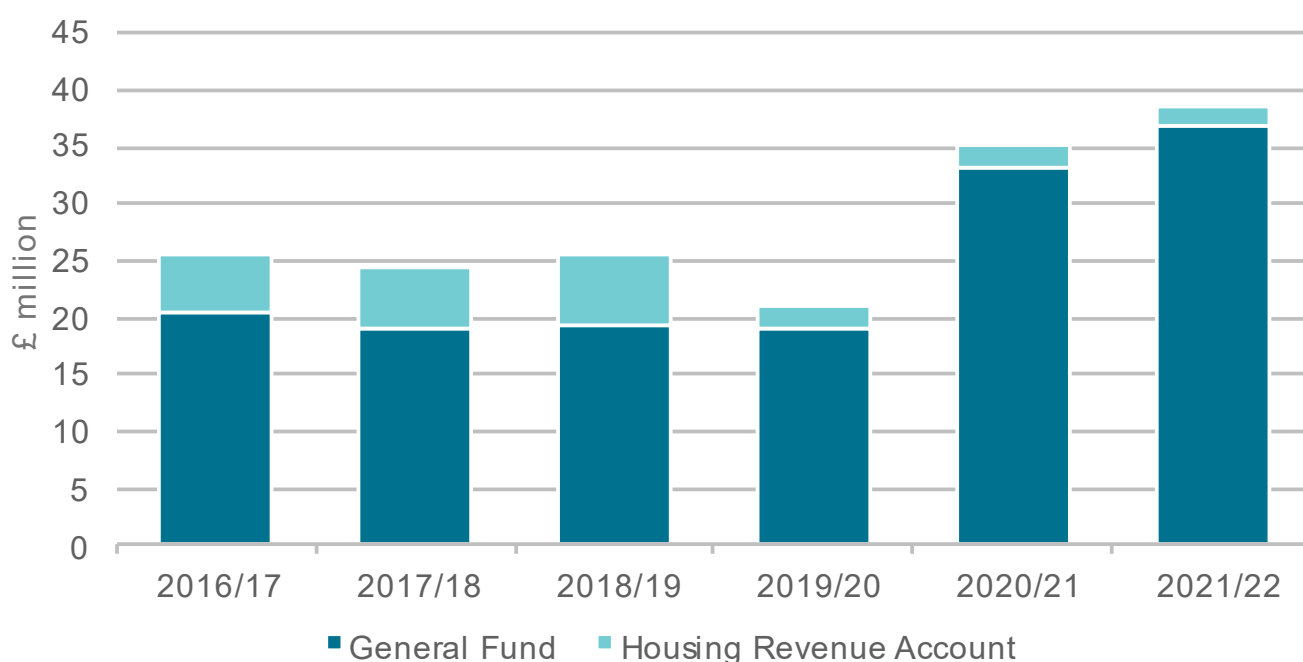
58. The general fund is the largest usable reserve. It provides a contingency fund to meet unexpected expenditure and a working balance to help cushion the impact of uneven cash flows. The council reviews the level of its uncommitted reserves when setting the budget each year. The council's reserves 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](#).

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.

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>Financial sustainability</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>Results: 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>Conclusion: 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](#).

4: Governance and transparency

The effectiveness of scrutiny and oversight and transparent reporting of information

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.

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.

5: Best Value

Using resources effectively and continually improving services.

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.

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>1. Information and Communication Technology (ICT)</p> <p>Public sector bodies are increasingly dependent on ICT systems for the provision of services and management information.</p> <p>Risk: There is a risk of key policies and processing not keeping pace with internal demands and external risks.</p>	<p>We have highlighted, in Appendix 2, a number of improvements that could be made to strengthen the digital strategy, cyber security, business continuity management and associated policies.</p>	<p>Management response: Officers are currently considering all recommendations, and progress has been made with updating strategies and relevant policies.</p> <p>Responsible officer: Service Manager - IT</p> <p>Agreed date: Ongoing</p>
<p>2. Dr Bruce Fund</p> <p>Minimal payments are being paid out of the Fund.</p> <p>Risk: 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>Ongoing</p> <p>Revised action: 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>Responsible officer: Executive Director for Council Resources / Head of Finance</p> <p>Revised date: Ongoing</p> <hr/> <p>2020/21 response: 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>3. Common Good (CG) review</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>Risk: 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, the council should ensure that suitable financial recharging for use by Council Services should be set-up.</p>	<p>Ongoing</p> <p>Revised action: 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>Responsible officer: Executive Director for Council Resources / Service Manager – Governance</p> <p>Revised date: Ongoing</p> <hr/> <p>2020/21 response: 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>4. Low Cost Home Ownership (LCHO)</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>Complete</p> <p>Revised action: 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>Risk: 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>6. Common repairs' review</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>Risk: 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>Complete</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>7. Reporting outcomes against improvement actions</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>In progress</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>Responsible officer: Council Management Team / Service Manager Policy, Improvement & Partnership</p> <p>Revised date: Ongoing</p>
<p>2020/21 response: 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 & Partnerships</p> <p>Revised date: 31 March 2022</p>		
<p>8. Fairness and equalities</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>Complete</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>

Appendix 2: ICT pilot findings and recommendations

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.

Appendix 3: 2021/22 national performance reports

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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REPORT TO: East Lothian Council
MEETING DATE: 13 December 2022
BY: Executive Director for Council Resources
SUBJECT: Financial and Capital Strategies

4

1 PURPOSE

- 1.1 To provide Council with an update on the mitigation measures agreed at the Special Council meeting on 22 November in response to the in-year budget overspend.
- 1.2 To seek approval for the 2023/24 – 2027/28 Financial and Capital Strategies, attached as Appendices 1 and 2 respectively.

2 RECOMMENDATIONS

- 2.1 The Council is recommended to:
 - Note the progress made to date to mitigate the in-year forecast budget overspend in line with the additional measures agreed at the Special Council meeting on 22 November, and agree that these remain under review and further updates will continue to be provided to Members;
 - Agree to formally approach the relevant Scottish Government directorates to request flexibility in the funding streams outlined at paragraph 3.4;
 - Agree to the redeployment of earmarked reserves to mitigate the revenue overspend, as outlined within paragraph 3.4;
 - Approve the proposal to place on hold the capital schemes detailed within paragraph 3.4 until further notice, with a commitment to review this decision as part of the 2023/24 budget report to Council on 28 February 2023;
 - Note the proposal to mothball the operational properties detailed within paragraph 3.4;

- Approve the Financial Strategy 2023/24 – 2027/28 within Appendix 1;
- Approve the Capital Strategy 2023/24 – 2027/28 within Appendix 2;
- Note that the first phase of the budget consultation has now been launched.

3 BACKGROUND

- 3.1 In response to a significant deterioration in the budget position at the end of Quarter Two, a Special Council meeting was called on 22 November to set out the scale of the financial risks and challenges facing the Council and to agree a set of enhanced mitigation measures aimed at controlling the escalating cost pressures. Forecasts at that time were projecting an un-budgeted overspend in excess of £5 million in addition to a planned draw-down of reserves of just under £13 million. An update on the actions taken to address the overspend and minimise the unplanned use of reserves is provided within paragraph 3.4.
- 3.2 The current Financial Strategy was approved by Council in December 2021. Although the strategy covers a five-year period, it is subject to an annual refresh to ensure that it remains appropriate and reflects any developments relevant to financial planning. Since the current strategy was agreed, the Council has seen an escalation in the external risk environment and now faces unprecedented challenge to delivering sustainable financial plans. The revised strategy covering 2023/24 to 2027/28 is attached at Appendix 1, and this builds on some of the principles agreed by Council earlier in the year. A summary of the key changes is provided at paragraph 3.8 to this report.
- 3.3 Alongside the Financial Strategy, CIPFA’s Prudential Code requires local authorities to produce a Capital Strategy to set the framework for capital investment decisions, ensuring that these plans are prudent, affordable and sustainable. The current five-year strategy was approved by Council in December 2021. Since that time, a range of issues including high inflation, supply chain issues and rising interest rates have adversely impacted on the affordability of the Council’s current and future capital plans. A refreshed Capital Strategy covering the five-year period from 2023/24 can be found at Appendix 2 to this report, with the key features summarised in paragraphs 3.11–3.15.

Update on agreed mitigation measures

- 3.4 Officers continue to explore all options to mitigate the forecast revenue overspend. Progress with respect to the enhanced mitigation measures agreed at the Council meeting on 22 November is outlined below:

Funding flexibilities

- The opportunity to apply flexibilities within national funding streams is currently being explored in response to the Deputy First Minister's letter regarding the 2022/23 pay settlement.
- Initial work in this area has focussed on options to mitigate the in-year budget overspend; however, given that the unfunded element of the pay settlement will represent a recurring pressure for the Council, it will be necessary to look to other funding streams to find ongoing savings. If funding streams are redirected in this way, then it is inevitable that this will compromise the delivery of national policy commitments. This work is ongoing and further updates setting out the specific impact of applying any such flexibilities will be included in future reports to Council.
- Through discussion with the Executive Director for Education and Children's Services and the Head of Education, an option to redeploy 1140 hours funding totalling £1.7m carried forward from 2021 has been identified. Since this is a carry forward, this would not deliver a recurring budget saving, but would help to mitigate the in-year overspend. Officers met with civil servants on 29 November to discuss the scope for flexibility in this funding and it is now proposed that a formal approach be made to Scottish Government requesting this flexibility to offset the impact of the unfunded element of the pay award in 2022/23.
- Flexibilities within health and social care funding streams have been considered; however, the governance arrangements relating to the IJB present a potential barrier to the scope for applying flexibilities in this area. Officers will continue to work with HSCP colleagues to explore opportunities where possible.
- The Council has received a capital funding allocation of £0.581m to support the expansion of free school meals to primary 5 and prepare for primary 6 and 7 expansion. This funding will be applied to capital expenditure already incurred in the delivery of primary 5 expansion to alleviate pressure on the Council's borrowing requirement. This is within the intended purpose of the grant, so does not represent a flexibility; however, it should be noted that the level of funding received will not be sufficient to enable the delivery of primary 6 and 7 expansion. It should be noted that, based on a desktop study, the cost of the proposed expansion for East Lothian Council would require in the region of £10million capital investment, £1.6m non-recurring revenue and £0.9m recurring revenue funding.

Reserves & Carry Forwards

- A review of the Council's reserves has been undertaken, and where possible the Council will seek to utilise opportunities to offset the 2022/23 overspend on a one-off basis and conserve the unallocated balance on the general fund.

- This position will need to be revisited at year-end; however, as an interim measure we will seek to minimise new commitments against earmarked reserves which could be used flexibly (except where proposed spend will support the delivery of recurring savings). This includes DSM carry forwards of £1.148m, of which approximately £0.25m has been committed to date.
- As reported to Council on 22 November, £0.332m of the forecast overspend relates to the IJB, and has arisen as a result of the 2022/23 public sector pay award. It should be noted that if this element of the overspend materialises at year-end, it will be offset against the IJB reserve with no net impact to the general services revenue account. At 31 March 2022, the balance on the IJB reserve was £1.5m, of which £0.92m was earmarked for specific commitments. The forecast outturn for the IJB is currently subject to review. In the event that the IJB delivers an underspend for 2022/23, then it may be appropriate to revisit the previous commitment to transfer the share of £485k received in relation to the 2022/23 pay settlement, in light of the Council's own financial position.

Review of capital programme

- Officers are in the process of reviewing the capital programme to identify projects that can be placed on hold in response to the current budget pressures and unfavourable interest rate environment. With this objective in mind, it is recommended that:
 - the full Brunton Hall capital works programme be paused, with a view to setting aside an allowance of £50,000 to provide minor upgrades at this stage. The full budget for this scheme is £1.73m. Further work will be undertaken to determine the scope of future capital investment required, and how this will be funded;
 - the pace of work to progress new schools at Blindwells and Craighall will be slowed, pending assurance over developer contributions for these schemes. The total estimated cost of these schemes combined is £42m, and expenditure of £1.25m has been incurred to date.
 - the replacement Children's House project be re-profiled and the funding model to deliver this project potentially re-visited. Work in this area has already slowed down, although officers are continuing to explore options for taking this project forward. The budget for this project is £0.8m, and no expenditure has been incurred to date.
- It is proposed that a commitment be made to revisiting this decision as part of the budget meeting on 28 February 2023.

- Further options to pause projects where spend is not yet committed are currently under review and will be reported back to Members in due course.
- Work is ongoing to develop a disposal strategy and bring forward capital receipts through the further disposal of surplus property.

Energy Efficiency

- In support of the requirement to minimise the Council's energy costs as far as possible, temperatures in public buildings are being maintained at a maximum of 18 degrees where possible. Officers are in the process of exploring the option of introducing energy champions for Council buildings and in the community.
- Opportunities to suspend the use of some Council buildings are currently under consideration. Current proposals include blocks A and C of John Muir House, and 9-11 Lodge Street, Haddington. This will be taken forward by officers in consultation with Members through cross-party forums.
- Further options to mothball buildings and deliver efficiencies in energy usage are currently under review and will be reported back to Members in due course.

3.5 The Deputy First Minister's letter also noted the decision by UK Government to scrap the National Insurance rise. As there was no reversal of this decision announced through the Chancellor's Autumn Statement, this will result in a reduced costs in the current year of approximately £0.3m. The recurring benefit of this change is estimated at £0.8m.

Financial Strategy

3.6 The Financial Strategy sets out the Council's strategic approach to the management of its finances and outlines the wider context within which these plans have been developed. It covers the 5-year period from 2023/24 and has been developed against a backdrop of unprecedented challenges arising from the wider economic environment.

3.7 The scale of the financial challenges now facing the Council will require us to think very differently about how services are delivered and prioritised to best meet the needs of residents and local communities in the future. As noted in the urgent update to Council in November, without a significant uplift in national funding to meet the costs of growth and wider pressures, it is unlikely that the Council will be in a position to deliver on all existing policy commitments.

3.8 The strategy within Appendix 1 has been updated in light of these challenges, and the revised budget development framework adopted by Council earlier this year. Key features of the proposed strategy include:

- A range of updates to reflect the priorities in the 2022-2027 Council Plan, and current risks which impact on financial planning;
- Incorporation of the budget development principles agreed by Council on 29 March 2022;
- Aligned to the budget development principles agreed by Council, introduction of the following key themes to support cost reduction, increase income generation and deliver efficiencies to enable the development of a balanced budget:
 1. Asset rationalisation and energy efficiency
 2. Income generation
 3. Transformation, service redesign and digitalisation
 4. Early intervention and prevention
 5. Service reduction
- Recognition of the following critical enablers, which will underpin the delivery of these key themes:
 1. Investing in digital transformation
 2. Resourcing and enabling the asset review
 3. Support for service reviews & wider transformation
 4. Cost reduction through energy efficiency
 5. Investment in early intervention and prevention
 6. Developing and growing income streams
- Proposed increase to the minimum level of reserves to be held as contingency for unforeseen events, from £5.2m to £7.2m, (circa 2.5% running costs), reflecting the critical nature of the concurrent risks which now threaten the Council's capacity to demonstrate financial sustainability;
- Commitment to maximise the level of Capital Financed from Current Revenue (CFCR) per annum for the Housing Revenue Account.
- Proposal that the affordability of capital expenditure plans be controlled by regular review by the Chief Finance Officer, with reference to overall borrowing levels and the impact of debt repayment charges on the revenue account. To support this, work is ongoing to strengthen the governance arrangements in place to oversee the capital programme to enable regular consideration of the overall affordability of the programme as well as monitor delivery.

3.9 The strategy also incorporates:

- The General Services Financial Strategy incorporating both revenue and summarising the Capital Strategy;

- The Reserves Strategy relating to management of General Service reserves;
- The HRA Financial Strategy incorporating revenue, capital and wider application of reserves.

3.10 Members are asked to agree the strategy document set out within Appendix 1.

Capital Strategy

3.11 The updated Capital Strategy is attached at Appendix 2 to this report, and covers the five-year period 2023/24–2027/28. The role of capital expenditure in providing long-term solutions that will yield benefits over a number of years is key to the delivery of the Council Plan priorities. Unlike revenue expenditure, which supports day-to-day operational costs, capital expenditure may create or acquire new assets, increase the value or useful life of existing assets or, generate economic and social value and an income stream to the Council.

3.12 In March 2022, Council agreed an ambitious capital programme which will seek to deliver in excess of £500million investment in East Lothian over the next 5 years:

	General Services	Housing Revenue Account	Total
	£000	£000	£000
Gross expenditure	344,642	192,979	537,621
Income + CFCR	(196,047)	(44,080)	(240,127)
Net borrowing	148,595	148,899	297,494

Planned capital expenditure 2022/23 to 2027/27 agreed by Council, 1 March 2022

3.13 This expenditure is predominantly financed through prudential borrowing, which will result in significant debt financing costs which will need to be met from the revenue budget. This level of investment will also give rise to substantial revenue consequences to service the day-to-day operational costs for maintaining these assets after construction. With this in mind, it is essential that the capital and revenue strategies interact in a manner that will enable the development of sustainable budgets with a holistic view to matching resources to organisational priorities.

3.14 Since the current Capital Strategy was agreed in December 2021, external factors have given rise to increased risk to the deliverability and affordability of the current capital programme. Supply chain issues and high inflation have increased the cost of individual schemes, leading to the

need to re-engineer and review the scope of what can be delivered within the approved budgets. Additionally, interest rate rises now mean that the debt financing costs to the revenue account have increased to such a level that the planned level of new borrowing over the next five years will no longer be affordable, with recent turbulence in the financial markets and action taken by the Bank of England to try and control inflation contributing to this. To put this in context, the PWLB 50-year borrowing rate in December 2021 was 1.25% at its lowest point and the equivalent rate is now 4.4%. This creates significant pressure and affordability risk on both the General Services and Housing Revenue Accounts.

3.15 Given these risks, and the significant value of planned capital investment, it is vital that the Council has a robust capital strategy and governance arrangements in place to support these plans, respond to the heightened risk environment and manage affordability constraints. The key elements of the strategy are summarised below:

- Ensuring that capital investment plans are affordable, to enable the Council to continue to support its capital investment programme, to stimulate and support economic growth and deliver of the Council's strategic priorities.
- Ensuring that capital expenditure plans remain affordable based on a clear understanding of both capital and future revenue costs.
- Enhancing the review of the existing governance arrangements for capital investment to ensure that they enable regular consideration of the overall affordability of the programme as well as monitor delivery.
- Minimising the impact of additional net borrowing on the revenue account by ensuring that use of alternative sources of funding is maximised.
- Continuing to manage and review the general services loans fund balance ensuring prudence, maximising the use and application of capital receipts, capital grant, and any flexibility arising from revenue balances, in order to minimise the future impact of debt charges.
- Creating a robust framework for developing the five-year Capital Plan (for both General Services and HRA) with reference to prudential limits and the constraints of the revenue budget.
- Delivering an enhanced review of the Council's assets, which will support the way in which we deliver and support services, minimise future revenue costs, and maximise where appropriate capital receipts which can be used to support future capital investment plans.

3.16 Members are asked to agree the strategy document set out within Appendix 2.

Budget Consultation

- 3.17 We have now launched an online consultation giving people the chance to have their say on the Council's future budget priorities.
- 3.18 This represents the first phase of our budget consultation programme, and we will continue to engage with the public over budget proposals over the coming years.
- 3.19 This stage of the consultation asks for views on what people value most about where they live, which service areas they would like to see improved, which local issues are most important to people and what the Council should be doing differently to reduce the budget gap.
- 3.20 The results will be used to inform the development of future budget proposals, and recommendations on how the Council targets its limited resources to best meet the needs of its communities.

4 POLICY IMPLICATIONS

- 4.1 The Council's budget and financial strategies should be a representation of the Council Plan and strategic priorities in financial terms. The proposals within this report are intended to support the effective delivery of policy objectives as far as possible.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 Impact assessments may be required for budget proposals that involve a significant change to delivery of services by East Lothian Council. Political groups will be provided with all relevant information relating to the potential impact of budget saving proposals as part of the budget development process.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – as described above and in the supporting appendices.
- 6.2 Personnel - none
- 6.3 Other – none

7 BACKGROUND PAPERS

- 7.1 Council – 22 November 2022 – Finance Update
- 7.2 Council – 1 March 2022 – Item 1 – Budget Development including setting of Council Tax and Council Rent for 2022/23

7.3 Council – 1 March 2022 – Item 2 – Budget Proposals on General Service
– Amendment Submitted by the Labour Administration

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Financial Strategy 2023-2028

East Lothian Council

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1. Introduction

- 1.1 The Financial Strategy sets out the Council’s strategic approach to the management of its finances and outlines the wider context within which these plans have been developed. It links the priorities and ambitions outlined within the Council Plan with forecast resources and will be used as the framework for setting detailed budgets to ensure that these resources are effectively managed and allocated to ensure that the Council is able to meet its statutory responsibilities and deliver on key priorities.
- 1.2 This strategy covers the 5 year period from 2023/24 and has been developed against a backdrop of unprecedented challenges arising from the wider economic environment. Funding from Scottish Government has reduced in real terms at a time when demand for Council services is increasing, and costs are escalating as a result of high inflation and rising interest rates. The local authority sector continues to face significant uncertainty surrounding future funding settlements with economic instability and the prospect of a recession creating significant pressure on public finances. This is compounded by the wide range of concurrent risks including the financial consequences of recovery from the Covid-19 pandemic, the Russia’s invasion of Ukraine and the cost of living crisis which are creating increased pressure on council services.
- 1.3 The Council currently receives a significant proportion of its funding from Scottish Government. The UK Government made its autumn statement announcement on 17 November 2022, and the draft Scottish Government 2023/24 budget will be published on 15 December 2022 ahead of the draft Local Government finance order. Similar to previous years, the national funding settlement will remain in draft until it passes through the Parliamentary scrutiny process in the Scottish Parliament, with the final position unlikely to be confirmed until mid-February 2023. It is anticipated that this will be a one year settlement, which creates further uncertainty for the period beyond 2023/24. Given the acute pressure on public finances, it is inevitable that the gap between available resources and expenditure demands will increase significantly, meaning that the council will need to find further ways to reduce its cost base, or grow its income streams.
- 1.4 The scale of the challenge now facing the Council means that it will not be possible to close the budget gap through efficiencies alone, and it will now be necessary to think differently about how the Council interacts with and supports its residents, ensuring that scarce resources are directed to maximise impact and improve financial sustainability. In light of this, on 29 March 2022, Council adopted the below principles to guide the development of its budget strategy:
 1. Establishment of a cross party budget working group to oversee the development of detailed budget proposals and the different work streams supporting this.
 2. Commitment to developing an approach aligned to the financial strategy which combines a range of options to close the gap between available funding and anticipated expenditure including an enhanced programme of transformation, asset review, income generation, cost reduction and efficiency.

3. A holistic approach to budget development, which recognises the relationship between capital and revenue planning and the role of investment in cost reduction strategies.
4. Commitment to minimising the use of one off resources to balance the budget and ensuring that use of reserves is limited to investment that will deliver ongoing cost reductions.
5. Ensuring alignment of financial planning and resources with wider strategic priorities, the Council Plan and consultation results.
6. Consideration of a 5 year budget plan aligned to the financial and capital strategies.

1.5 This strategy will support financial sustainability by:

- Outlining high level financial projections for 2023/24 to 2027/28 based on a range of key assumptions.
- Setting out the wider economic context and external factors which will impact financial planning and available resources.
- Ensuring that limited available resources are focused on delivery of the Council's approved key priorities and plans and their associated key outcomes.
- Providing a solid financial planning platform for the development of a sustainable revenue budget which will support the Council's key priorities.
- Documenting range of financial challenges and uncertainties facing the council, and setting out the approach for responding to these challenges,
- Defining the Council's approach to holding and utilising balances and reserves, ensuring that an appropriate balance between risk management and investment is achieved.
- Increasing both organisational awareness and wider community understanding of the Council's financial position and the challenges it is facing over the medium term in balancing and delivering against its budget.

1.6 The strategy covers the financial planning period until 2027/28 for the General Services and Housing Revenue Account (HRA). This document should be read in conjunction with the council's capital strategy which sets the framework for the council's capital expenditure plans and the governance

2. Current Economic Context

2.1 The council is now facing unprecedented financial challenges with external factors placing acute pressure on resources and the council's capacity to balance its budget and set sustainable spending plans. Inflation recently hit a 40 year high, and is forecast to peak at 11.1% in the fourth quarter of 2022. The cost of essential items like energy and

food is forcing households and businesses to make difficult decisions to limit their spending, while public finances and government spending plans are also being squeezed.

- 2.2 The economic impacts of the pandemic, coupled with Russia's invasion of Ukraine and the ongoing effects of Brexit have been compounded by the UK Government's mini budget announcement in September which created turmoil in the financial markets. These factors have resulted in a rapid escalation of cost pressures facing the council and increased demand for services.
- 2.3 High inflation has influenced public sector pay negotiations, with agreements reached for local government staff and craft workers. To support the 2022/23 pay settlement, Scottish Government agreed to provide an additional £140 million of recurring revenue funding from 2022-23 and an additional £120.6 million of capital funding in both 2022-23 and 2023-24 which will then be baselined as General Revenue Grant from 2024-25 onwards. However, this leaves circa £2million unfunded for East Lothian council, creating a significant recurring pressure on the revenue budget. Teachers' pay remains subject to ongoing negotiations, and any settlement in excess of 5% which does not come with further additional funding will exacerbate the existing pressure.
- 2.4 Within the capital programmes, significant interest rate rises present a threat to affordability of the existing capital programme, a risk that is compounded by the impact of high inflation meaning that previously agreed budgets will no longer be sufficient to fulfil capital commitments.
- 2.5 The Scottish Government Emergency Budget review identified £615 million of in-year savings to tackle the budgetary challenges brought about by rising inflation and the 2022-23 pay settlement, in addition to the package of £560 million of savings which were announced to Parliament on 7 September 2022. The savings come predominantly from reprioritisation of spend within the Health and Social Care portfolio (£400m), and savings from capital and financial transactions (£150m).
- 2.6 The Scottish economy shrank by 0.2% in July, the second consecutive month of negative growth. This was primarily driven by a fall in the services sector of 0.3%, which accounts for around two thirds of the Scottish economy – and tends to be the section of the economy most supported by consumer spending. It is now widely accepted that the UK entered into a recession in the third quarter of 2022, which could mean a return to austerity and real term cuts in unprotected public service budgets.
- 2.7 The UK Government's Autumn Statement announcement on 17 November 2022 set out the Chancellor's plans for increased taxation, cuts to departmental budgets and further support for households to offset the impact of inflation. Barnett consequentials cumulatively amount to around £1.5 billion for the two years 2023-24 and 2024-25, with much of this sum relating to the NHS, adult social care and education. The Scottish Government has previously made a commitment to pass on all health consequentials but made no such commitment for education. It also states that the budget position for 2023-24 is unclear but it is believed likely that this will represent a real terms cut.
- 2.8 While recent settlements have represented year on year growth, this has typically been given with additional policy commitments, or ring fenced to specific service areas, often

within education or health and social care. Without any realistic prospect of additional funding through the national settlement, the council will face some hugely difficult decisions as to where limited resources will be directed in the future.

2.9 The Resource Spending Review, published in May 2022 made reference to agreeing a new deal for local government in Scotland in advance of next year, and this was also referenced recently by the Deputy First Minister in his letter to councils regarding the public sector pay settlement. The precise implications of this are not yet clear, however the Resource Spending Review states that this will:

- Build on the Review of Local Democracy and develop a deeper dialogue and debate on how Scottish and Local Government will work together to achieve better outcomes for people and communities.
- Seek to balance greater flexibility over financial arrangements for local government with increased accountability for the delivery of national priorities so that both partners can have certainty over inputs and outcomes alongside scope to innovate and improve the delivery of services to local communities.
- Explore greater scope for discretionary revenue-raising, such as the Visitor Levy and the newly created Workplace Parking Levy.
- Explore further with COSLA, Digital Office and Revenue Scotland how best to transform the digital administration of the Non-Domestic Rates system.
- Confirm that further flexibilities requested by COSLA will be made available to councils for existing service concession arrangements such as PFI or NPD funded projects; and
- Ensure these decisions are supported by a phased approach towards alignment with the CIPFA Code of Practice for Local Authority Accounting through a comprehensive Capital Accounting Review in partnership with COSLA, Audit Scotland and CIPFA.

2.9.1 The next key Budget event will be the Scottish Government Budget, due on December 15th.

3. Local Context

3.1 The local environment within which the Council operates continues to change and evolve and in recent years the county has seen rapid population growth. East Lothian continues to be one of the fastest growing authorities in Scotland, but this growth is not being matched with funding increases through the local government finance settlement which is creating significant additional cost pressures on the council. This financial strategy is being developed within an extremely challenging economic environment, while the Council continues to recover from the impacts of Covid 19, and respond to increased demand for its services as a result of the Ukraine war and the impact of the cost of living crisis on local residents and businesses. Developing customer expectations present an opportunity for the Council to do things differently, and to work in partnership with its

communities to redesign and modernise service delivery, ensuring that resources are directed to the areas of greatest need.

Council Plan

3.2 The 2022 – 2027 Council Plan was adopted by Council in August 2022. This high level statement of objectives, priorities and strategic goals aims to meet the challenges the Council, East Lothian and its citizens and communities face to achieving the Council's vision of *'An even more prosperous, safe and sustainable East Lothian, with a dynamic and thriving economy, that enables our people and communities to flourish.'*

3.3 The plan is based on the following overarching objectives:

- **Recovery and Renewal** – recovering from the COVID pandemic by investing in regeneration and a sustainable future.
- **Reducing poverty and inequality** - supporting our communities to deal with the growing levels of poverty and inequality.
- **Responding to the Climate Emergency** - meeting our net zero climate change targets.

3.4 The plan also sets out four thematic objectives:

- **Grow our Economy** - increase sustainable and inclusive growth as the basis for a more prosperous East Lothian.
- **Grow our People** - give our children the best start in life and protect vulnerable and older people.
- **Grow our Communities** - give people a real say in the decisions that matter most and provide communities with the services, infrastructure and environment that will allow them to flourish
- **Grow our Capacity** - deliver excellent services as effectively and efficiently as possible within our limited resources.

Local Development Plan (LDP) & City Deal

3.1 The Council has an approved Local Development Plan (ELLDP 2018), which addresses housing need identified in the south east Scotland region and will mean a sustained growth in population across the area. It is estimated that the population will be 120,000 by 2037. This will continue to bring changes to the demography within the area, with significant growth in particular in the number of school-age children and the number of pensioners.

3.2 Population growth will create opportunities for the Council, but will also contribute to significant financial challenges in terms of the provision of necessary services to meet needs, for example the increased number of school children, care packages and households requiring waste collection. It will be important to ensure that the Council

has the appropriate infrastructure in place to support the growth in service requirements.

- 3.3 Housing growth will give rise to increased council tax income, however the council does not currently receive any uplift through the national funding formula to offset the additional costs of growth. Given that national funding comprises approximately three quarters of the council's revenue budget, the impact of growth presents a huge risk to financial sustainability. In response to this challenge, it is important that as part of our strategy we continue to ensure that these concerns are heard by Scottish Government, and request that their support for growth is demonstrated through the national distribution of funding. At a local level we will need to think differently about how the limited resources we have can be used to support our changing communities.
- 3.4 The Council is also part of a wider Edinburgh and South East of Scotland City Deal. This will see significant investment across the region by partners including the UK and Scottish Governments, and will include the development of an Innovation Hub in East Lothian, that is being developed in partnership with Queen Margaret University. This exciting new building will accommodate a new Scottish Centre for Food Development and Innovation and will therefore support the wider food and drink sector, which is a core component of the East Lothian economy.
- 3.5 1.4 East Lothian is experiencing the impacts of the wider macro-economic climate, in common with the whole of Scotland and growth and change will be affected to some degree by the rising costs of construction and the move to new zero. The Council will work during 2023 towards a new economic development strategy and also make progress towards a replacement for the ELLDP 2018, reflecting the Scottish Government's aspirations and policies in the new National Planning Framework 4, to ensure a policy context that encourages economic growth and continues to meet the needs of the population of East Lothian.
- 3.6 The impact of growth associated with high levels of development across the County will continue to have a significant impact in future years. The Council will consider how its ambitions for growth can be realised and recognises the challenges in terms of how we use limited resources to support the needs that arise from demographic growth. This may require some changes in what we do and how we do it.

Reducing Poverty and Inequality

- 3.7 The East Lothian Poverty Plan 2021-2023, which was adopted by the Council and the East Lothian Partnership in October 2021, sets out seven outcomes based around a prevention and early intervention approach:
- Working and free from in-work poverty
 - Financially included - people have access to income maximisation and money advice
 - Having a decent, affordable, warm and dry home
 - Educated – reduce the attainment gap and raise the attainment and achievement of our children and young people

Appendix 1 – Financial Strategy

- Healthy and Well – people in East Lothian are enjoying healthier lives and health inequalities are eliminated
- Resilient and Well Connected individuals and communities
- Empowered and Responsible

3.8 This strategy will seek to ensure that resources are directed accordingly in support of these objectives, providing both responsive support and investing in preventative action.

Responding to the climate emergency

3.9 The Council declared a climate emergency in August 2019 and developed a Climate Change Strategy & Action Plan in January 2020 to take urgent action to mitigate and adapt to climate change. The Strategy sets a route to creating a Net Zero Council and a Carbon Neutral East Lothian in partnership with the community. It includes key priorities to improve sustainability, encourage a low carbon lifestyle and look after the environment.

3.10 The Council needs to take action to tackle the climate emergency, and this will require a change in what we are doing, and how we are using our resources.

Other Developments

3.11 Learning Estate Review - the Council has agreed to undertake a Learning Estate Review to formally assess the condition and suitability of our education and early learning assets. This review is on-going and will inform the establishment of a Learning Estate Investment Plan which will help inform future capital investment plans for the Council.

3.12 National Care Service (NCS) – Scottish Government has consulted on the NCS bill although significant uncertainty remains on this issue. If the NCS proceeds it will have a substantial impact on social care services, as well as the wider organisation.

4. General Services Revenue Budget – Medium Term Outlook

4.1 Notwithstanding the many uncertainties facing Scottish local authorities, the need for medium to longer term financial planning is becoming increasingly important. Councils must ensure that they have robust financial plans in place that can respond to and absorb the potential impact arising from the increasingly wide range of variables highlighted earlier in this report.

4.2 The current General Services revenue budget extends over a 3 year planning horizon with a high level summary of the spending plans approved in March 2021 set out below.

<u>General Services – Revenue</u>	<u>2022-23</u>	<u>2023-24</u>	<u>2024-25</u>
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Appendix 1 – Financial Strategy

	<u>£'000</u>	<u>£'000</u>	<u>£'000</u>
Approved Expenditure	293,615	290,942	299,306
<u>Financed by:</u>			
RSG (including NDR)	(195,103)	(195,533)	(197,927)
Other Government Grants	(19,774)	(19,774)	(19,774)
Council Tax	(69,958)	(75,545)	(81,515)
Other	(90)	(90)	(90)
Transfer (from) / to Reserves	<u>(8,690)</u>	<u>0</u>	<u>0</u>
TOTAL	(293,615)	(290,942)	(299,306)
Delivery of Planned Efficiencies (contained in above)	(2,543)	(8,446)	(6,002)

Table 1: General Services Revenue budget summary 2022/23 – 2024/25, agreed by Council on 1 March 2022

4.3 The budget development principles agreed by Council on 29 March 2022 included a commitment to considering a 5 year budget plan aligned to the financial and capital strategies. Given the level of uncertainty and short term nature of local government funding settlements, on 28 February 2023, Council will be presented with a detailed budget for 2023/24 accompanied by high level projections and savings plans covering the 5 years to 2027/28.

4.4 Key assumptions within these plans are set out below:

- Pay increases – 2%
- Gas and electricity - £2.9m
- Interest on new borrowing – 4.4%
- General inflation – 10%
- Increase in council tax band D charge 5%
- Flat cash settlement from Scottish Govt.

Pay increases are broadly aligned to the public sector pay policy and the 5% increase in council tax is aligned to previous assumptions agreed by Council on 1 March 2022.

4.5 On 28 June 2022, the following high level scenarios were presented to Council, setting out the potential budget gap for 2023/24 onwards:

Scenario	2023/24 £'000	2024/25 £'000	2025/26 £'000	2026/27 £'000	2027/28 £'000	TOTAL £'000
1	8,808	8,631	8,373	6,666	8,579	41,057

2	10,553	8,779	10,057	8,406	8,406	48,173
3	12,233	11,114	11,720	16,156	16,156	63,442

Table 2: High level budget scenarios from 28 June 2022 Council report

4.6 Given the escalation of external pressures which impact on these assumptions since the report to Council in June, most notably the unfunded element of the 2022/23 local government pay settlement, significant increases in gas and electricity prices, high inflation and increased demand for Council services arising from the cost of living crisis, the budget gap facing the council is now expected to reflect the most pessimistic scenario reported in June, with a requirement to deliver savings in excess of £60m over the next five years.

5. General Services Capital Budget – Medium Term Outlook

5.1 The new budget development principles include a commitment to *a holistic approach to budget development, which recognises the relationship between capital and revenue planning and the role of investment in cost reduction strategies.*

5.2 The Capital Strategy sets the framework for capital expenditure decisions and the arrangement for governance and monitoring of these plans. Given the significant impact of debt financing costs and revenue consequences of capital spend on the revenue budgets, it is important that these strategies are closely aligned and the interdependencies are understood. On 1 March 2022, the Council approved an ambitious, growth driven 5 year General Services capital budget, a summary of which is set out in the table below.

	2022-23 £000	2023-24 £000	2024-25 £'000	2025-26 £'000	2026-27 £'000	TOTAL £'000
General Services Gross Expenditure	94,759	102,774	75,748	40,107	31,254	344,642
General Services Income	(38,648)	(38,542)	(56,421)	(35,239)	(25,796)	(194,645)
Net General Services	56,110	64,232	19,328	4,869	5,459	149,997

Table 3: General Services Capital budget summary 2022/23 – 2024/25, agreed by Council on 1 March 2022

5.3 Funding for the capital plan comes from a range of sources including; Scottish Government (General Capital Grant and Specific Ring-Fenced Capital Grants), developer contributions, capital receipts from asset disposals, other income such as grant funding

from other bodies, with the balance made up from borrowing funded through loan charges to the revenue budget.

- 5.4 The current capital investment plans recognise the growth and ambition of the Council, with current plans designed to support the future infrastructure requirements across the Council area. These plans are aligned to the delivery of the approved Local Development Plan (ELLDP 2018) and ambition relating to the commitment from the Council relating to the Edinburgh and South East of Scotland City Deal. The related investments will create significant economic long term benefits for the East Lothian economy, but will place a significant financial burden upon council finances, and affordability remains a key consideration both in terms of the short and longer term.
- 5.5 Whilst much of the current LDP commitment falls within the 5 year capital investment plan, there will also be significant impact on future years and the emergence of a subsequent successor LDP.
- 5.6 As highlighted in previous Council reports, there remains significant external market challenges with wider supply and cost pressures as well as implications from on-going management of COVID and wider external risks. This has continued to add significant additional financial challenges on the current approved capital programme and borrowing levels. Whilst current indications suggest the wider market conditions may stabilise in due course, the financial impact and risk on future capital projects will remain a key area of focus.
- 5.7 Affordability is a key consideration within effective capital planning with the capital investment programme generating significant revenue consequences for the Council, such as staffing, rates, utility costs, cleaning etc, which must be met from within the revenue resource levels available to the Council. At a time where revenue budgets remain under significant pressure, it is essential that capital investment decisions take into consideration the full cost implications facing the Council.
- 5.8 In addition, the borrowing for capital infrastructure is funded through annual loans fund payments which are charged to the revenue budget and repaid over the lifetime of the asset. Interest rates have recently increased to a level not experienced for many years. The rates are forecast to stabilise and then only fall gradually in the medium term, which directly impacts on interest payable on new borrowing. It is important to remember that any new borrowing is in addition to existing borrowing and that all borrowing will need to be repaid in the future and capital investment decisions which are taken now must be taken within the context of longer term projections. The capital investment decisions are supported by the Capital Strategy and Treasury Management and Investment Strategy to assess and better understand the implications for both current and future Council Tax payers and to ensure that investment plans remain affordable and sustainable.
- 5.9 The previous capital strategy imposed an upper limit on new borrowing for General Services of £150 million over the next five years to safeguard the revenue account from excessive debt charges. Given the significant and rapid increase in interest rates since this limit was set, the repayment of this level of borrowing has now become unaffordable for the council. Whilst recognising the important role that capital investment has to play in stimulating economic growth and providing communities with vital infrastructure, a

limit at this level is no longer sustainable. The Capital Strategy for 2023/24 – 2027/28 therefore recommends that General Services capital expenditure affordability is controlled through regular review by the Chief Finance Officer, with reference to overall borrowing levels and the impact of debt repayment charges on the revenue account. With this in mind, the upper limit on new borrowing will be revised and recommended to Council for agreement as part of budget setting on 28 February. This will then be reviewed by the Chief Finance Officer at regular intervals throughout the year, and reported to Council through quarterly budget monitoring reports. To support this, a review of the governance arrangements in place to oversee the capital programme is under way, with a view to ensuring that these arrangements enable regular consideration of the overall affordability of the programme as well as monitor delivery. This will include strengthening the role of the Corporate Asset Group (CAG) and Capital Investment and Asset Management Group (CIAMG) to support the operational delivery of the capital plan and associated strategies, and ensuring that the newly created cross party sustainability forum enhances these arrangements.

5.10 In order to ensure that this control does not adversely impact on the council's capacity for future investment, this strategy will also focus on a comprehensive review of the Council's asset base, with a view to maximising capital receipts where possible. In turn, this will help maintain ambitious levels of future capital investment and will support transformation of council services that will help minimise on-going revenue costs.

5.11 Much of the capital programme is underpinned by prevailing economic conditions, including the realisation of developer contributions dependent upon wider housebuilding that are critical to support the delivery of many of the related capital infrastructure projects. Given the current economic climate, the situation will need to be monitored closely and the ability to be flexible and adaptive with our capital planning will prove critical.

6. Reserves

6.1 In determining medium term financial plans and preparing budgets, the Council needs to consider the establishment and maintenance of reserves in accordance with its statutory powers. Reserves can be held for three main purposes:

- Working balances to help cushion the impact of uneven cash flows and avoid unnecessary temporary borrowing – this forms part of General Reserves.
- A contingency to cushion the impact of unexpected events or emergencies – this also forms part of General Reserves.
- A means of building up funds often referred to as Earmarked Reserves, to meet known or predicted liabilities.

6.2 General Services reserves (excluding HRA reserves) available as at 31 March 2022 totalled £36.970m million. A breakdown of this total is shown within table 4.

	31 March 2021 Balance	Movement	31 March 2022 Balance
GENERAL FUND RESERVE			
EARMARKED			
Requirement to support future budgets	3,095	5,612	8,707
Cost Reduction / Transformation	3,445	0	3,445
DSM	1,071	77	1,148
MELDAP	36	0	36
Other	440	0	440
Council Tax 2nd Homes	2,064	-1,032	1,032
Other Ring Fenced funds	932	1,501	2,433
COVID Fund	8,900	-3,421	5,479
Civil Emergency*	2,000	0	2,000
General Services Capital*	2,282	0	2,282
	24,265	2,737	27,002
CONTINGENCY			
Balance – uncommitted*	4,063	-1,381	2,682
	4,063	-1,381	2,682
Total General Fund Reserves	28,328	1,356	29,684
OTHER RESERVES			
Insurance Fund	2,306	378	2,684
Capital Grants Unapplied	245	-245	0
Total	2,551	133	2,684
Total General Fund / Other Reserves	30,879	1,489	32,368
HRA	2,009	-261	1,748
Capital Receipts Reserve (incl. HRA)	2,201	2,401	4,602
Total Other Reserves	4,210	2,140	6,350
TOTAL RESERVES	35,089	3,629	38,718

Table 4: Usable reserves at 31 March 2021 and 31 March 2022, as reported in the audited financial statements

* For 2022/23, the approved minimum level of uncommitted reserves was set at £5.2 million (circa 2% of running costs). The minimum level of reserves includes the following balances:

- Civil Emergency £2.000 million
- General Services Capital £2.282 million

• Uncommitted Balance* (note below)	£2.682 million
TOTAL	£6.964 million

6.3 Each of these reserves is set out for a specific purpose with the detail of their intended use explained below.

Earmarked Reserves

1. **Requirement to support future budgets:** This balance is held to support future budget plans, aligned to the approved General Service budget for 2022-2025. Note this includes updated funding made available in 2021/22 to support Business and Low Income Households (LACER funding) amounting to £1.517 million
2. **Civil Emergency:** This fund should act as a cushion against the costs of any emergency or other unforeseen event should it arise. This is currently retained at a level of £2 million, however the level of this remains under constant review as to the adequacy of this.
3. **Cost Reduction Fund (Transformation Fund):** This fund is used to support delivery of change which will realise a financial saving and/or service efficiency going forward. As part of the closedown of the 2021/22 revenue account, Council agreed that this reserve would be repurposed as a Transformation Fund. Authority is delegated to the Chief Finance Officer to approve the commitment of funds against this reserve, and this will be reported through the Members Library Service.
4. **DSM:** These funds represent balances established from both Primary and Secondary Devolved School Management schemes.
5. **MELDAP:** This fund will be used to support targeted interventions, through the Midlothian Drug and Alcohol Partnership.
6. **General Services Capital:** The Fund was established in recent years from flexibility arising from year end underspends, in order to mitigate the impact of the growing capital infrastructure commitments. Unlike the Capital Receipts reserve this Fund does have the flexibility to be transferred to other General Reserves.
7. **Council Tax 2nd Homes:** An earmarked fund established by reducing the second home or empty property Council Tax discount for the development of affordable housing. Under Scottish Government direction within certain criteria, Local Authorities can now use this income to support the development of affordable housing, including the disbursement of funds to other organisations or individuals, as well as RSLs. Authority is delegated to the Chief Finance Officer to approve the commitment of funds against this reserve, and this will be reported through the Members Library Service.

8. **COVID Fund (Recovery and Renewal Fund):** This fund was established as part of the 2020-21 accounts closure from late national funding to support COVID interventions aligned to the Council's recovery and renewal strategy. As part of the closedown of the 2021/22 revenue account, Council agreed that resources within this fund could be used to support the council's response to the broader range of risks which the council is now facing.
 9. **Other Ring Fenced Funds:** This earmarked reserve has been established to support specific funding commitments within service areas relating to previously committed expenditure obligations which have not materialised. Funds sitting within this balance have been legally ring fenced for a specific purpose.
 10. **Insurance Fund:** The insurance fund is used to insure against a risk, or pay premiums on a policy to insure against a risk. The level of fund retained remains subject to ongoing fund valuations.
 11. **Capital Receipts Reserve:** This fund was established from Capital Receipt income which has not yet been applied in year. This Fund can be used meet future capital investment costs either reducing loans fund advances or providing funds to cover the principal repayments of the loans fund.
 12. **Capital Grants and Receipts Unapplied:** Allows capital receipts to be used to transform service delivery to reduce costs and / or reduce demand. This flexibility was only available to Councils until 2021-22 and no further activity is anticipated for this category of reserve in the future.
 13. **Uncommitted Balance to support minimum level:** In line with the previous approved Financial Strategy, these specific reserves collectively support the minimum level of uncommitted reserves with more detail set out below.
 14. **Uncommitted Balance:** Current level of general reserves with no specific earmarked commitments.
- 6.4 It should be noted that many of the reserves listed within table 3 already have post 31 March commitments against them and will be spent during 2022/23. Furthermore, the forecast revenue outturn at the end of quarter two indicates that reserve drawdowns totalling £18m may be needed during the current financial year. This includes unplanned drawdowns of over £5m, although in a special meeting on 22 November 2022, Council agreed a series of mitigation measures with a view to reducing the forecast in year overspend.

Reserves Strategy

- 6.5 The budget development principles agreed by Council include a commitment to minimising the use of one off resources to balance the budget. While this may be

unavoidable in certain circumstances, this should be a short term response only and should not replace the development of a sustainable budget.

- 6.6 As noted above, the Council maintains reserves as a safety net to allow for unforeseen circumstances. There is no statutory definition of the minimum level of reserves: the amount required is a matter of judgement. However, Council has previously agreed to set aside 2% of the net revenue budget as the minimum unallocated balance on the general fund, which equates to approximately £5.2m.
- 6.7 Given the current risk environment, at this point is considered appropriate to increase this level up to £7.2m, which represents circa 2.5% of the net revenue. Holding an excessive level of unallocated reserves rather than investing these in improving services would not represent value for money or effective use of resources. However, the range and extent of risks currently facing the council increases the likelihood that reserves will be needed to support mitigation measures. Given that reserves are not recurring resources meaning that they can only be used once, targeting a minimum unallocated balance of this level is proportionate and not excessive. Rather than expressing the minimum balance as a percentage of the net budget, which may reduce over the coming years, it is recommended that the target minimum unallocated balance is fixed at £7.2m but kept under regular review.
- 6.8 In order to reach a minimum level of £7.2m for 2022/23, unallocated balances will need to be increased by £0.536m. At this stage it is recommended that this is achieved through a transfer from the Recovery and Renewal (formerly COVID) fund, to the Civil Emergency reserve. This will need to be revisited at year end, in light of the in year financial outlook.
- 6.9 In the event that reserves fall below the minimum level, then action will need to be taken to replenish balances accordingly. In the first instance, we would seek to use other earmarked balances for this purpose. If this is not possible then a recovery plan would need to be implemented, with a view to replenishing reserves from the revenue account over the subsequent twelve months.

7. General Services Financial Strategy

Balancing the Budget

- 7.1 The council is legally required to set a balanced budget for the forthcoming financial year and will need to develop detailed and robust plans for closing the gap between expenditure demands and available resources.
- 7.2 Council has committed to developing an approach which combines a range of options to close the gap between available funding and anticipated expenditure including an enhanced programme of transformation, asset review, income generation, cost reduction and efficiency.
- 7.3 Given the scale of this challenge over the next five years, it is prudent for the council to develop credible plans to close this gap in the years subsequent to 2023/24. The size of the potential revenue budget shortfall means that no single initiative can be expected

to close the gap. A blend of different approaches will therefore be required, and detailed plans will be developed, aligned to the following broader categories:

1. **Asset rationalisation & Energy Efficiency** - The Council has an extensive operational asset portfolio to support service delivery needs. The Corporate Asset Strategy provides the framework for the efficient management of the Council's core assets, with significant and future investment requirements, it aims to provide a modern, efficient and sustainable asset base that meets the needs of its existing and future service users and employees. Since March 2020, COVID has created many challenges but also some opportunity to review the way in which we deliver and support services, including what assets we hold, and how they are used. The Council has embarked on an ambitious programme to review and rationalise the Council's office estate, in order to support the delivery of approved budget saving, and to support continued flexible approach to working which has been successful since March 2020. Going forward there is further scope to rationalise assets, which would be critical to support the affordability of future capital investment plans, and support future service delivery. The establishment of the Cross Party Sustainability Forum will support this important area of work by providing oversight and governance to the programme.

The Energy Transformation Board meets regularly to actively explore opportunities for reducing expenditure and potentially raising income from energy such as exploiting renewable energy sources.

Both of these work streams align to the Council Plan priority of responding to the climate emergency and meeting our net zero climate change targets.

2. **Income generation** – Where savings can be delivered through income generation, this helps to reduce the extent to which cuts are required to front line services. This strategy therefore recommends that, as part of the development of the budget, consideration is given to increasing existing charges, and implementing new charges where appropriate. Work is already underway in this area and as outlined in the council's charging policy, the implementation of charges can also be used to support wider priorities aligned to the Council Plan.
3. **Transformation, service redesign & digitalisation** – A broad range of transformation projects is already underway and the council has robust governance arrangements in place to oversee this. Current projects include the transforming services for children project, facilities management review, purchase to pay review, and redesign of print and mail services. The council also recognises the important role that technology has in making services more efficient and is committed to enabling this. Current digital projects include the online customer platform to improve the customer experience, replacement of the housing management system, upgrading the Mosaic case management system for social care services and improvements to the asset management system. As part of this strategy, it is important that visibility of the financial and wider benefits of these projects is maintained. Given that 70% of the council's expenditure represents staffing costs, it will not be possible to close the budget gap without a reduction in this area and it is hoped that the projects in this area will help to deliver some of the change required to manage these reductions.

4. **Early intervention & prevention** – investment in preventative measures supports cost reduction by reducing the need for expensive interventions over time, and also results in improved outcomes for the council’s service users. The council is already doing this successfully in a number of areas but there is an opportunity to go further. Potential areas of focus in relation to this objective include childrens services, homelessness and implementation of the poverty and inequality plan.
5. **Service reductions** - Service reductions will be treated as a last resort as part of this strategy, however, all options will need to be considered in order to safeguard statutory services which are relied upon by the most vulnerable in our communities.

7.4 It will not be possible to deliver all of this overnight. These plans will therefore need to be aligned to the five year financial strategy, with plans for savings and additional income featuring in each of the five years. This will be a continuous programme of work which will be underpinned by robust governance arrangements to develop plans, monitor progress and evaluate the resources required to progress the different elements of this strategy.

Critical Enablers

7.5 This strategy recognises that the scale of change needed to deliver a balanced budget and ensure financial sustainability will now require a fundamentally different approach to the way in which the council delivers its services.

7.6 This is an opportunity to do things differently, and to ensure that the council has the capacity and resources to deliver modern services, aligned to its strategic objectives which meet the needs of the changing demographic of East Lothian.

7.7 Investment will be required in order to make it possible for the council to act upon these opportunities, and the following critical enablers have been identified to support the delivery of this strategy:

- **Investing in digital transformation**
- **Resourcing and enabling the asset review**
- **Support for service reviews & wider transformation**
- **Cost reduction through energy efficiency**
- **Investment in early intervention and prevention**
- **Developing and growing income streams**

Fiscal Flexibilities

7.8 In response to the Covid-19 pandemic, Scottish Government provided councils with the discretion to apply fiscal flexibilities in response to dealing with financial pressures. Three

options are currently available; flexible use of capital receipts, the loans fund repayment holiday and service concession flexibilities. Given the acute financial pressures which the Council now faces, it is appropriate to consider these options in light of these challenges as part of the development of the Council's Financial Strategy. Consideration of each option is set out below:

1. **Flexible use of capital receipts** - Use of capital receipts is typically restricted to capital investment or the repayment of debt but this option permits the council to use capital receipts flexibly to support the revenue budget under certain circumstances. However, given the current pressures on the capital programme and associated financing costs, it is appropriate to continue to apply capital receipts to fund capital. Further, the Council does not currently hold or generate sufficient capital receipts for this intervention to have a significant benefit.
2. **Loans fund repayment holiday** – This option gives flexibility to reduce the Council's statutory repayment of debt in a single year through a repayment 'holiday'. Previous plans had been to take this in 2021/22, but at the time this was deferred due to underspend on the revenue account and increased pressure from rising interest rates. The council currently has the opportunity to take this flexibility in 2022/23 only. The potential one off benefit of utilising this flexibility would be a one off benefit to general services reserves of approximately £6 million in 2022/23. This amount would then be repaid over subsequent years.
3. **Service concession flexibilities** – this option allows the council to Option to spread the cost of service concession assets over their useful life, rather than over the duration of the contract, resulting in a financial benefit for the remainder of the contract including a one-off benefit in the region of £14.5m in 2023/24, and an annual reduction in charges of £0.5m - £1m for the remainder of the service concession contracts, up until 2034/35. The costs would then be spread over a longer period, beyond the contract end date. It should be noted that this option is not available in perpetuity, and the council will need to take a decision on this by 2023/24.

7.9 Each of the above options presents the opportunity to generate a one off benefit to the revenue account, at the expense of deferring repayment of liabilities related to capital spend. Overall, this will result in higher debt repayment charges, and increased pressure on the Council's borrowing requirement. However, the benefits could be used to enable investment needed in measures which will deliver a sustainable benefit to the revenue account, such as the critical enablers outlined above.

7.10 As a general principle, subject to the approval of Council, we will seek to apply these flexibilities only where this can be justified through wider plans to deploy resources in a way which will support future financial sustainability.

7.11 This approach aligns to the budget development principle of minimising the use of one off resources to balance the budget and ensuring that use of reserves is limited to investment that will deliver ongoing cost reductions.

7.12 It should be noted that Council approval and external audit advice will need to be sought prior to proceeding with any of these options.

Wider Revenue Flexibilities

- 7.13 In November 2022 the Deputy First Minister wrote to councils, recognising the challenging resourcing position presented as a result of the 2022/23 pay deal. Although additional revenue and capital funding to partially offset increased costs has been distributed to local authorities, for East Lothian Council circa £2million remains unfunded. In the context of existing financial pressures and wide ranging national policy commitments, the Council will not be able to address this funding gap through efficiencies, creating a need to revisit existing commitments to assess what can now be delivered within the resources available.
- 7.14 The letter noted that ‘it is for individual councils, as democratically elected bodies, to consider the needs of their communities with a focus on the most vulnerable, their legal obligations and the totality of resource funding available to them, and to then take the decisions necessary, openly and transparently, to operate as effectively as possible within this context.’
- 7.15 The letter invites councils to engage with the relevant Scottish Government directorates where consideration is being given the redirecting funding which is legally ring fenced for the delivery of specific policy commitments. With this in mind, the council will undertake an assessment of its ring fenced funding streams with a view to ensuring that resources are directed towards the areas of greatest need and accepts that, subject to consultation with Scottish Government, this will mean that it may no longer be possible for the council to deliver on all of the existing national policy commitments. The majority of ring fenced funding currently supports priorities within education, childrens services, health and social care and the wider impacts of decision making around potential flexibilities will require careful consideration.
- 7.16 Furthermore, the need to consult with Scottish Government means that the council’s powers to enact this element of our financial strategy will remain somewhat limited if support for our proposals is not conferred by the relevant directorate.

8. Housing Revenue Account

- 8.1 The Local Housing Strategy sets the strategic approach for the delivery of high quality housing and housing related services across all tenures, to meet identified need. The Strategy has been prepared within the context of a highly pressured housing market, and significant demand for social rented housing. A high level of homelessness applications persist and the economic climate continues to impact on the ability of households to meet their housing needs. Ukraine Energy Efficiency
- 8.2 Against this backdrop, increasing the supply of affordable housing continues to be a high priority for East Lothian Council ensuring that it meets the needs and aspirations of local people that they live in good quality homes which are located in strong, safe communities.

Appendix 1 – Financial Strategy

- 8.3 In recent years there has been a significant increase in HRA capital spend as both the modernisation and Council house building programmes have been expanded, and as a consequence, the share of revenue spending on debt charges has also increased.
- 8.4 The Strategic Housing Investment Plan (SHIP) sets out the priorities for affordable housing investment in East Lothian over the next five years and will be dependent upon a combination of affordable housing providers, which includes Registered Social Landlords (RSLs), East Lothian Council and the private sector. It will also be dependent on complex funding models delivering different tenures.
- 8.5 East Lothian Mid-Market Homes LLP supports the provision of mid-market rental property, and is a partnership between East Lothian Council and Scottish Futures Trust. The establishment of this vehicle will allow further opportunities to support the delivery of affordable housing across East Lothian.
- 8.6 The Housing Revenue Account is a balancing act between the income raised through rent, the revenue expenditure to support the tenants, and necessary capital investment to support and modernise existing council housing stock and deliver new Council homes. To support this ambition, the financial strategy must ensure that financial plans remain affordable and sustainable both for existing and future tenants. Current budget projections assume a 5% annual increase in rents for 2023/24 onwards. Increases below this level will likely require a reduction in the capital investment programme.
- 8.7 Given this ambition, key areas of focus for the HRA financial strategy 2023/24 to 2027/28 are as follows:
- Reviewing the existing rental levels and implementing a rent restructure within the financial strategy term, to promote fairness and transparency across the HRA portfolio.
 - Ensuring that capital expenditure plans remain affordable and sustainable by maximising subsidy available to support capital investment and maximising the level of Capital Financed from Current Revenue (CFCR).
 - Maximising efficiency and value for money, ensuring that expenditure is focussed on priority areas to maintain and improve the service for tenants.
 - Working with RSL partners to deliver the affordable housing needs across East Lothian and support the ambition set out in the Strategic Housing Investment Plan.
 - Reducing rent arrears, ensuring targeted and flexible support is provided to tenants to who are experiencing financial difficulties.
 - Implementing the new housing management system to support and improve forward planning and customer service;
 - Minimising the impact of debt charges by operating within the recommended upper limit for the ratio of debt charges to income of 40% and maximising the in-year use and application of capital receipts, available capital grants, and revenue balances where possible.

- In support of contingency planning, ensuring that the reserve or balance left on the HRA does not fall below £1.0 million, allowing the Council to maintain a cushion against any unexpected increase in costs or loss of income.

9. Financial Management

- 9.1 Financial management at East Lothian Council comprises a number of elements. Officers and members are fully engaged in the annual budget setting process, through regular updates and the Cross Party Budget Working Group, which will create a shared understanding of financial plans and budgets, as well as the wider external pressures on the council's finances.
- 9.2 The current external operating environment is extremely challenging, very dynamic and subject to constant change. The financial performance relative to approved financial plans is kept under constant review, and this is supported by regular financial monitoring and scrutiny reports provided to Council.
- 9.3 As part of our normal financial management support service, monthly and quarterly performance reports are issued to managers with budget responsibility and in addition to that, the overall finances of the Council are subject to detailed annual independent audit review.
- 9.4 The need for continued application of enhanced cost control measures remains a vital discipline that all managers should continue to operate, demonstrating effective stewardship and application of council funds at all times.
- 9.5 It is vitally important that through the Council Management Team (CMT), the Council maintains a disciplined approach to the implementation of its change programme and does everything possible to deliver the financial efficiencies planned in accordance with that programme and the supporting budgets. Heads of Service will be required to manage expenditure commitments within approved budgets and if at any time spending pressures are not containable within the Business Group, the relevant Service Manager should report this to their Head of Service and Executive Director who has the flexibility to manage budgets across various business groups.
- 9.6 Although the Financial Strategy quite properly covers the 5 year period until 2027/28, the Strategy will be continue to be subject to an annual refresh to ensure that it remains relevant and enables the Council to respond to any future financial challenges to ensure its on-going sustainability.

Financial Management System (FMS)

- 9.7 In support of good financial management, the council will need to upgrade or replace its financial management system in the coming years. Although this will represent a complex project with significant resourcing implications, support for the database and operating system for the current software will end in 2026 and 2027 respectively. The considerable benefits that will be derived from updating the legacy system, including greater efficiency and improved management information are fundamental to the

successful delivery of this strategy and to sound financial management, meaning that it is advisable to begin this process as soon as possible. This aligns to the council’s digital strategy, and the principle of investing in digital transformation as a critical enabler, as outlined in section 7 of this strategy.

Cross Party Budget Working Group

9.8 As part of its revised budget development framework, Council agreed to establish a cross party budget working group to oversee the development of detailed budget proposals and the different work streams supporting this.

9.9 This group has now been established and its role and objectives are as follows:

- Supporting the development of a balanced budget through consideration of budget proposals intended to close the gap.
- Receiving updates on the development of the Council’s capital strategy and programme via the asset governance political oversight group, and considering the overall impact of the proposed programme on revenue budgets.
- Providing strategic oversight for transformation work streams.
- Providing political oversight to steer strategic financial planning to ensure alignment between resource allocation and the priorities identified within the Council Plan.
- Promoting greater awareness and understanding of the stakeholder engagement plan and using consultation results to inform the development of political priorities.
- Providing political oversight on transformational work streams and the HRA programme board.
- Communicating financial challenges and opportunities to respective political groups and acting as a conduit to represent the priorities of wider political groups in relation to budget planning.
- Developing effective cross-party working on the development of the annual budget and financial strategies.
- Overseeing the planned deployment of the council’s usable reserves and balances.
- Offering feedback and learning opportunities for continually improving this process, through debrief following the Council budget meeting.

9.10 The role of this group is important for the implementation of this strategy, by facilitating greater involvement of all political groups in the development of budget proposals at an earlier stage in the process.

10. Risk Management

10.1 The council's financial strategy is subject to a high degree of risk and uncertainty. In November 2022, managing the financial environment was elevated to a score of 25, which is the highest rated risk that the council has ever seen within its corporate risk register. The council has robust risk management processes in place to capture risks and to ensure that appropriate mitigations are developed.

10.2 The major risk areas that have been identified in relation to this strategy are summarised below. These are documented in full within the council's Corporate and Service Risk Registers:

- Rising gas and electricity costs;
- High inflation, impacting on the cost of goods and services, as well as contract price increases;
- Meeting the total costs of public sector pay awards;
- Increased demand for council services arising from external factors including the Ukraine war and cost of living crisis, and recovery from the pandemic;
- Reducing levels of core national funding relative to demand, with an increased proportion of overall funding being allocated to specific or new policy objectives;
- Short term funding settlements which create significant uncertainty and impede robust medium term financial planning;
- Supporting the resource requirements associated with the delivery of the growth agenda resulting from the Local Development Plan, in particularly the revenue consequences associated with growth;
- Associated demographic change and social-economic pressures;
- Potential financial costs associated with a wide range of new obligations or legislative changes;
- Enhanced risks relating to receipt of S75 contributions arising from wider economic risks which will impact on capital and revenue financial planning;
- Rising interest rates resulting in increased capital financing costs which will present a risk to the sustainability of the capital programme;
- Proposed capital accounting review, with potentially significant financial impact, albeit this has been delayed by 12 months.

10.3 It is recognised that this is not an exhaustive list. By reviewing risk registers on regular basis, it is expected that any major new risks will be identified and appropriate mitigations developed. This information is shared with senior managers, CMT, Audit and Governance Committee and full council on a regular basis.

11. UNCRC

10.4 We will ensure that Council commitments to the Children and Young People (Scotland) Act 2014 (Corporate Parenting responsibilities) and Article 12 of the UN convention on the Rights of the Child are reflected in our budget planning. We will do this by ensuring that the voice of children and young people is included through the budget consultation process and aligning our resources to support these objectives and ensure that as a Council we are doing all that we can to meet the needs of children and young people.

12. Summary

11.1 It is recognised that there are a wide range of risks and variables facing the Council, and there is a need to ensure that the Council has sufficient financial resilience to satisfy delivery of approved outcomes whilst ensuring future financial sustainability. It is now clear that the level of future resources available to the Council will not be sufficient to meet future demand and pressures, and as such, the way in which we deliver services to the community must change.

11.2 To achieve this, the Council must embark on an enhanced programme of transformational change, which embraces digital technology and continues to support Council plans. To protect the delivery of vital essential services, the Council must do all that it can to maximise revenue income streams available, and to support economic growth and achieving wider aims and outcomes, the Council must accelerate a review of all Council assets, which will seek to minimise future revenue costs, and maximise future capital investment.

11.3 The financial strategy set out will assist the Council in meeting the future financial challenges ahead. It is recognised that the wider economic uncertainty and potential scale and significance may mean that the Council must prioritise its resources to deliver and support essential services, and this may in turn require some difficult decisions and choices ahead.

11.4 This financial strategy provides a robust framework for setting the budget for 2023/24 onwards and highlighting the need to take action to ensure the Council can continue to be financially sustainable over the medium term. The current forecast position is extremely challenging, with additional budgetary pressures and expenditure demands significantly exceeding the funding available.

11.5 The strategy will be kept under regular review and updated at least annually.



CAPITAL STRATEGY

2023/24 to 2027/28

Funding and affordability.

Asset maintenance, enhancement and acquisition.

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INTRODUCTION

East Lothian Council has a focus on ensuring existing and new communities continue to be great places in which to live and work, with an even more dynamic local economy. Between now and 2033, the population of South East Scotland is expected to grow by 220,000 people and the Council will need to ensure that services and infrastructure provided are fit for purpose and meet the needs and aspirations of the residents of the county. East Lothian Council's Local Development Plan allocated land capable of delivering just over 10,000 new homes to 2024. It also identifies some 200 hectares of employment land for job creation. The plans are ambitious and the Council will need to balance an increasing demand through demographic requirements with the additional pressure on revenue and capital resources.

To safeguard the delivery of sustainable services into the future, it will be necessary to change the way that we do things. This will require a level of investment in transformational change.

The Capital Strategy 2023/24 to 2027/28 outlines the Council's priorities as well as the due considerations required relating to funding and assessing affordability. Governance of all aspects of the capital plans are considered and there is recognition that there is a need to balance any investment for the maintenance and enhancement of existing assets against any ambition for the acquisition or construction of new assets. If assets fall into disrepair and they are no longer able to fulfil their primary purpose, then the Council's ability to deliver the associated services is impacted and it has resources tied up in assets that it cannot use.

The Council has a very ambitious set of plans to deliver over £750 million of capital investment over the next ten years, including significant expenditure on the education estate, infrastructure and housing. The investments are crucial to deliver statutory services and to achieve the plans as set out in the East Lothian Council Plan.

The Council's challenging financial position means that it is more important than ever to ensure that we make the best use of the capital resources that are available to us. There is a need to demonstrate that capital expenditure and investment decisions are taken in line with the Council's aims and objectives and, in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) Prudential Code, take account of governance, stewardship, value for money, prudence, sustainability and affordability. Cash flow and the phasing of expenditure has to be considered in order for the Council to maximise opportunities for securing external funding.

REGULATION

Local Authorities are required by regulation to have regard to the Prudential Code for Capital Finance in Local Authorities (December 2021) when carrying out their duties in Scotland under Part 7 of the Local Government (Scotland) Act 2003. The key messages from the code are, in relation to capital expenditure, the consideration of Prudence, Affordability and Sustainability.

The format of the Capital Strategy reflects the requirements of both the latest Prudential Code for Capital Finance in Local Authorities and the Treasury Management in Public Services Code issued by the Chartered Institute of Public Finance and Accountancy (CIPFA). Recent Code revisions have been incorporated into the strategy.

CIPFA's Prudential Code provides a framework for the self-regulation of the authority's capital financing arrangements. It requires local authorities to determine that capital expenditure and investment decisions are affordable, prudent and sustainable, and to set limits on the amount they can afford to borrow in the context of wider capital and revenue planning.

A Capital Strategy is part of the Prudential Code requirements and sets out the long-term context in which capital expenditure and investment decisions are made and that gives due consideration to both risk and reward and to the impact of the strategy on the achievement of the authority's priority outcomes.

The Financial Management Code of Practice has been issued by CIPFA 'to provide guidance for good and sustainable financial management in local authorities and will provide assurance that authorities are managing resources effectively'. The Financial Management Code applies to all local authorities and brings together statutory requirements and Codes of Practice into one document.

CIPFA's current Prudential Code requires the Capital Strategy to demonstrate the concept of proportionality between treasury operations and non-treasury operations. Non-treasury investments are shown in the Proportionality of Non Treasury Investments section.

OBJECTIVES OF THE CAPITAL STRATEGY AND OTHER KEY DOCUMENTS

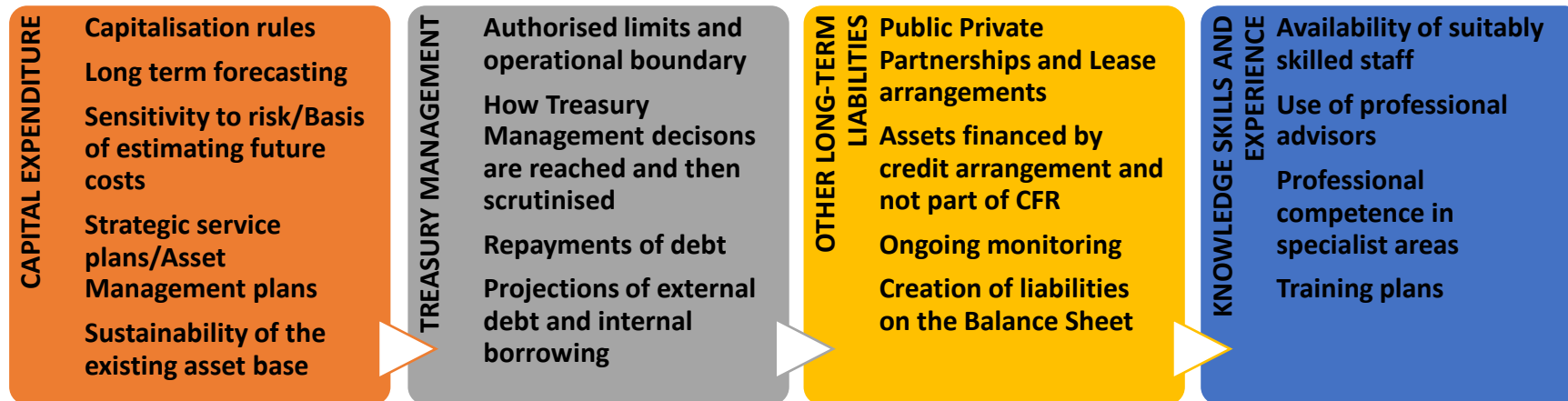
The Capital Strategy is a key document which sets out how the Council will realise its strategic objectives through investment over the medium term, and the governance arrangements which support this. Many other plans and strategies influence capital investment plans, and the strategy seeks to ensure that capital plans are aligned to the Council Plan. The priorities are that:

- capital investment plans are affordable, prudent and sustainable;
- financing decisions are taken in accordance with good professional practice and with a full understanding of the risks involved; and
- robust governance arrangements are in place to support its capital planning activities.

The Capital Strategy is therefore the policy framework document that sets out the principles to be used to guide the allocation of capital investment across all the Council's services and informs decisions on capital spending priorities within the Council's 5-year Capital Plan.

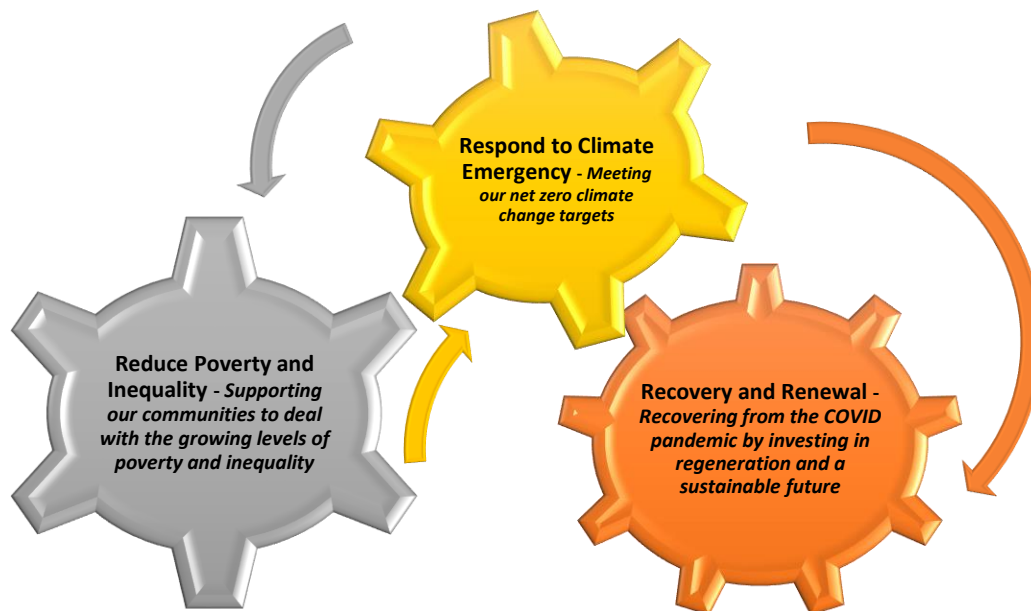
The overarching aim of the strategy is to provide a framework within which the Council's capital investment plans will be delivered. This Capital Strategy for 2023/24 to 2027/28 initially covers a five-year timeframe to allow sufficient opportunity for strategic capital planning. A key purpose of the Capital Strategy is to firmly place decisions around borrowing in the context of the overall longer-term financial position of the Council and to provide improved links between the revenue and capital budgets.

Inevitably, the full picture of the control system around the Council's wide range of capital expenditure and its funding is reflected in a range of documents, monitoring and management arrangements. A summary of four key aspects of capital activities is shown in the following table and further information on the other corporate plans can be found in the next section.



The **East Lothian Council Plan** drives capital investment plans. The Council Plan is the Council's key strategic document. The current plan covers the period from 2022 to 2027.

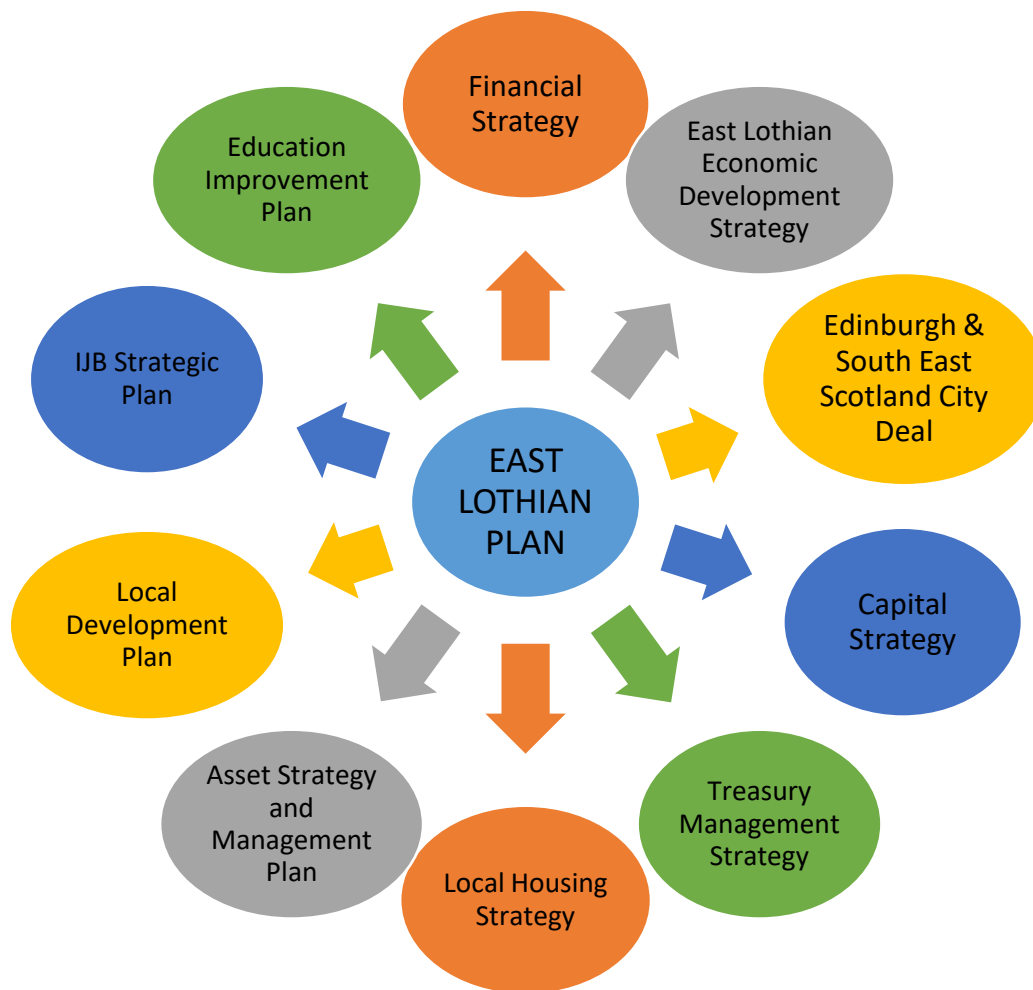
It is based around three overarching objectives that have been set in response to the three fundamental challenges we face:



The Council Plan sets out the Council's ambitious vision of **'an even more prosperous, safe and sustainable East Lothian with a dynamic and thriving economy that will enable our people and communities to flourish.'** The Plan sets out how the Council will strive to achieve this vision with an overarching objective to **'Reduce inequalities within and across our communities'** and four themes:

Growing our Economy	•to increase sustainable and inclusive economic growth as the basis for a more prosperous East Lothian
Growing our People	•to give our children the best start in life and protect vulnerable adults and older people
Growing our Communities	•to give people a real say in the decisions that matter most and provide communities with the housing, transport links, community facilities and environment that will allow them to flourish
Growing our Capacity	•to deliver excellent services as effectively and efficiently as possible within our limited resources

The Council Plan does not sit alone; it is part of a suite of strategies and plans which all focus on achieving the vision for East Lothian. These plans and strategies are pieces of the jigsaw (or Golden Thread) that form the whole picture of what the council and its partners are doing to achieve the East Lothian vision. They include:



In addition to the Council Plan, there are a number of complementary proposals and plans which will also drive the capital strategy. Examples are outlined below:

- The **Financial Strategy** sets out a number of requirements to assist capital investment decisions and importantly, manage the associated risk. For the Housing Revenue Account (HRA), the capital Strategy includes recommended limits from the Financial Strategy to maintain an appropriate long-term balance between the various elements of the HRA budget. The ratio of debt charges to income should be no more than 40%, maximising the use and application of capital receipts, capital grant and the level of Capital Financed from Current Revenue (CFCR) in order to minimise the future impact of debt charges. There is also a minimum reserves policy ensuring that the reserve or balance on the HRA should not fall below £1.0 million. This will allow the Council to maintain a cushion against any unexpected increase in costs or loss of income, and to help to mitigate against risks inherent in UK welfare reform proposals.
- The **Local Housing Strategy** is the sole strategic document for housing, bringing together a wide range of housing related priorities into one place and enabling a co-ordinated response in terms of action. The strategic vision for housing in East Lothian is to have healthy, sustainable homes in vibrant communities that meet increasing levels of need, reduce inequalities and improve wellbeing across all stages of people's lives. There is also a strong connection with the East Lothian Health and Social Care Partnership in providing specialist housing to enable independent living where appropriate and supporting the wider integration of health, social care and housing.
- The main aim of the **Local Transport Strategy** is to provide a mechanism for clean, green and safe travel patterns across the County and beyond. The strategy demonstrates how the Council has applied national, regional and local guidance to its operations. The vision for the Local Transport Strategy has been defined as; "East Lothian will have well-connected communities with increased use of sustainable transport modes to access services and amenities". There are four documents that support this strategy; Road Safety Plan, Road Asset Management Plan, Active Travel Improvement Plan and the Parking Management Strategy.
- The central purpose of the **East Lothian Economic Development Strategy** is to identify the opportunities which east Lothian can exploit to maximise its sustainable economic competitiveness. The strategy contributes directly to economic development objectives set out in the East Lothian Plan. Inclusion in the Edinburgh and South East Scotland City Region Deal is a key opportunity for East Lothian and it will be important to ensure East Lothian optimizes potential economic and social benefits through close partnership working including the opportunity to develop aligned initiatives and funding mechanisms available through the City Deal. Each project must take cognisance of the deal and capture benefits that can be delivered through it. The Cockenzie site is a central area of economic development and unlocking the site and adjacent assets is a key development opportunity for East Lothian.
- Effective management of fleet related assets is critical to the delivery and performance of council services. The **Sustainable Fleet Management Strategy** sets out and controls the management of council fleet related assets. "Our vision is to provide effective fleet procurement, management, and a workshop maintenance service, with a commitment to significantly reducing our reliance on fossil fuels and to make our assets environmentally sustainable within the UK and Scottish governments' timeline of key deliverables". All asset expenditure will be managed by Transport Services via an agreed sustainable replacement/maintenance plan, appropriately funded from dedicated budget allocations. Transport Services will work with services when additional / high cost assets are required that are outside of the approved replacement/maintenance plan to determine if the need can be met through existing wider fleet assets or confirm the need for service units to identify funds to cover such items.
- The **Climate Change Strategy** sets out the Council's vision and overall aims for a Net Zero Council and a Carbon Neutral East Lothian. It sets out what we will do over the next 5 years towards achieving these overall aims, and the specific targets and actions which will help progress towards achieving net zero.

- Capital spending on assets should be fully aligned to the Council's Asset Strategy and Management Plan and the annual review of the Capital Strategy will ensure that these are aligned as the strategies are reviewed and developed.
- The Council does not work in isolation to deliver capital investment for the county. The East Lothian Partnership is a partnership across a number of organisations from public, private, third and community sectors working together to make life better for the people of East Lothian. **The Local Outcomes Improvement Plan (LOIP) 2017-2027** provides a commitment by all partners to deliver improved outcomes for East Lothian people, with a focus particularly on reducing inequalities and prevention and early intervention. The East Lothian Partnership aims to work collaboratively across its partners with existing governance arrangements including:
 - **East Lothian Partnership Governance Group** whose core membership includes the partners who have statutory responsibility for governance under the Community Empowerment (Scotland) Act 2015.
 - **East Lothian Partnership Forum**, which brings together a wide range of partners with the aim of actively involving them in the Partnership's work including the Area Partnerships.
 - A number of Strategic / Delivery Groups who play a role in delivering the outcomes in the East Lothian Plan - these include **East Lothian's Area Partnerships**
 - A strategic 'one council' approach to capital investment decisions must be adopted, ensuring a joined up approach to investment in community priorities.
- The Council is undertaking a Learning Estate Review to consider how the existing capital programme can meet the challenges of population growth and expanded early years' provision (1140 hours), creating environments that support excellence and equity. A Learning Estate Investment Plan (LEIP) is in place to outline how the Council intends to realise its ambitions to develop a modern, safe, sustainable learning estate that enhances and supports communities whilst improving the lives of families in an equitable manner.
- The Local Development Plan sets out the planning strategy and policies to guide growth and deliver new required infrastructure, in particular for education, community, transport and employment.

The current volatile economic environment will have an impact on the Council and its community in the years to come. It is essential that the capital investments are targeted to ensure it provides essential investment aligned to Council priorities, to stimulate, and support economic growth. Nevertheless, the on-going financial challenges requires enhanced affordability criteria to be applied to the capital investment programme to protect both current and future Council Tax payers. Within this context, the Strategy focuses on an enhanced review of the Council's asset base, with a view of maximising capital receipts in order to support transformation of council services and maintain a level of future capital investment, and minimising on-going revenue costs.

With this in mind, the Capital Strategy will focus on:

- Continuing to support a Capital Investment Programme, which will provide essential investment aligned to Council priorities both in the short and medium term, stimulate and support economic growth and critically, remain affordable based on a clear understanding of both capital and future revenue costs.
- Maximising the capital income available to the Council.

- In support of ensuring affordability for current and future tax payers, the Council should work to minimise the impact of additional net borrowing on the revenue account by ensuring that use of alternative sources of funding is maximised. The previous capital strategy imposed an upper limit on new borrowing for General Services of £150 million over the next five years to safeguard the revenue account from excessive debt charges. Given the significant and rapid increase in interest rates since this limit was set, this level of borrowing has now become unaffordable. Capital expenditure affordability for General Services will be controlled through regular, ongoing review by the Chief Finance Officer, with reference to overall borrowing levels and the impact of debt repayment charges on the revenue budget. The Capital Strategy for 2023/24 – 2027/28 therefore recommends that General Services capital expenditure affordability is controlled through regular review by the Chief Finance Officer, with reference to overall borrowing levels and the impact of debt repayment charges on the revenue account. With this in mind, the upper limit on new borrowing will be revised and recommended to Council for agreement as part of budget setting on 28 February. This will then be reviewed by the Chief Finance Officer at regular intervals throughout the year, and reported to Council through quarterly budget monitoring reports. To support this, a review of the governance arrangements in place to oversee the capital programme is under way, with a view to ensuring that these arrangements enable regular consideration of the overall affordability of the programme as well as monitor delivery. This will include strengthening the role of the Corporate Asset Group (CAG) and Capital Investment and Asset Management Group (CIAMG) to support the operational delivery of the capital plan and associated strategies, and ensuring that the newly created cross party sustainability forum enhances these arrangements.
- For HRA, the ratio of financing costs to rent income should not exceed 40%.
- The Council should continue to manage and review the General Services Loans Fund balance ensuring prudence, maximising the use and application of capital receipts, capital grants, and any flexibility arising from revenue balances, in order to minimise the future impact of debt charges
- Develop an approved five year Capital Plan (for both General Services and HRA) underpinned by longer term models which seeks to minimise net borrowing requirements and is considered affordable both in terms of prudential limits and within the constraints of the revenue budget.
- Continuing to manage and review the General Services Loans Fund balance, maximising the use and application of capital receipts, capital grant, and any flexibility arising from revenue balances, in order to minimise the future impact of debt charges.
- Delivering an enhanced review of the Council's assets, which will support the way in which we deliver and support services, minimise future revenue costs, and maximise where appropriate capital receipts which can be used to support future capital investment plans.
- There is a commitment by the Council to identify Common Good assets to ensure that ongoing investment related to these assets is considered and funded appropriately.

GUIDING PRINCIPLES

APPROACH TO BORROWING

The Council is able to borrow money on the money market or from HM Treasury (via the Public Works Loans Board (PWLB)) to fund capital schemes or, on a short term basis, use its own internal resources (i.e. cash flow). However for all capital schemes initially funded from borrowing, the Council will have to fund the principal repayment and interest costs, these ongoing borrowing costs are unavoidable revenue consequences.

Borrowing can only be considered under the guidance contained in the CIPFA Prudential Code whereby, in summary, the Council is required to ensure that all borrowing is both prudent and affordable. The Prudential Code was revised in December 2021 and requires authorities to ensure that decisions for capital expenditure and investment plans are made with sufficient regard to the long run financing implications and potential risks to the authority and include effective due diligence.

The Council takes a prudent approach to capital investment decisions, paying particular regard to service objectives, value for money, sustainability and affordability. Prudential indicators such as the ratio of financing costs to net revenue are used as an indication of the impact of the capital investment plans on the Councils overall finances.

For any new capital business case, which is not self-funded, the responsible manager must, as appropriate, clearly identify and consider the ongoing revenue implications of:

- Fixed interest and principal repayment costs
- Any associated income streams and potential sensitivities
- Project sustainability
- Exit strategies and potential costs
- The relationship between asset carrying values (revalued net book value) in comparison to outstanding debt
- Demonstrating value for money

All of the above should be considered for the life of the asset.

Each business case must clearly identify and consider the ongoing Balance Sheet implications of:

- The expected change in the level of Council Debt
- Address how any changes in asset value would be funded i.e. impairments

- Maintenance of the asset to ensure sustainable use

The Council's Treasury Management Strategy provides further information on the Council's borrowing strategy for the coming financial year.

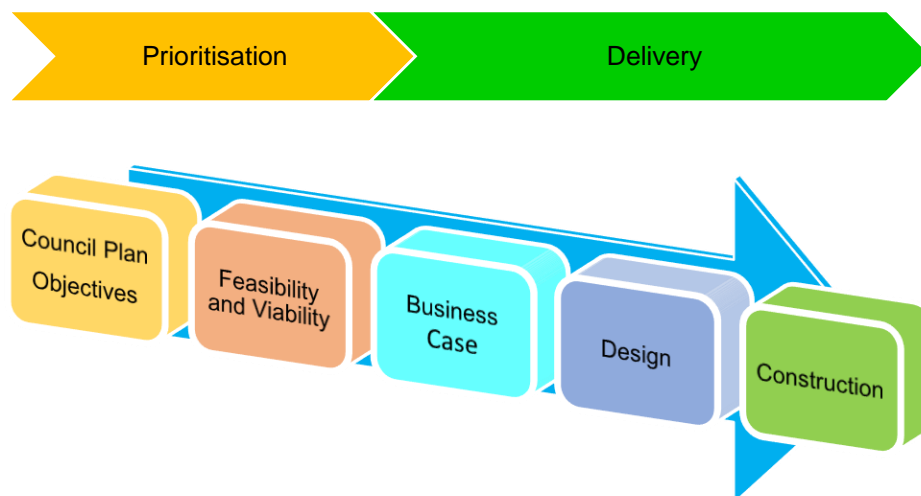
CAPITAL EXPENDITURE BUSINESS CASE

The Capital Business Case will identify the projected running costs and financing costs of the relevant asset and assess the affordability of the proposals both for the initial investment and over the life of the asset. In all cases, the capital expenditure and any ongoing costs must be sustainable in relation to the Council's medium term financial plans.

The business case should take consideration of:

- service objectives and alignment to the council plan;
- stewardship of assets, e.g. asset management planning;
- value for money, e.g. option appraisal;
- prudence and sustainability, e.g. risk, implications for debt and whole life costing;
- affordability, e.g. implications for council tax payers; and
- practicality, e.g. achievability of the forward plan.

Each project is brought through a standard process characterised by the following stages, which focus and reduce the options taken forward:



PRIORITISATION AND APPROVAL

It can be difficult for a Council to make choices between competing priorities considering the varied and many services that it provides, balancing delivery of Council Plan objectives against wider statutory obligations within the constraints of affordability. It is the responsibility of senior officers and members to consider and prioritise the competing demands for capital resources in the context of local government funding awarded.

Like many public sector bodies, the Council has experienced significant delays in the physical progress of projects against the approved profile and some cost overruns. This can be directly linked to the size of the programme, capacity to deliver and over optimism about the project in terms of cost, time and external factors outside of the Council's control. When capital schemes are approved their inclusion into the capital programme is based on best estimates and slippage is measured against the approved profile at the end of the financial year. The Council will need to ensure that all projects being proposed for inclusion can be delivered within the timeframe and budget stated prior to programme entry. Resource capacity and size of the programme will need to be assessed annually as part of the budget setting process and a business case assessment of the potential delivery of major projects, as well as at a programme level, should be carried out annually.

When developing a proposal for inclusion within the capital programme, the proposal must meet at least one of the following criteria:

- **The expenditure is required for statutory reasons, for example to ensure that an asset meets any health and safety requirements;**
- **A self-funding scheme which fits in with strategic planning priority outcomes;**
- **A priority scheme with significant external funding;**
- **A scheme directly focused on Council Plan priority outcomes.**
- **A scheme which will support the delivery of recurring savings within the Councils revenue budget**
- **A scheme which will deliver significant social and health benefits within the housing provision**

It is essential that capital proposals take cognisance of the associated revenue consequences of the initial investment, and demonstrate that these will be affordable on an ongoing basis.

The Council maintains and reports on a rolling five-year capital plan (including its funding) which is updated and reported to the senior leadership team and members on a quarterly basis. The capital plan will include any capital expenditure re-profiling in the previous quarter.

The capital programme is subject to annual approval by Council and it should be noted that any new schemes being added to the programme outside of the budget setting process would also be subject to approval. Reports and business cases must be submitted to an appropriate group for example (CIAMG (Capital Investment and Asset Management Group) for CAG (Corporate Asset Group), LESM (Learning Estate Senior Managers), HRA Programme Board) prior to formal political approval at Cabinet/Council. There are many groups which consider different elements of the capital plan, and these governance arrangements are currently under review to ensure alignment to the newly established cross party political oversight groups.

The key stages in the Council's prioritisation and approval process for new capital schemes are as follows:

1. The business case can be submitted where a proposal meets the key considerations and Council objectives shown above. The business case would then be considered for progression by the Executive Director for Council Resources and the Head of Finance. Unless there are extenuating circumstances this would be during the capital budget setting process only.
2. For a specific scheme to be approved/funded there will be a requirement for a detailed capital business case. After the initial submission noted above, the capital business cases will be taken through to a wider consultation with the senior leadership and executive teams. Business cases should include evidence of an options appraisal process and its considerations.

If a change in a scheme is to be funded from a previous approval from Council, for example a timing change in construction with no impact to the overall cost of the project, re-profiling of the scheme will be carried out as part of the capital budget setting or monitoring

process. This may be a re-profile for slippage or acceleration, depending on circumstances, approval and the maximisation of grant funding opportunities.

If new and confirmed funding is to be used for a scheme to be funded by e.g. a specific grant and if the scheme is supported by the Executive Director for Council Resources, it will be reported to Council.

If a project has a change in cost estimates or scope, an updated business case should be provided which will then go through for Council approval.

Business cases will be subject to annual review and updates, and will incorporate key information required to determine initial and ongoing revenue consequences.

3. Any proposals for invest to save schemes, which are usually funded from prudential borrowing, will also require a detailed business case.
4. Where there is a proposal to transfer capital resources from a previously approved scheme to a new scheme and therefore there is a change to “policy”, the new scheme should be approved by Council with a detailed business case.
5. The Council Management Team, Corporate Asset Group and HRA Programme Board alongside Cabinet/Council have responsibility for the oversight and challenge on the delivery of the capital plan including slippage and outcomes.
6. The Council Management Team and Cabinet/Council will receive three quarterly monitoring reports and one outturn report each financial year.

MANAGEMENT AND MONITORING OF THE CAPITAL PLAN

The key objective of the Council’s management and monitoring of the Capital Plan is to ensure that all Members and the Council Management Team (CMT) have visibility of the capital plan and the approval of individual capital projects to encourage collective responsibility for the capital expenditure on a project and the success of the schemes themselves.

The Council's CMT should ensure that progress against the programme, in terms of expenditure and timescales, is in line with what has previously been agreed. Where projects are exhibiting cost overruns or delays in the completion schedule, these should be addressed promptly.

Arrangements for approval and monitoring of the capital plan are shown in the Prioritisation and Approval section above, with further information provided within the Executive Director of Council Resources Report below.

GRANT ALLOCATIONS

The Council receives general capital grant funding from the Scottish Government as part of the annual Local Government Settlement. Councils are able to spend this on capital projects that meet local and national priorities to deliver their Single Outcome Agreement or the national Strategic Objective and Purpose.

The Council will consider any possible flexibility in funding streams to seek to ensure that funding is deployed to provide maximum benefit in line with the parameters of the legislation.

Specific Capital Grants, also known as specific purpose grants or ring-fenced grants, are also received and may only be used by local authorities to fund specific capital expenditure. The terms and conditions of each grant are set out separately in the grant offer letters.

The government provides local authorities with some Specific Capital Grants through the Local Government Finance Settlement. Additional Specific Capital Grants are paid to local authorities in Scotland outwith the Local Government Finance Settlement.

The Council can bid for additional external grant funding outwith these funding routes, aligned to support corporate priorities or statutory service objectives and where it can be proved that the project is sustainable, and requirements for match-funding and future revenue consequences have been considered and approved.

CAPITAL RECEIPTS AND CAPITAL CONTRIBUTIONS

The Council receives capital receipts and contributions from:

- Asset Disposals – all capital receipts will be held corporately and used to fund future capital investments or offset debt charges.
- Developer Contributions – unless there are service specific conditions on the use of the contribution, the monies will be used to support existing council priorities and commitments rather than be allocated to new schemes.
- Second Homes Council Tax payments – used for the provision of affordable housing.

- Grant funding from other bodies

The Council is able to use revenue funding and reserves for capital schemes. However, as a result of competing revenue budget pressures and the continued reduction in government support for revenue expenditure, the Council's policy is generally not to budget to use revenue or reserve funds to directly fund capital projects after the feasibility stage.

As part of the Council's reserves balance and in line with the reserves strategy, the Council has in place the following reserves that can be applied to offset the cost of future borrowing. These funds are not currently reflected to finance existing approved capital investment plans, but remain within the wider Council's General Fund reserves. This remains subject to regular ongoing review.

- Capital Fund & Capital Receipts - established from Capital Receipt income which has not yet been applied in year. This Fund can be used to either reduce loans fund advances or providing funds to cover the principal repayments of the loans fund. Generally capital receipts will be treated as a corporate resource. There is no equivalent fund balance within the HRA account principally due to the cessation of the Right to Buy.
- General Services Capital - established in recent years from flexibility from year end underspends, in order to mitigate against the future impact of growing capital infrastructure commitments.
- Council Tax 2nd Homes - An earmarked fund established by reducing the second home or empty property Council Tax discount for the development of affordable housing. Under Scottish Government direction, Local Authorities can now use this income to support the development of affordable housing, including the disbursement of funds to other organisations or individuals, as well as RSLs.

In addition, the Scottish Government have allowed a number of permissible 'fiscal flexibilities' to support in the management of the unmet funding pressures being experienced from COVID. These include;

- the application of capital receipts to finance COVID revenue expenditure;
- flexibility to review the accounting treatment for debt relating to credit arrangement charges; and
- a loans fund principal repayment holiday.

Some flexibility has already been applied relating to loans fund repayment holiday during 2021-22, with national discussions on-going seeking clarity on the application of these flexibilities. The application of any wider fiscal flexibilities going forward may be considered depending on further national clarity, the impact of which may have future implications for both future capital investment and revenue plans as well as borrowing requirements.

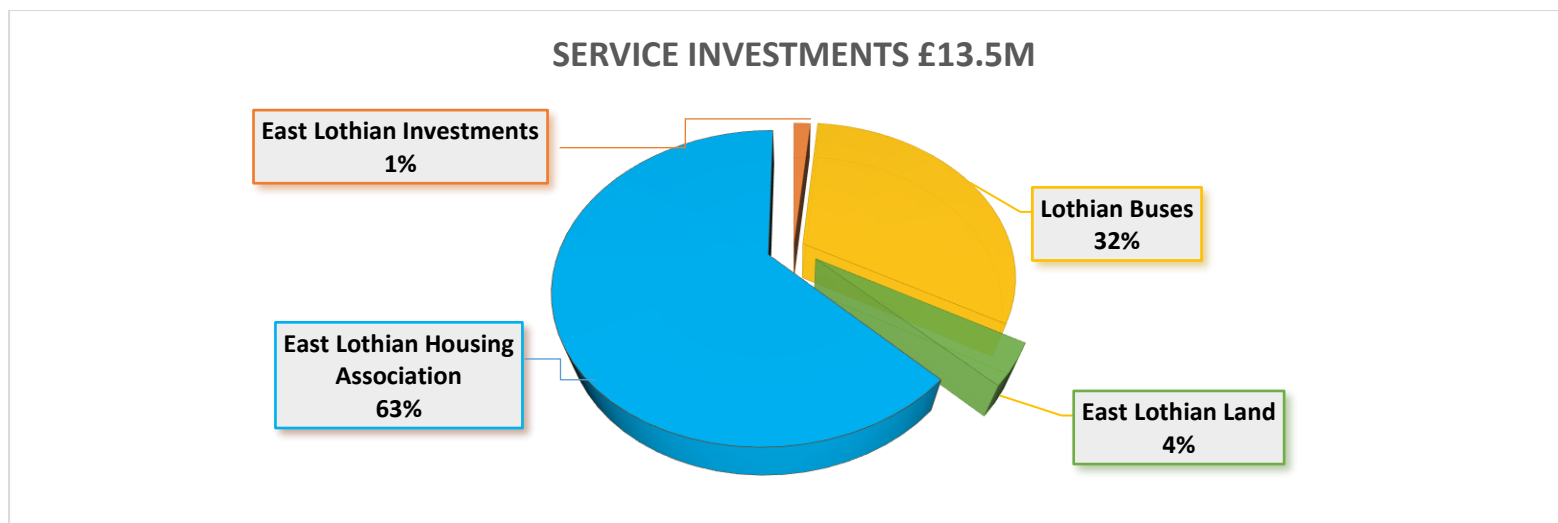
ALTERNATIVE FUNDING AND DELIVERY OPPORTUNITIES

The Council, as appropriate, will continue to consider other methods of supporting capital expenditure within East Lothian and can use its assets to support schemes or aim to maximise funding from any source possible.

The Council continues to bid for additional external funding and/or work with other bodies to secure capital investment or consider use of its own assets in a development, but restricts schemes to those that support corporate priorities or statutory service objectives and where it can be proved that the project is sustainable. Requirements for match-funding and future revenue consequences must be considered and approved along with an assessment of the opportunity costs of alternative options. All schemes are to be agreed with the Executive Director for Council Resources prior to submission and/or contractual commitment.

PROPORTIONALITY OF NON-TREASURY INVESTMENTS

Non-treasury investments include material investments in subsidiaries, joint ventures, loans to third parties and financial guarantee activities and are separate from the day-to-day treasury management activities. The Council holds non-treasury investments in East Lothian Land, East Lothian Investments, East Lothian Housing Association and Lothian Buses to the value of £13.5 million. The Council also holds investment balances with Investec for Common Good and Trusts. Non-Treasury Investments represent investment for service reasons to meet the needs of the people of East Lothian. They are investments for areas such as transport, investment in growth for the county and social housing. They do not generate a return in monetary terms but result in a social, economic or environmental gain.



ASSET DISPOSAL STRATEGY

Purchases of assets are primarily to be retained in the long term. However, the Council Management Team will regularly review the asset base to consider where the costs of maintaining any assets outweigh the ability of the asset to fulfil its role in the delivery of services. The review will need to consider the resulting impact on the Council's operational delivery and any costs of disposal.

The strategy for fleet assets is that where the fleet life has not expired but due to either reliability, being beyond economical repair or unable to be reallocated due to changes in service requirements, assets will be disposed. Where the fleet life has expired, either an asset will be held for ongoing use or sent to auction for disposal. Auction disposal provides transparency and provides best disposal value. At all times when considering fleet replacement/disposal overall fleet efficiency is a key consideration.

The strategy for asset disposal is that if an asset is no longer required for service delivery and does not meet the criteria for retention or for inclusion within the non-operational property portfolio, the asset will be declared surplus to the Council's requirements and will be placed on the market for sale. Where a market sale may not be achievable, for example if the market is depressed, retention and inclusion of the asset within the non-operational property portfolio may be considered, provided the following criteria are met:

- market demand – there is a good letting prospect
- suitability for inclusion in the non-operational property portfolio
- good revenue potential with minimal short to medium capital outlay
- good potential for medium to long term capital growth

There is also the option for a community asset transfer to take an asset out of use by the Council. Part 5 of the Community Empowerment Act from the Scottish Government introduced a right for community bodies to make requests to all Scottish Local Authorities, Scottish Ministers and a range of public bodies for any land or buildings they feel they could make better use of. A request can be made for ownership, lease or other rights as they wish. The Council must transparently assess requests against a specified list of criteria, laid out in the Act, and agree the request unless there are reasonable grounds for refusal.

Surplus assets are managed during the disposal process to minimise vacant property, maintenance and security costs.

All capital receipts will be held corporately and used to either offset debt charges or fund future capital investments.

TRAINING AND SKILLS

The Corporate Finance Capital and Treasury teams have responsibility for both the preparation of and on-going management of the capital and treasury management strategies and Capital Programme. The team is staffed by professionally qualified accountants with extensive Local Government finance experience. Team members attend relevant training courses, workshops and events to ensure that their knowledge and skills are up to date and the Council is in a position to address all new technical developments. They follow a Continuous Professional Development Plan (CPD) as part their individual accountancy accreditation. The overall responsibility for capital and treasury activities lies with the Council's Section 95 Officer who, in accordance with statute, is professionally qualified and is suitably experienced to hold the post.

The Council aims to provide training to Members on a regular basis, which is delivered by Council officers and external advisors. This ensures Members have a full understanding of key issues and have the appropriate knowledge and skills to make capital and treasury decisions. Members are updated on developments and issues of significance throughout the year, with information presented to the Audit and Governance Committee (for Treasury Management), Cabinet and Council meetings as part of the Financial update (monitoring) reporting.

The Council currently uses the Link Group, Treasury Solutions as its external Treasury Management advisors and recognises that it is essential to engage with external providers of Treasury Management services in order to acquire access to specialist skills and resources.

TREASURY MANAGEMENT LINKS

All capital decisions to be funded by prudential borrowing will directly affect the Council's Treasury Management activities. The level and timing of the capital expenditure will be reflected in the capital plan once approved and in the strategic cash flow forecasts to plan for the required borrowing.

The resulting costs and any income to fund those costs will be included in the standard budget monitoring and budget setting process. The annual setting of both the Operational and Authorised Limits (for borrowing) will also monitor total borrowing.

BALANCE SHEET CONSIDERATIONS

The impact of capital projects and any prudential borrowing taken have an impact on the Council's balance sheet.

1. Increase in the value of the Council's non-current assets
2. Increase in the Council's long-term borrowing
3. Maturity profile of borrowing and repayment of borrowing
4. Profile of loans fund repayments
5. Increase/decrease in Capital Financing Requirement (CFR)
6. Annual depreciation on operational assets
7. Regular revaluation or impairment on operational assets
8. Impact on Council's cash flow in delivery stage or on purchase
9. Impact on Council's cash flow at time of borrowing

EXECUTIVE DIRECTOR OF COUNCIL RESOURCES: STATEMENT ON DELIVERY, AFFORDABILITY AND RISK OF THE CAPITAL STRATEGY

BACKGROUND

The capital strategy is designed to comply with the requirements of the CIPFA Prudential and Treasury Management Codes and the relationship between the Council's capital programme funding and the resulting treasury management activity and the implications for future sustainability considering affordability and sustainability.

SUMMARY OF THE BORROWING POSITION

The table below shows the Council's current forecasted borrowing position and borrowing need including the Capital Financing Requirement (CFR). The CFR is the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is a measure of the Council's indebtedness and the underlying borrowing need. Any capital expenditure which has not immediately been paid for through a revenue or capital funding stream, will increase the CFR.

The Council has a number of on-going Public Private Partnership (PPP) and lease arrangements shown as Other Long-Term Liabilities (OLTL) in the table below. The Council currently had £35.356m (at the end of 2021/22) of OLTL within the CFR.

The Council's actual level of borrowing at the end of 2021/22 was £458.540m. The Council is currently in an under borrowed position. Under borrowing is the difference between the CFR and external debt. This means that the capital borrowing need is not fully funded by external debt but is supported by the Council's reserves and working balances as a temporary measure.

**Actual Debt and the Capital Financing Requirement (CFR)
(including Other Long Term Liabilities)**

£'000	2021/22 Actual	2022/23 Q2 Estimate	2023/24 Estimate	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate
External Debt						
Debt at 1 April	365,549	424,761	496,372	571,834	596,532	631,210
Expected change in Debt	59,212	71,611	75,463	24,698	34,678	21,347
Other long-term liabilities (OLTL)	35,356	33,779	32,213	30,686	29,103	27,243
Expected change in OLTL	(1,577)	(1,566)	(1,527)	(1,583)	(1,860)	(2,096)
Actual gross debt at 31 March	458,540	528,585	602,520	625,635	658,453	677,704
Capital Financing Requirement	511,228	582,883	660,119	698,765	720,318	737,285

The CFR does not increase indefinitely, as annual repayments from revenue are made which reflect the useful life of capital assets financed by borrowing. The repayment of loans fund advances ensures that the Council makes a prudent provision each year to pay off an element of the accumulated loans fund advances made in previous financial years as per Section 2.3 of the Treasury Management Strategy 2022/23.

The operation of the loans fund is regulated by statute, with updated regulations: (The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 (the 2016 Regulations)) being in force from 1 April 2016.

It is important to note that the Council has for a number of years been projecting a significant borrowing requirement but has not yet needed to undertake the full projected borrowing as there has been reprofiling of the Capital programme and working balances available, resulting in an under borrowed position.

EXECUTIVE DIRECTOR OF COUNCIL RESOURCES REPORT

The Prudential Code states that it is the responsibility of the Council's Chief Finance Officer (Executive Director for Council Resources) to explicitly report on the affordability, deliverability and the risks associated with this Strategy. These key elements are set out in the following paragraphs.

Affordability is a key criterion when considering whether a project should be approved for inclusion within the Capital programme. Before any decisions are made, new schemes must be underpinned by a business case identifying the expenditure and funding, appraisal of alternative options and the risks

and rewards associated with the scheme. The Business Case preparation and consideration process is set out fully in the Capital Business Case and Prioritisation and Approval sections of this Strategy.

All projects must also have a clearly identified capital funding source with a definite commitment of financial support if external funding, such as an external grant, is to be used. Also, there must be an identified source of funding to support any on-going revenue costs associated with the use of a capital asset, and these must be built into future years financial projections.

Where borrowing is to be used, the affordability test is the ability to fund interest costs linked to the borrowing, together with the statutory repayment of the borrowing (the loans fund charge). This repayment is matched to a prudent asset life and any income streams estimated to fund this asset must be sustainable. The 2016 Regulations set out the requirements for the appropriate governance of such borrowing and the Council's processes comply with the requirements of the Regulations.

The **delivery** of the individual projects within the Capital Programme is directly linked to the process of approving the capital scheme. Each scheme has a project sponsor and a manager responsible for the delivery and the subsequent achievement of the scheme objectives.

The Corporate Asset Group (CAG) meets on a regular basis to discuss and make decisions on areas such as the Community Intervention Fund and any Community Asset Transfer requests as well as the wider capital plan. The Asset Project Board meets on a monthly basis to discuss and support the asset review and a Cross Party Sustainability Forum has been established to provide political oversight on wider sustainability which will include assets and alignment to the Cross Party Budget Working Group.

Project updates are provided at the regular meetings of CMT as well as an overarching update on the Capital Programme. This facilitates the review and challenge to the delivery of projects and any changes to both the timing and value of the programme. In addition, an annual Financial Review of the Capital Programme is completed each year and submitted to full Council. The financial review process should ensure that all schemes are examined to determine whether they are still aligned to corporate priorities. In year quarterly reporting also considers the deliverability and progress of schemes including any reasons for delayed starts or variations to approved budgetary allocations. It also considers re-profiling of planned expenditure and identifies any unutilised or underutilised resources, which could be reallocated to other projects.

The Council's senior officers also have the opportunity to review and challenge project and programme delivery via monthly updates on the changes/re-profiling of expenditure.

The Council is exposed to a range of **risks** with regard to the continued affordability and delivery of the Capital Programme as follows:

- Financial risks related to the investment of the Council's assets, cash flow and market volatility;
- Macroeconomic risks related to the growth or decline of the local economy, interest rates, inflation and the wider national and global economy. Of particular relevance in this regard is the legacy of the COVID-19 pandemic and Brexit which some commentators believe has contributed to significant increases in material prices and supply chain disruption across the construction industry.

- Inflationary pressures currently being experienced may have adverse financial implications for other approved capital projects that are currently under development;
- Insurance risks whereby some contractors are either unable or unwilling to put policies and cover levels in place which meet the Council's requirements. Equally, some insurers are broadening the scope of policy exclusions which may mean some construction risks are uninsurable;
- Credit and counterparty risks related to investments, loans to public and private institutions;
- Operational risks related to operational exposures within its organisation, its counterparties and partners;
- Strategic risks related to key initiatives undertaken by the Council such as areas of organisational change deemed necessary to enable the Council to meet its goals and objectives, significant capital schemes, major acquisitions and new ventures;
- Reputational risks related to the Council's dealings and interests, and the impact of adverse outcomes on the Council's reputation and public perception;
- Environmental and social risks related to the environmental and social impact of the Council's strategy and interests. This is a risk that is becoming more high profile given the recent national and international publicity in relation to climate change;
- Governance risks related to ensuring that prudence and careful consideration are prominent in the Council's decision-making, augmented by quality independent advice and appropriate checks to ensure that the Council has the correct level of oversight, scrutiny and efficiency; and
- Risks arising from a financial commitment by the Council in line with Government policy when that policy is then changed mid-stream leaving the Council to manage the position.

CONCLUSION

Managing the Council's risks is an area of significant focus for senior management and Members. It is important to recognise that there are significant risks associated with a large capital programme and associated borrowing, but as far as possible these are mitigated as part of the Council's Treasury Management Practices.

As advised above, where there is a robust capital business plan process, project management arrangements and/or project boards in place and all projects are delivered by suitably skilled staff. Appropriate consideration is also given to tax (VAT) planning, cash flow and the operational planning and resource implications for the use of any asset. Governance is addressed by the establishment of officer/Member working groups with regular and transparent reporting. Due diligence is undertaken on loans and purchases and external advice is sought where necessary.

There are clear links from the Capital Strategy to the Financial Strategy and Treasury Management Strategy, prudential indicators, authorised borrowing limits and the revenue budget. These are also subject to review and oversight by Members at Audit and Governance Committee, Cabinet and Council.

Risk increases with any new borrowing and officers and members must be mindful of this when considering funding arrangements for capital investment. New borrowing will increase the Council's annual level of fixed interest and repayment costs which are already currently forecast to increase in the coming years and could have a borrowing liability of £652.556m by the end of 2026/27.

Because of this, monitoring and reporting arrangements must allow for capital plans to be regularly revisited and updated with reference to ongoing considerations around prudence, affordability and sustainability.

The pace and level of change in the Council's borrowing is still significant and all members need to be fully informed as to all implications of its capital investment decisions with particular bias on those funded from borrowing.

APPENDIX A

KEY RATIOS AND PRUDENTIAL INDICATORS

Note: Years 2023/24 – 2026/27 are budgets approved in March 2022

Ratio of financing costs to revenue stream

	Year End	Qtr 2	Estimate	Estimate	Estimate	Estimate
	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
	£'000	£'000	£'000	£'000	£'000	£'000
General Services						
GS Revenue Stream	279,553	276,375	284,739	293,103	298,965	304,944
GS Financing Costs	11,500	14,500	13,486	19,229	18,435	18,473
Ratio - Financing/Revenue Stream	4.11%	5.25%	4.74%	6.56%	6.17%	6.06%
HRA						
HRA Revenue Stream	36,194	34,713	37,288	39,662	42,321	45,380
HRA Financing Costs	10,494	11,592	13,963	15,021	16,531	18,119
Ratio - Financing/Revenue Stream	28.99%	33.39%	37.45%	37.87%	39.06%	39.93%

Actual Debt and the Capital Financing Requirement (CFR) – excluding Other Long Term Liabilities

	Year End	Qtr 2	Estimate	Estimate	Estimate	Estimate
	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
	£'000	£'000	£'000	£'000	£'000	£'000
Total External debt at start of year	365,549	424,761	496,371	571,834	596,532	631,210
Expected/Actual change in debt	59,212	71,611	75,463	24,698	34,678	21,347
Actual/Estimate gross debt at 31 March	424,761	496,371	571,834	596,532	631,210	652,556
The Capital Financing Requirement	477,448	550,670	629,433	669,662	693,075	712,137
(Under)/Over borrowing	(52,688)	(54,299)	(57,599)	(73,131)	(61,865)	(59,581)

Authorised Limit for External Debt

	Year End	Qtr 2	Estimate	Estimate	Estimate	Estimate
	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
	£'000	£'000	£'000	£'000	£'000	£'000
Borrowing	519,000	602,000	677,000	735,000	738,000	749,000
Other long term liabilities	34,000	33,000	31,000	30,000	28,000	26,000
Total	553,000	635,000	708,000	765,000	766,000	775,000

Operational Boundary for External Debt

	Year End	Qtr 2	Estimate	Estimate	Estimate	Estimate
	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
	£'000	£'000	£'000	£'000	£'000	£'000
Borrowing	477,448	550,670	629,433	669,662	693,075	712,137
Other long term liabilities	33,775	32,209	30,682	29,099	27,240	25,143
Total	511,224	582,879	660,115	698,761	720,314	737,281



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REPORT TO: East Lothian Council
MEETING DATE: 13 December 2022
BY: Chief Executive
SUBJECT: Corporate Risk Register 2022-23

5

1 PURPOSE

- 1.1 The Corporate Risk Register was last reported to Council in March 2022 as well as being reported to both Cabinet and Audit & Governance Committee in June 2022. Within the context of developing international, national and local risks impacting on delivery of Council services and local communities, the Corporate Risk Register, although live, is being reported to Council given the continued substantial levels of heightened risk. The Special Meeting of East Lothian Council on 22 November 2002 highlighted the significant economic factors driving increased financial pressures and risks for the Council, and these have been incorporated into the relevant risks across the Corporate Risk Register. Any further risk developments impacting on the Council in the period from 28 November 2022, will be reported verbally at Council in presentation of this report.

2 RECOMMENDATIONS

- 2.1 It is recommended that Council approves the Corporate Risk Register and in doing so, the Council is asked to approve that:
- The Corporate Risk Register is maintained as a 'live' document which will be reviewed by the Council Management Team (CMT), the newly established CMT sub-group on Risk Management, Service Management teams (SMT), risk owners and the Corporate Risk Management Group on a regular basis and reported back to Council as and when required;
 - agree that the relevant risks have been identified;
 - agree that the significance of each risk is appropriate to the current nature of the risk;

- agree that the total profile of corporate risk can be borne by the Council at this time in relation to the Council's appetite for risk but in the context of the planned mitigations; and,
- recognise that, although while Corporate Risks require close monitoring and scrutiny over the next year, many are long term risks for the Council that are likely to be a feature of the risk register over a number of years.

3 BACKGROUND

- 3.1 In keeping with the Council's Risk Management Strategy and reflecting upon the concurrent and constantly changing nature of risks managed by the Council, the Corporate Risk Register, although live, is being reported to Council given the continued substantial levels of heightened risk. The Corporate Risk Register takes into account the international, national and local risk factors impacting on the delivery of Council services and is also informed by the impacts of business continuity arrangements currently deployed in some services across Council.
- 3.2 The 2022-23 Corporate Risk Register as at 28 November 2022, currently includes 7 Very High Risks, 6 High Risks, 6 Medium Risks and 1 Low Risk.
- 3.3 CMT have assembled a sub-group on Risk Management which meets on a bi-monthly basis to monitor and drive Risk Management council-wide and to review the Corporate Risk Register. This group includes the Executive Directors and ensures that Risk is given prominence by CMT.
- 3.4 The Scottish Government refreshed and published an updated COVID-19 Strategic Framework on 22 February 2022. This update brought to an end Scotland's legal COVID-19 restrictions on 21 March 2022. The vaccine passport scheme ended on 28 February 2022. The new Strategic Framework places more reliance on deployment of vaccines, treatments and good public health behaviours, dealing with COVID-19 in an endemic state.
- 3.5 Risk CR1 on 'Managing the Financial Environment' now has an increased risk score, rising from 20 to 25 (this is the highest risk scoring the Council has reported hitherto), due to the very significant external pressures the Council is facing, including rising utility and energy costs, rising inflation across many of our contracts and supply chains, interest rate rises, significant increased cost of borrowing and consequences of national pay awards. Greater detail on these changed financial pressures were presented at Special Council on 22 November 2022 and have been further reported earlier in the agenda today.
- 3.6 Risk CR2 on Homelessness has moved from the Service Risk Register to Corporate and the risk scores have been increased from 16 to 20 due to the increasing homelessness and housing demand pressures being faced within the County: pressures which have been raised at Ministerial level within Scottish Government.
- 3.7 Risk CR3, the Impact of the National Care Service on East Lothian Council, also has an increased target risk score following mitigation, rising from 16 to 20, due

to the uncertainty around the actions the Council can take to mitigate the risks arising from this national policy direction.

- 3.8 A new risk CR4, with a current score of 20 before mitigations, on Cost of Living Pressures and Economic Volatility, has been created by amalgamating previous risks on Rising Energy Costs, Brexit and Supply/Cost of Materials.
- 3.9 A new risk CR5, with a current score of 20 before mitigations, on Workforce Challenges, has been created by amalgamating previous risks on Staffing Issues, Failure to Maintain a Highly Skilled Workforce and Duty of Care to Council Staff and Public (Health & Safety).
- 3.10 A new risk CR11, with a current risk score of 12 before mitigations, on Communicable Disease Outbreaks of Public Health Significance, has been created to replace the previous risk which focussed predominantly on COVID-19 related risks and now carries a wider risk horizon scan in respect of communicable disease public health risks.
- 3.11 A previous Corporate Risk on Duty of Care to Public and Public Protection has now been split into separate risks, on Public Protection – Risk of Harm (CR12) and Duty of Care to Public (CR13).
- 3.12 The Council remains in emergency response with business continuity plans invoked within eight Council services at the time of this report which are Facilities, Estates, Customer Services, Legal, Housing, Waste, Finance and Children’s Services. These services’ Business Continuity Plans are invoked predominantly in response to staffing pressure arising from a very challenging employment market and limited volume and calibre of response to recruitment campaigns. Activation of Business Continuity Plans for these services results in the available staffing resource being deployed to deliver ‘business critical’ activities as priority.
- 3.13 Council can be reassured that CMT, it’s Sub-Group, the Corporate Risk Management Group and it’s Linking Risks Sub-Group, continue to closely monitor all Corporate Risks. Informed by global and national risks, via the annual Global Risk Report produced by the World Economic Forum in January each year, and by the Scottish Government’s National Risk Assessment (NRA) produced annually, every effort is made to ensure that the Corporate Risk Register reflects current and future risks with appropriate mitigations in place.
- 3.14 Scottish Government are currently running a series of National Risk Assessment workshops to cover the topics of Extreme Weather, Flooding, Drought, and Food Supply and Health & National Electricity Transmission System (NETS). The resultant NRA will inform subsequent updates to the Council’s Corporate Risk Register.
- 3.15 The Council’s Corporate Risk Strategy is reviewed annually and will next be reported to Cabinet on 14 March 2023.

4 POLICY IMPLICATIONS

- 4.1 In approving 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 –The financial impact of the associated risks and measures remain under close monitoring and review. Any unplanned and unbudgeted costs that arise in relation to any of the corporate risks identified will be subject to review by the Council Management Team, and if required will be reported to Council.
- 6.2 Personnel – There are no immediate implications impacting on the administration and oversight of the Corporate Risk Strategy and Framework.
- 6.3 Other – Effective implementation of this register will require the support and commitment of the risk owners identified within the register.

7 BACKGROUND PAPERS

- 7.1 Appendix 1 – Corporate Risk Register 2022-23

AUTHOR'S NAME	Scott Kennedy
DESIGNATION	Emergency Planning, Risk and Resilience Officer
CONTACT INFO	skennedy@eastlothian.gov.uk 01620 827900
DATE	28 November 2022

Risk Ref.	Risk Category	Risk Description	Existing Risk Control Measures	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			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 1	Financial Service Objectives	<p>Managing the Financial Environment</p> <p>The Council is operating in an increasingly complex financial environment.</p> <p>The Scottish Government published its medium term Resource Spending Review (RSR) in May 2022. Whilst the Council has yet to receive future national funding settlements, the RSR set out a very challenging future landscape for local government (and this Council) in the medium term. Since its publication the external operating environment has significantly worsened, and it remains highly likely that there will remain on-going pressures on public finances, and national funding settlements will not be able to meet on-on-going expenditure commitments. This is further augmented by the recent Chancellor's Autumn Budget Statement that indicated continued and on-going pressure on public service budgets.</p> <p>At the same time the Council continues to face significant cost and demand pressures. Many of these pressures are driven by the external operating environment, with details set out below:</p> <ul style="list-style-type: none"> Rising utility costs, with more details set out in risk CR4; Growing inflationary pressures causing increases to the cost of goods and services, contractual commitments (for index linked contracts in particular), and commissioned contract services; Meeting the total costs of public sector pay awards; Increased demand for council services arising from external factors including the Ukraine war and cost of living crisis, and recovery from the pandemic; Reducing levels of core national funding relative to demand, with an increased proportion of overall funding being allocated to specific or new policy objectives. Short term funding settlements which create significant uncertainty and impede robust medium term financial planning; Supporting the resource requirements associated with the delivery of the growth agenda resulting from the Local Development Plan, in particularly the revenue consequences associated with growth; Associated demographic change and social-economic pressures; Potential financial costs associated with a wide range of new obligations or legislative changes. 	<p>The Council has well developed medium term financial planning arrangements, which have recently been updated as part of the recent review of budget development framework.</p> <p>The Council annually refreshes the Financial Strategy, Capital Strategy and Treasury Management Strategy to take cognisance of any new / emerging financial risks. These documents support the medium term financial planning for the organisation.</p> <p>The Financial Strategy 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 Council has a wide range of on-going cost control and financial management arrangements to manage in year budget performance and delivery of planned efficiencies. This includes regular management information to CMT and wider Council 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>This year, given the scale of the escalating levels of financial risk and pressures, the Council has put in place an enhanced range of urgent cost control measures aimed at mitigating and limiting the scale of these rising costs. These include:</p> <ul style="list-style-type: none"> Delivering service commitments within approved budget levels, including preserving existing underspends and supporting cost recovery actions; Prioritise recruitment to roles in business critical risk areas; Enhanced review of reserves; Explore opportunities to apply 'flexibilities' within existing national funding streams; Enhanced review of all capital projects and exploring opportunities to pause non committed spend projects; Enhanced review of council assets to minimise energy and maintenance costs, including options to temporarily mothball buildings, and where possible bring forward capital receipts' Maintain temperature in all public buildings at a maximum of 18 degrees where possible; Introduce energy champions in all public buildings and explore the option of community champions. 	5	5	25	<p>Enhanced in year monitoring and review of expenditure commitments against approved budgets, including progress against cost mitigation measures.</p> <p>Progress discussions to explore wider flexibilities on existing national funding streams with a view to mitigating the recurring costs associated with the 'unfunded' national pay award.</p> <p>Progress discussions to explore all wider national fiscal flexibilities to support options which deliver a sustainable net benefit to the revenue account.</p> <p>Support national discussions through CIPFA Directors of Finance aligned to ensuring the on-going financial sustainability of local government.</p> <p>Develop a refreshed Financial and Capital Strategy, and supported by an updated Treasury Management and Investment Strategy to inform future decisions and sustainable financial plans, and ensure borrowing levels can be managed in affordable limits.</p> <p>Accelerate the delivery of an enhanced Transformational Programme aligned to the approved budget development principles, which will support the further transformation of services and deliver and enhanced programme of efficiencies.</p> <p>Develop a refreshed charging policy.</p> <p>Work with CMT and elected members to develop budget savings proposals and income generation opportunities to be implemented in line with the principles of the budget development framework.</p>	5	4	20	<p>Actions ongoing and under continuous review while monitoring arrangements will continue to be applied.</p>	<p>Risk refreshed November 2022 by CMT Sub-Group on Corporate Risks with current score increased from 20 to 25 and residual from 16 to 20 due to the current climate.</p> <p>Risk reviewed by Head of Finance, March 2022 with no change to assessment of scores.</p> <p>Risk reviewed by Executive Director of Council Resources December 2021 with no change to assessment of scores.</p>

Risk Ref.	Risk Category	Risk Description	Existing Risk Control Measures	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Timescale for Completion / Review Frequency	Evidence held of Regular Review
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				L	I	L x I		L	I	L x I		
		<ul style="list-style-type: none"> Enhanced risks relating to receipt of S75 contributions arising from wider economic risks which will impact on capital and revenue financial planning. Rising interest rates resulting in increased capital financing costs which will present a risk to the sustainability of the capital programme. Proposed capital accounting review, with potentially significant financial impact, albeit this has been delayed by 12 months. <p>External market pressures are also impacting on investments managed on behalf of the Common Good and Trust Funds. These investments are currently managed by an external investment firm.</p> <p>Given the enhanced range of financial pressures, wider risks and challenges, there remains a significant risk that the Council will not be able to support and meet these collective pressures alongside delivering policy and legislative obligations within current available resources.</p>	<p>The report also agreed that the Council Leader write to UK and Scottish Government setting out the scale of financial challenges and urgent review on how local government is funded.</p> <p>Furthermore, it has been agreed that given the significance, quarterly financial reviews will now reported formally to Council rather than Cabinet for wider scrutiny setting out the in-year financial performance against approved budgets.</p> <p>The recent budget development review reported to Council in March 2022 and June 2022, supported a number of key principles to guide a sustainable financial strategy. This included; the establishment of a cross party budget working group which is now in operation; a commitment to minimise the use of on-off reserves to balance the budget and that reserves should be used in principle to support on-going cost reductions; and an expanded remit / use of some previous earmarked reserves.</p> <p>Officers continue to engage in national discussions with COSLA, wider professional bodies such as CIPFA Directors of Finance and also wider professional commentators, and professional advisers.</p> <p>Regular engagement with the external investment advisers in relation to the financial stewardship of the Common Good and Trust Funds, to identify any significant decrease in the value of investments.</p> <p>On-going engagement with Treasury advisers. Annual treasury indicators approved as part of Treasury Strategy and mid-year review against indicators reported through political governance structures of A&G Committee.</p>									
ELC CR 2	<p>Impact on Service Objectives</p> <p>Financial</p> <p>Legal</p>	<p>Homelessness</p> <p>New policy approach rapid rehousing requires the Council to transform homelessness services, place people quickly into permanent accommodation, negating the use of temporary accommodation and requiring a significant reduction in temporary accommodation stock. Resource allocation is likely to be insufficient for service transformation and the approach could result in an inability to accommodate those in need, forcing use of non-contracted B&Bs / B&Bs out-with county.</p> <p>Scottish Government require the implementation of a Housing First approach as a key priority, although no funding is available for ongoing revenue costs.</p> <p>Legislative change regarding local connection which comes into force on 29th November will require the Council to accept rehousing responsibility for additional homeless cases and changes to discretion around intentionality and change in focus to deliberate manipulation of the system will place additional pressure on the Council in respect of accepting intentionally homeless cases and associated accommodation duties.</p>	<p>Housing Options preventative approach to provision of advice.</p> <p>Continued monitoring of RSL nomination process (new build and routine turnover).</p> <p>Allocation Policy reduced number of offers for each Homeless applicant to 1, to encourage quicker throughput in temporary accommodation.</p> <p>Cabinet approved recommended actions to address pressures relating to a lack of affordable housing supply and address homelessness pressures through delivery of an agreed action plan.</p> <p>Cabinet approval of allocations targets to general needs / homeless applicants. Performance to targets kept under ongoing review. Cabinet approval of Allocations Policy Review.</p> <p>Open Market Acquisitions increase supply prioritising the western part of the county, where demand is highest.</p>	5	4	20	<p>Further iteration of Rapid Rehousing Transition Plan (RRTP) drafted Autumn 2022, with a clear plan to transform homelessness services by 2024 and kept under regular review in context of resource allocation and changing legislation.</p> <p>Continue new build activity to increase housing stock, exploring potential to further increase supply within context of the growth agenda.</p> <p>Significant growth in mid-market rent properties coming forward.</p> <p>Housing Options Training Toolkit to be rolled out during 2022/23, to improve homelessness prevention and complement new Prevention Duty anticipated late 2021.</p> <p>Exploration of flat share / hosting models and shared tenancies ongoing, which could potentially make better use of existing stock.</p>	5	4	20	<p>November 2022</p> <p>March 2024</p> <p>March 2024</p> <p>June 2023</p> <p>March 2023</p>	<p>Decision to move risk H1 to Corporate Risk Register following update by Service Manager – Comm Housing & Homelessness October 2022 with residual score increased from 16 to 20.</p> <p>Risk updated by Service Manager - Comm Housing & Homelessness August 2022 with no changes to risk scores.</p>

Risk Ref.	Risk Category	Risk Description	Existing Risk Control Measures	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Timescale for Completion / Review Frequency	Evidence held of Regular Review
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				L	I	L x I		L	I	L x I		
		<p>Continued levels of low turnover results in limited lets available and longer average time spent in temporary accommodation. Scottish Housing Regulator has noted this.</p> <p>There is a higher financial cost burden for the general services budget due to additional demand for temporary accommodation, which is likely to increase further in light of anticipated legislative change.</p> <p>Ongoing breaches of the Unsuitable Accommodation Order due to a shortage of 'suitable' temporary accommodation, with extension of the Order commencing October 2021 and subsequent daily breaches.</p> <p>Enforceable temporary accommodation standards framework to be implemented from 2021/22 which further reduces the existing portfolio of 'suitable' accommodation.</p> <p>Proposed changes to Homelessness Code of Guidance / new prevention duty pose further risk to existing practice / Homelessness Operations Policy. Implementation will result in increased referrals and a percentage increase in homeless assessments.</p> <p>Reduced supply of private lets due to landlords' ongoing concerns re new Private Residential Tenancy, legislative change (energy efficiency and repairing standard), welfare reform impacts and cost of living increase.</p> <p>Requirement to prioritise sisted eviction cases upon opening of Sheriff Court.</p> <p>Potential increase in service demand due to poverty and relationship breakdown associated with cost of living crisis.</p> <p>Uncertainty over future funding of supported housing (DWP) and proposed changes in respect of restructuring the financing of temporary accommodation.</p> <p>A focus is required on migrant homelessness and destitution in 2022/23, an area of complexity subject to limited Scottish Government flexibility.</p> <p>The Scottish Government aim to pursue a right to adequate housing through a Human Rights Bill, which will pose additional homelessness / supply pressures.</p> <p>Legislative change is likely to increase demand on homelessness services and corresponding duties to accommodate, meaning increased spend.</p> <p>A recent ruling in the Court of Session (April 2022) has ruled that local authorities are under an absolute duty to provide suitable temporary accommodation even where it has none available within its existing resources.</p> <p>There is increasing homelessness and housing demand pressure arising from the Ukrainian refugee schemes with host arrangements breaking down early and ongoing</p>	<p>Housing First protocol in place and placements ongoing.</p> <p>Significant work complete re policies and procedures to increase flow through the rent deposit scheme.</p> <p>Audit of existing accommodation undertaken in advance of extension to unsuitable accommodation order.</p> <p>Refreshed performance monitoring framework in place to enable improved ongoing monitoring of key aspects of service.</p> <p>Fortnightly monitoring of voids performance to ensure turnaround times are kept to a minimum.</p> <p>The Council Leader has written to the Minister noting the challenges around meeting our ambitions to deliver on our RRTP as a result of both recent and planned legislative changes, the impact of Ukraine and other Resettlement schemes and the risk that if interventions don't happen timeously the adverse impacts on our local housing system are significant.</p>				<p>Revised Homelessness Operations Policy to be put in place, alongside comprehensive review of existing policies and procedures, to ensure service is operating efficiently and effectively.</p> <p>Improved partnership working with existing partners and neighbouring authorities could potentially result in new ways of working and economies of scale.</p> <p>New approach to spend to save, utilising RRTP resource allocation could result in cost savings re B&B spend.</p> <p>Continue to engage with the Scottish Government to review and monitor the impact of legislative changes and Resettlement Schemes are having on meeting RRTP ambitions to ensure any adverse impacts are addressed quickly.</p> <p>Significant work to improve void timescales could assist with improved flow through temporary / permanent accommodation.</p> <p>Consideration of business case/options appraisal in respect of alternative forms of accommodation in response to forthcoming legislative change.</p> <p>Procurement underway re revised contract for temporary accommodation, to enable appropriate stock of suitable accommodation</p> <p>Ongoing review to convert tenancies to enable RRTP targets re reduction in temporary accommodation to be met.</p> <p>Increased focus on homelessness prevention for vulnerable groups, via transformation of Prevention / Response Teams.</p>				<p>March 2023</p> <p>March 2023</p> <p>March 2023</p> <p>March 2023</p> <p>March 2023</p> <p>June 2023</p> <p>December 2022</p> <p>March 2023</p> <p>March 2023</p>	<p>Risk considered June 2021 by Team Manager Housing Options, Head of Service and Service Manager with no change to assessment of risk scores.</p> <p>Risk refreshed February 2016 - current risk score increased from 16 to 20 and residual score increased from 12 to 16.</p>

Risk Ref.	Risk Category	Risk Description	Existing Risk Control Measures	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Timescale for Completion / Review Frequency	Evidence held of Regular Review
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				L	I	L x I		L	I	L x I		
		pressure from a range of sources to carry out homeless assessments with associated temporary accommodation and ultimately permanent accommodation duties. These demands are likely to increase with further UK and Scottish Government commitments in respect of other humanitarian schemes including but not limited to the existing Afghan schemes and the forthcoming changes around the new asylum seeker dispersal scheme. The immediacy and fast paced change of the Ukraine crisis has required a refocus in priorities away from homelessness to Ukraine and this remains ongoing, requiring business continuity measures within the Housing Options Team. Diverted resources from across the wider housing service have resulted in service strain elsewhere including the Housing Options Team and Community Housing. The focus on Ukraine has resulted in an inability to prepare an updated RRTP in June 2022 with delays ongoing.	New team in place in response to Ukrainian refugee situation from October 2022.				Team being strengthened and consolidated with the recruitment of full-time resettlement and tenancy support staff to allow 'borrowed' staff to resume to substantive duties				March 2023	
ELC CR 3	Financial Service Objectives Legal & Regulatory	<p>The Impact of the National Care Service on East Lothian Council</p> <p>The Scottish Government proposal to establish a National Care Service, which could extend to all adult social work and social care services, children's services, justice social work services will result in the largest re-organisation of local government since the creation of single tier local authorities in 1995/96.</p> <p>The council's concerns at the risk involved in this proposal were detailed in the Council's response to the Scottish Government's consultation on its proposals (report to Members Library, November 2021). These include the following:</p> <ul style="list-style-type: none"> The creation of a new national body will require significant resourcing and will lead to years of uncertainty and anxiety within the workforce, with no evidence that this singular structure and model will necessarily deliver better outcomes for people who use services. There are significant questions about how the National Care Service will be funded and the resulting impact on local government finance, and support services. There are very significant risks in breaking up the existing 'whole system approach' that is provided through social work and social care being part of local government. The centralisation of responsibility and services under a NCS risks removing the local approach to service planning and delivery which is critically required to deliver a holistic approach to providing "care" that must be seen within the context of housing, education, and community services. The Council is progressing a major Transforming Children's Service programme that will have fundamental implications for how we deliver services for vulnerable families and children. This will be impacted by the uncertainty created by the proposal to include Children's Services within the scope of the NCS 	<p>The council provided a detailed and comprehensive response to the Scottish Government's consultation on its proposals, outlining the concerns and risks involved in the creation of a National Care Service (report to Members Library, November 2021).</p> <p>Council officers will actively engage in National Professional networks and feedback any relevant information to the working group.</p> <p>CMT will continue to monitor the development of the proposal and report as appropriate to the Council.</p> <p>Council agreed to delegate authority to the Exec Dir of E&CS to respond to consultation exercises, and submit evidence, in respect to the Scottish Government's proposal for a National Care Service for Scotland and the National Care Service (Scotland) Bill.</p>	5	4	20	The Council has established a working group that will consider the scope and impact that the NCS may have on Council Services. The working group will also monitor ongoing developments and respond to any request for information and engage in the consultation.	5	4	20	In line with Scottish Government decisions	<p>Risk reviewed August 2022 by Head of Children's Services with no changes to risk scores.</p> <p>Risk reviewed July 2022 by Executive Director - Education & Children's Services and Head of Children's Services with the residual score increased from 16 to 20 due to the uncertainty around what the Council can do to treat the risk.</p> <p>Risk reviewed May 2022 with no amendments made.</p> <p>New Corporate Risk created March 2022 by Head of Children's Service, also to replace risk on Public Sector Reform.</p>

Risk Ref.	Risk Category	Risk Description	Existing Risk Control Measures	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			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		
		<ul style="list-style-type: none"> The proposals have significant implications for large parts of the council's workforce, including the future employee status of staff working in social work and whether they would be TUPE transferred to the National Care Service. <p>The National Care Service (Scotland) Bill has been published as at 22nd June 2022. The Bill sets out principles for the NCS and places a duty on Scottish Ministers to promote a Care Service designed to secure improvements in the wellbeing of the people of Scotland. The full scope of the NCS is still to be determined, although, the inclusion of Adult Social Work and Social Care must be assumed. There will be a period of formal research and consultation to inform the decision about the inclusion of Children and Justice Social Work Services. The Bill states that the NCS will be up and running by 2026.</p> <p>The potential for elements of the proposed changes to lead to improved outcomes for vulnerable people is acknowledged. However, the unintended consequences of the changes on how effectively and efficiently the council can continue to meet its statutory obligations to its citizens is a risk.</p>										
ELC CR 4	Financial Service Objectives Legal & Regulatory	<p>Cost of Living Pressures and Economic Volatility</p> <p>Construction Materials Supply Chain The construction materials market is currently volatile due to a number of factors including Brexit, the war in Ukraine and the Pandemic impact upon the production and supply chain. Current market uplift percentage is in the region of 15% - 20%. Moving forward we predict a quarterly uplift of 5 % over the next year. Current challenges include:</p> <ul style="list-style-type: none"> Significant / unexpected upturn in worldwide workload Covid-19 recovery & logistical constraints Supply from the European Union Hedging and bulk ordering Increase in cost of raw materials – due to Covid-19, post-Brexit trading rules and rising oil prices Shortage of drivers of Heavy Goods Vehicles The war in Ukraine and reduction in manufacturing <p>These challenges have had significant impacts on construction, including:</p> <ul style="list-style-type: none"> Massive increase in demand is resulting in shortages on key products and placing strain on labour availability. During the pandemic manufacturing facilities were closed and the world's distribution network was impacted and is still recovering. Although there is now a trade agreement, the borders and customs processes add administration, time and cost. Materials suppliers, main contractors and major UK projects (e.g. HS2) have stockpiled or bulk secured manufacturing and supply slots. High percentage increases in the cost of particular materials e.g. copper, steel, timber, concrete. 	<p>Regular discussions with current suppliers around market conditions, and alternative specifications / materials.</p> <p>Close engagement and monitoring of national frameworks and conditions through Scotland Excel.</p> <p>Prioritisation – deciding which works are essential, balancing time, cost and risk, possibly delaying works until the market settles.</p> <p>Planning – assessing project programmes and possible procurement options</p> <p>Reporting – providing information to funding bodies, Council management and other services</p> <p>Monitoring – Continuing to liaise with industry bodies, working groups, other local authorities, the Scottish Government, suppliers and contractors to keep the Council informed.</p> <p>The Council is aiming to pre-order and provide enhanced stock management on certain materials where appropriate.</p> <p>Regular discussions are taking place on the Capital and Revenue Investment Plans.</p> <p>Continue to apply BCIS increases, monitor acceptance of offers and continue to maintain dialogues with framework contractors.</p>	5	4	20	<p>Enhanced value engineering and prioritisation of specification and design parameters.</p> <p>Reviewing the opportunity to phase planned works rather than deliver wholesale projects.</p> <p>Consideration to delaying capital and revenue projects where appropriate and possible.</p> <p>Enhanced partnership working with HUB and major suppliers to enable pre ordering and project budget caps to be set - whilst this carries risk of increased front loaded costs used correctly it can cap risk and enable controlled project delivery.</p> <p>Consideration of enhanced contract payments to transfer risk to the private sector – by paying upfront to cap project risks of escalating costs from Covid and material increases project caps can be set to limit overall risk to the Council.</p> <p>Wider review of approved Capital Plan and prioritisation – to ensure programme remains affordable and focussed on critical priorities.</p> <p>Enhanced contract management processes to drive efficiency and value.</p>	4	4	16	<p>The risk and all planned measures are reviewed / progressed on a weekly basis.</p> <p>All actions ongoing and dependant on decisions taken by UK Government</p>	<p>New risk created by Executive Director – Place, November 2022 by combining elements of previous risks on Rising Energy Costs, Brexit and Supply/Cost of Materials.</p>

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		<ul style="list-style-type: none"> The lead-in times for delivery of materials have increased. Shortages in components e.g. for mechanical, electrical and IT. In particular networking and specialised IT equipment which can now take up to 42 weeks to be delivered. The war has impacted on Ukrainian steel production <p>The main impacts are live project delays, delays to future projects, cost increases, contractors unable to submit fixed-price Tenders, higher risks for Contractors.</p> <p>The risks apply to capital and revenue-funded works for</p> <ul style="list-style-type: none"> Property Roads Housebuilding generally Affordable housing programme Voids and relets Maintenance and lifecycle works in the operational / non-operational and learning estate and PPP Project. Maintenance and repairs Domestic compliance programmes Energy efficiency programmes Regeneration projects (including grant funded and delivered by others/communities) The majority of all other procurement related purchasing is being impacted <p>Risks have both financial and programme implications.</p> <p>Higher material and labour costs are not necessarily being reflected in the building cost indices (BCIS) used to vary building framework prices in line with Procurement rules. This could result in ranked framework contractors declining offers of work.</p>	<p>Continue further engagement with Scottish Government, Government Agencies and Professional bodies.</p> <p>The Finance Service are focusing on enhanced financial monitoring during 2022-23 to identify emerging issues that cannot be contained within approved budget levels and consider where necessary any wider financial interventions. The on-going impact will be considered as part of future budget planning.</p> <p>National Suppliers and Partner Providers working group established through COSLA to consider impact of inflationary and market pressures.</p>									
		<p>Brexit / Labour Market Impacts & Replacement EU Funding</p> <p>The end of European funding streams places service provision (business support and employability) at risk.</p> <p>The labour market post-Brexit presents substantial challenge in terms of labour availability. This is particularly evident across key sectors:</p> <ul style="list-style-type: none"> Tourism & Hospitality Farming & Agriculture Facilities Management Care Transportation 	<p>UK Government have established the shared Prosperity Fund prospectus to replace previous EU funding arrangements. The council approved a Local Implementation Plan (LIP) for year 1 investment arrangements and awaits UK Government response.</p> <p>The Connected Economy Group (CEG) continues to take a partnership approach to assessment of Brexit related impacts providing connected support and advice to business and ensuring as far as possible aligned collegiate understanding in a continually challenging and dynamic environment. Employability partners including Skills Development Scotland (SDS) and DWP are working in partnership with East Lothian Works and employers to address challenges.</p>				Work is ongoing to further develop the LIP submission to UK Government for years 2 & 3 and collaboratively for regional interventions particularly in year 3. This work is being undertaken locally including with the Third Sector alongside work that is being undertaken regionally through the Edinburgh & South East City Region Deal and the development of the Regional Prosperity Framework					
		<p>Rising Energy Costs</p> <p>Volatility in energy markets will result in significantly higher energy costs for the foreseeable future. Increasing rates will impact on the cost to operate buildings, street lighting provision, third party users of services, electric vehicle charging rates etc.</p>	<p>Electricity, gas and oil is procured through Scottish Procurement. The rates for 2022/2023 will rise significantly however Scottish Procurements purchasing strategy provided some protection throughout the volatility.</p>				Community Windpower has made a £1m donation to East Lothian to support people with energy costs and the cost of living over the winter. The Council is a 'trusted partner' of the scheme being run through Advice Direct and can submit applications					

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		<p>Rising energy costs will indirectly impact the cost of other goods and services e.g. materials, consumables, transportation.</p> <p>There is a risk that electricity, gas, and unregulated fuels (heating oil, LPG, and biomass etc.) rates could increase further in 2023/24.</p>	<p>The Council's Energy Transformation Board seeks to improve energy efficiency and energy supply from renewable sources reducing reliance on fossil fuels.</p> <p>Additional budgetary provision was included within the 2022-23 budget based on assumptions at that time. The Finance Service are focusing on enhanced financial monitoring during 2022-23 to identify emerging issues that cannot be contained within approved budget levels and consider where necessary any wider financial interventions including the potential use of reserves. The on-going impact will be considered as part of future budget planning.</p> <p>Engagement through professional networks to support national discussions on wider market conditions and supporting interventions.</p> <p>Energy controls and thermostats are being used to reduce temperatures across the estate monitored to weather patterns and the Asset team are mothballing and reducing property use and portfolio where possible.</p> <p>The UK Government has introduced temporary arrangements to place price caps on energy supply costs for consumers and introduced and the Energy Bill Relief Scheme for businesses, although these remain under review.</p>				<p>on behalf of clients who are in receipt of benefits or are otherwise in financial hardship. The scheme which will pay up to £1,200 per household.</p> <p>Energy Transformation Project Board are to appoint a partner to advance market development of solar, wind, gas hybrid and hydrogen opportunities.</p>					
		<p>Increased Financial Hardship</p> <p>The financial implications from COVID and subsequent concurrent economic volatility has continued to impact on the financial position of local business, local households and the Council</p> <p>Low income households spend a larger proportion than average on energy, food and interest payments and will therefore be relatively more affected by increases in prices.</p> <p>Businesses are being significantly impacted by cost base rises including energy costs, and staff shortages (often attributed to EU exit), putting pressure on margins and viability, as well as pushing up the prices charged to consumers and the availability of some goods and services.</p> <p>These factors continue to increase pressure on Council services in respect of welfare / poverty, employability, and business support.</p>	<p>Support for Residents</p> <p>Some welfare benefits have changed in response to this in order to help alleviate financial hardship, and some additional national funding has been made available to support those in need.</p> <p>All teams are continuing to provide support and advice for EL residents and businesses struggling financially at this time and are continuing to encourage those who can continue to pay to do so.</p> <p>Self-Isolation Support Grants via Scottish Welfare Fund framework.</p> <p>The Revenues Service has developed a new leaflet 'Helping with the cost of living crisis', which is being widely publicised by all Revenues teams and other Council services to make sure that details of the help and support available is well communicated to local residents.</p> <p>The council's 2022/23 budget includes £758,500 from the Local Authority Economic Recovery Fund to provide support to low income households. This has been allocated as follows:</p> <ul style="list-style-type: none"> £420k to Scottish Welfare Fund to make additional 'cash' payments to people in financial hardship £90k to Children's Services to make cash payments to families and Looked After young people in financial hardship 				<p>The Council is continuing to promote the 'Boost Your income' campaign.</p> <p>East Lothian Poverty Plan – Action Plan Update is in progress for submission to Members Library Service.</p>					

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			<ul style="list-style-type: none"> £75k to H&SCP to make cash payments to vulnerable adult clients in financial hardship £18k to fund a Benefits Awareness and Take Up campaign in September and early October and additional print run of Cost of Living leaflet £27k to Fareshare Hub £30k to EL Foodbank £55k to support food initiatives provide hot meals over the winter £30k remains to be allocated <p>Community Windpower has made a £1m donation to East Lothian to support people with energy costs and the cost of living over the winter.</p> <p>Support for Businesses The Connected Economy Group (CEG) continues to take a partnership approach to assessment and monitoring of energy related costs to business and makes representation to UK and Scottish Governments in the context of temporary and medium term mitigation measures as well as providing connected support and advice to business and ensuring as far as possible aligned collegiate understanding in a continually challenging and dynamic environment.</p> <p>Scottish Government announced additional funding of £1.517m to support business recovery and low income households, the Local Authority COVID Economic Recovery Fund (LACER). This funding was identified in the Council's budget for 2022/23 and will be split equally between the two objectives. Proposed interventions to support business recovery were reported to and approved by, the March Council. Support for businesses includes start-up grants, expert help consultancy, support for employment, and direct grants to support sustainability and growth.</p> <p>The Council's COVID Business Recovery funding continues to support local businesses through additional expert help provision as well as via direct grant aid.</p>									
		<p>Recovery and Renewal</p> <p>Without a Recovery & Renewal Plan in place our economy and County could fail to thrive following the impacts of COVID-19.</p>	<p>The East Lothian Recovery & Renewal Plan (approved by Council 16 November'21) sets out 8 priority key priority areas, direct supporting actions and an articulation of when recovery will have occurred and the plan worked. The plan will remain dynamic and flexible and will be kept under constant review.</p> <p>The recovery and Renewal Plan is being overseen by the East Lothian Partnership and a reporting framework through the Strategic Partnerships and the ELP Governance Group has been developed.</p> <p>The Council has had to adapt its delivery of services beyond the COVID pandemic and now subsequent concurrent challenges including the cost of living crisis and ensuing economic volatility. The Recovery</p>				<p>The Council continues to deliver LACER intervention supports.</p>					
							<p>Ongoing monitoring of the EL Recovery and Renewal Plan/Action Plan with production of ongoing performance and progress reports.</p>					

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			<p>Renewal Plan interventions remain valid and under constant review. ELC will continue to lead recovery supported by our partner agencies context of the Civil Contingencies Act 2004.</p> <p>The new ELC Plan approved at Council in June 2022 embeds the COVID Recovery and Renewal Plan actions.</p>									
ELC CR 5	Capacity	<p>Workforce Challenges</p> <p>Maintaining a stable and skilled workforce is essential to efficient, effective and safe delivery of services.</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 e.g. operating below required regulatory standards, potential harm to employees and / or the public, and reputational damage.</p> <p>Pressures in the recruitment market are compounded by reductions in staff attendance due to sickness absence, maternity leave and annual leave – placing additional pressure on the remaining ‘at work’ workforce. Post-COVID-19 response, some of the Council’s workforce are ‘drained’, experiencing mental health issues, lowered resilience and fatigue, many with a backlog of leave entitlement to be taken due to the inability to take full leave entitlement during COVID-19 response.</p> <p>The recruitment market is challenging due to low levels of unemployment locally, exacerbated by Brexit related workforce supply issues within key sectors e.g. Facilities Management and Hospitality.</p> <p>The Council’s salary and grading structure for the Local Government Employee Group may not be competitive compared to other employers making it more difficult to recruit qualified staff to a wide range of posts. Attractive employment opportunities in other sectors risks staff migrating out of Council service into less stressful, often better paid, employment, where terms and conditions of employment can be negotiated.</p> <p>These pressures have resulted in a reduced ability to provide the full range of services to the public and impact on the Council’s ability to provide internal support services e.g. Legal services. Reflecting these workforce risks, the following services are currently operating under Business Continuity Plans:</p> <ul style="list-style-type: none"> • Facilities Management • Estates • Contact Centre • Children’s Services • HR & Payroll • Waste Services • Housing • Finance • Legal 	<p>The Council has an approved Workforce Plan 2018-2022. This has been reviewed and a new Plan and Action Plan will be presented for approval early in 2023</p> <p>Regular assessment of staffing capacity within services enables redeployment of available resources to maintain frontline service delivery, reducing service provision when essential in non-statutory services.</p> <p>Staff have opportunity to work additional hours and overtime when appropriate to service needs.</p> <p>Essential vacancies are advertised within the approved Recruitment & Selection Policy processes.</p> <p>Agency staffing is utilised within Agency procurement frameworks in extremis to meet service needs.</p> <p>Managers continue to apply the Managing Attendance Policy.</p> <p>Initiatives are in place to help employees manage their own stress, including Employee Assistance Programme, Listening Ears, Healthy Working Lives</p> <p>Organisational Development and Healthy Working Lives briefings to staff and managers on techniques etc. to support staff to maintain mental health and wellbeing.</p> <p>Salary placement within the Grade in Local Government Employee recruitment relevant to candidate skill and experience, rather than always on 1st point of the scale.</p> <p>Efficient deployment of Disclosure Scotland checks.</p> <p>Review of recruitment options, online and face to face, in progress.</p> <p>Induction programmes for new employees have been updated.</p> <p>CMT operate a Business Continuity Plan and maintain up-to-date training in Emergency Planning and Response.</p> <p>Business Continuity Plans activated as necessary, reducing scope and scale of service delivery to focus existing resource on business critical and statutory functions. As an example Garden Waste collections which are non-statutory will remain on a monthly cycle to protect statutory services.</p>	5	4	20	<p>Refresh of Workforce Plan 2018-2022, reporting to new Plan and Action Plan for approval early in 2023.</p> <p>A recruitment task group has been established (August 2022) with representatives from key services and an action plan drawn up with various options being explored by HR and services.</p> <p>The HR service in conjunction with Corporate Communications are reviewing community based advertising methodologies e.g. poster campaigns, pro-active social media campaigns and recruitment fairs. A number of school career events in the diary over Autumn/Winter 2022.</p> <p>The Council is investigating the limited use of the Market Supplement Policy in difficult to recruit areas, where it can be demonstrated that the market rate makes the Council no longer competitive. (This will be considered on a case by case basis).</p> <p>Develop graduate intern opportunities to meet service professional requirements.</p> <p>Consideration of expanding the apprenticeship programme.</p> <p>Service Reviews involving inputs from HR and Finance to ensure appropriate role and grading definitions within the service and broader corporate context.</p> <p>Contingency planning and identification of non-business critical activities and staff who may be trained to deploy to essential activities when required; including consideration of closing service areas if required.</p> <p>H&SCP are in discussion with partner organisations to investigate whether locum staff can be recruited although this hasn’t had any significant impact as staff are still required for key tasks in other Councils service areas.</p>	5	3	15	<p>February 2023</p> <p>Ongoing</p> <p>March 2023</p> <p>June 2023</p> <p>June 2023</p> <p>June 2023</p> <p>March 2023</p> <p>March 2023</p> <p>March 2023</p>	<p>Risk Refreshed November 2022 by CMT – amalgamating previous CR6, CR 15 and CR 18 – composing one ‘workforce challenges’ risk.</p> <p>Risk refreshed November 2022 by CMT Sub-Group on Corporate Risks with current score increased from 16 to 20 and residual from 12 to 15 given number of services in BC mode.</p> <p>Risk refreshed September 2022 with no change to risk scores.</p> <p>Risk score reviewed by Executive Director of Place and Head of Communities March 2022 with current risk score reduced from 20 to 16 and residual score from 20 to 12.</p> <p>Staffing Risk reviewed and refreshed by Head of Corporate Support, March 2022.</p> <p>The Staffing Risk has been reviewed in</p>

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		<p>Failure to preserve business critical activities within these services could lead to increased risks in respect of 'life and limb' services, finance and severe reputational damage to the Council.</p> <p>Certain services such as FM, Transport, Waste, Customer Services and Children's Social work Services are likely to remain within Business Continuity arrangements for some time due to absence and recruitment challenges.</p> <p>Insufficient staff can also lead to an inability to open facilities, impacting on local service access and reducing community programmes of activity.</p> <p>A lack of cross-service staff capacity to meet emergency response requirements and any other concurrent risks e.g. winter weather emergency, refugee response, avian flu outbreak et al., would increase risks to public safety, bringing reputational damage to the Council.</p> <p>Industrial action threatened in Education in relation to current pay negotiations may lead to the closure of schools.</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 – an inability to recruit impacts on succession planning and risks key specialist roles remaining unfilled.</p> <p>The Council has a duty of care to the workforce, a breach of which may affect the health, safety and wellbeing of employees leading to increased sickness absence, pressures on service delivery and added potential for employee liability claims against the Council for incidents involving employees or non-employees or enforcement action by the Health & Safety Executive.</p> <p>Areas which have been identified as posing a particularly high level of risk to the workforce are:</p> <ul style="list-style-type: none"> • Manual Handling • Stress / Mental wellbeing • Lone Working • Unacceptable Behaviour • Risks from Public Monuments • Safe Driving at work • School Trips 	<p>Support is provided by Amenity services to supplement the winter emergency response team. Provision of LGV licence training to increase capacity amongst drivers within services e.g. to drive gritters.</p> <p>Service planning and mitigations, public information issued.</p> <p>Emergency Response debriefs are carried out e.g. most recently into Storm Arwen noting lessons learned and promptly implementing subsequent actions.</p> <p>Service planning and mitigations, public information issued.</p> <p>Investment in apprenticeships, Graduate Trainee opportunities and targeted recruitment e.g. With schools, colleges and universities.</p> <p>Refresh of Flexible working Policies - Homeworking and Worksmart - maximising work options for LGE staff.</p> <p>Health, Safety and Wellbeing Strategy 2018 – 2021 in place.</p> <p>All employees receive corporate and service appropriate induction including Health & Safety.</p> <p>All staff have job outlines and follow the PRD process ensuring all are role-capable and trained to perform safely in their roles.</p> <p>The Joint Health & Safety Committee and Joint Consultative Committee oversee joint health and safety arrangements for all staff.</p> <p>Management Arrangements in place outlining the responsibilities of each level of management and employees. A rolling programme of audit and inspection of management arrangements is being undertaken, covering:</p> <p>Manual Handling Stress Lone Working Safe Driving at Work Fire Safety School Trips</p> <p>Risk assessments carried out to identify significant workplace hazards and to establish suitable workplace controls e.g. safe systems of work. Any necessary training and health surveillance requirements are identified. Health Surveillance is carried out on employees where they are exposed to specific hazards.</p>								<p>June 2023</p> <p>December 2021 by CMT and the decision was taken to increase the residual risk score from 16 to 20 as even with all measures in place a period of review will be required to measure whether or not the situation has improved and the risk has reduced.</p> <p>New Corporate Risk created October 2021.</p>	

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			Health and Safety Training needs are identified from project plans and Risk Assessment findings. An annual programme of training is delivered. Linking-Risks Sub-Group to the Corporate Risk Management Group Management Meetings ensures effective risk management oversight between Health & Safety Service, Insurance Service, Information Governance Services and Internal Audit Service to ensure cohesive oversight of risks associated to staff and public duty of care – reporting to the Corporate Risk management Group, Chaired by Head of Communities.				Protocol for ensuring safe management of monuments/public art works on ELC land is being developed.					
ELC CR 6	Reputational	<p>Information Security and Data Protection</p> <p>Heightened Risk Due to War in Ukraine Due to the current conflict in Ukraine there is a heightened risk of Nation State led cyber-attacks on the West. These could potentially affect National Infrastructure such as data and voice networks which could have an impact on East Lothian Council.</p> <p>Information Security 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 IT 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, 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. During 2020/21 high profile attacks against supply chain and other Scottish public bodies has shown this risk has not decreased.</p> <p>An increase in the use of Cloud facilities means our security risk from external influences has increased and our security posture needs to change to meet these new challenges</p> <p>The Cabinet Office has introduced zero tolerance for all LA's connected to the Public Sector Network (PSN). Scottish LA's use the PSN to register Births, Marriages & 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>New ways of working and shared buildings including the proposed Collaborative Hub between the Council, Police and other parties present new risks and challenges to maintaining IT Security and Data Privacy. Procedures, appropriate design of workspaces and staff training are needed to mitigate risks.</p>	<p>Continue to follow advice and guidance from the National Cyber Security Centre, UK and Scottish Governments and Local Government Digital Office and react accordingly.</p> <p>Information Security The Council complies with the international standard ISO 27001:2017 as the framework for its ISM system.</p> <p>As part ISO27001:2017 a number of control areas are set out : IS policy; IS organisation; Human resources security; Asset management; Access controls and managing user access; Physical & 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.</p> <p>New systems introduced are risk assessed and security checked to ensure they meet the criteria.</p> <p>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.</p> <p>The DPO/Team Manager-Information Governance & Team Manager – Infrastructure & Security (CISO) are members of the Collaborative Hub Working Group and the JMH User Group and provide advice and support re: compliance & Info Security.</p> <p>A new Information Security/DP Awareness Campaign was launched in Dec 21, which sends scheduled 'hot topic' awareness updates to employees.</p> <p>Acceptable use policy for all ELC employees has been refreshed and is now live following consultation. All employees will be expected to read, re-sign and</p>	5	4	20	<p>Information Security Upgrade of external facing systems taking place to increase security of our internet facing gateways. Due to increased use of cloud systems at ELC, we need to review our security posture & systems to ensure we are covering this area. We are reviewing all security systems to ensure protection.</p> <p>Further Service Review on-going to support on-going resilience and workforce planning requirements.</p>	3	4	12	Ongoing December 2022	<p>Risk refreshed November 2022 by Service manager – IT and Team Manager, Information Governance with no change to risk scores.</p> <p>Risk updated March 2022 by Team Managers – IT Security and Information Governance with current risk score increased from 16 to 20 due to war in Ukraine.</p> <p>Risk updated November 2021 by Team Managers – IT Security and Information Governance with on change to scores.</p>

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				L	I	L x I		L	I	L x I			
		<p>Data Protection</p> <p>Under the Data Protection Act 2018 and the UK GDPR, the Council is required to ensure that personal data is processed lawfully, fairly and securely. Breaches of the Data Protection Act / GDPR could result in:</p> <ul style="list-style-type: none"> - harm to individuals; - legal action; - fines of up to £17.5 million or 4% of turnover, whichever is higher; - requirement to pay compensation; - adverse publicity; - damage to reputation <p>The Council has a mandatory 72 hour window in which to report relevant breaches to the Information Commissioner's Office.</p> <p>Limited security, procedural and environmental controls at the Dunbar Road records store mean that records and personal data are at risk of security breach and/or accidental loss or destruction. The shift to home/digital working in response to COVID-19 has also placed additional pressures to digitise paper records management systems and ensure new ways of working remain secure.</p> <p>Requests for personal data (SARs) have increased significantly in both number and complexity (50% increase on Jan-May 2022). Increase is partially attributable to the indirect impact of the Scottish Child Abuse Inquiry and the launch of the Redress Scheme. Combined impact with staffing challenges, increase in FOI requests and disproportionate impact of a number of frequent requesters, the Council is at higher risk of missing statutory timescales for responses.</p> <p>DP compliance is dependent on good records management. The Council's Records Management Plan 2014-2019 needs to be formally updated to account for GDPR/DPA18 as well as changes to recordkeeping practice across the Council. This is also a requirement of the Public Records (Scotland) Act 2011 (PRSA).</p> <p>Current pressures on Registration service and increased demand from Services for review of Data Sharing Agreements / Data Protection Impact Assessments are impacting capacity to address Records Management.</p>	<p>adhere to the policy to keep themselves and the Council safe.</p> <p>Data Protection</p> <p>The Council has a comprehensive suite of measures to ensure compliance, including the retention of a statutory Data Protection Officer (DPO), the Data Protection Policy, Data Breach Procedure and multiple procedures governing the creation, use and disposition of records and personal data.</p> <p>IS, DP and Records Management Awareness training is a mandatory part of induction and must be refreshed every two years. E-learning module content was refreshed and redesigned in May 2022. The ELNet pages for Information Governance also include templates, guidance and information to support corporate compliance.</p> <p>The Council's Records Management Plan (RMP) covers how the Council manages its records and includes links to our IS, DP policies and retention schedule. There is an annual assessment of Progress of Records Management Plan by The Keeper's office. The Council is planning formal re-submission of its RMP for the Keeper's approval (date tbc).</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. The Council also attends and currently chairs ASLAWG (Archivists of Scottish Local Authorities Working Group) to share best practice with other record keeping professionals.</p> <p>2 vacancies within Customer Feedback now filled, with 1 Business Support post currently advertised, resource increased to 35 hrs from 21 hrs.</p>										
											<p>January 2023</p> <p>December 2022</p> <p>December 2022</p> <p>December 2022</p> <p>April 2023</p>		

Risk Ref.	Risk Category	Risk Description	Existing Risk Control Measures	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			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 7	Physical and/or Psychological Impact on People Legal & Regulatory	<p>Refugee/Asylum Schemes</p> <p>Both the UK and Scottish Government have responded to the Ukrainian humanitarian crisis by introducing refugee schemes that are largely required to be administered by local authorities. These schemes are broader in scope and of a significantly greater scale than existing refugee schemes. Consequently, this means greater demands placed on Council services (including service areas not previously involved) in administering the schemes, supporting hosts and refugees as well as placing additional demand on schools and Health and Social Care services. There is also a potential role for the third sector, which requires careful thought and development.</p> <p>Current challenges include, but are not limited to:</p> <ul style="list-style-type: none"> Complexity and variation between three different schemes (Homes for Ukraine (H4U), Scottish Super Sponsor & Family Visa) Constant changing and revision of national guidance, which continues to evolve through ongoing discussion between SG, COSLA, Home Office and local authorities Being clear on different funding arrangements, scope and operational deployment Being clear on extent of safeguarding responsibilities and wraparound support Being clear on role of third sector Understanding the scale of and resourcing the challenge in the context of existing commitments to the global refugee scheme and the Afghan schemes, and the future proposed Asylum dispersal scheme. Being clear on data protection requirements and which information can be shared between internal teams and with external partners General administration of the scheme in the medium to long-term including, but not limited to: <ul style="list-style-type: none"> Disclosure checks Property and welfare visits Wraparound support Refugee payments Host payments Interface with Education and HSC Clarity as to whether funding is adequate to cover all elements of the scheme, including potential remedial work to bring properties up to required standards Potential increased homeless and housing demand (where hosting arrangements break down or after six months) Service resource demands on all affected teams but particularly Community Housing & Homelessness Capacity of Children and Adult Social Work services, Education and HSC to cope with increased demands Additional demands continue to emerge through extensions to the three schemes – namely the rise in unaccompanied minors and associated responsibilities Implementation of the mandatory national transfer scheme means East Lothian must accept an allocation of unaccompanied asylum seeking young people set by the Home Office. Notification will be at 	<p>Cross-Service Oversight Group meetings in place.</p> <p>Cross-Service Working group in place. Additional resources identified within Community Housing & Homelessness (CH&H) secured to deal with administrative tasks and casework</p> <p>Additional development resource identified from CH&H to provide third sector interface, assist with improvement work, address local community issues and maximisation of resources (internal and external)</p> <p>Plans in place re of how SSSS outreach work, disclosures, payments etc. will operate</p> <p>Regular attendance at meetings with SG, Home Office and COSLA.</p> <p>ELC Website page in place.</p> <p>ELC Ukraine enquiries contact email address set up.</p> <p>Initial dedication of two-full time officers from Housing Options team to set up procedures, team interfaces, casework and administration of schemes.</p> <p>Database of hosts and families created comprising all administrative aspects (disclosures, property checks, payments, education requirements etc.).</p> <p>Ongoing case management of hosts / guests, where appropriate.</p> <p>Resource requirements of other service areas identified and in operation, including the contribution of colleagues in HR, Protective Services, Finance, Education, Customer Services, Communications Team and HSC.</p> <p>Cross-Service agreement of how Disclosure checks will be undertaken, conduct of home visits, and administration of payments have been secured and procedures in place.</p> <p>Jira safeguarding system in place.</p> <p>Children's and adult social work undertaking wellbeing assessment visits to all families.</p> <p>Privacy Statement signed off.</p> <p>Unaccompanied Asylum Seeking Children (UASC) are currently being supported by the Aftercare Team in children's services, making use of accommodation within the My Place project. Managers attend regular national meetings to ensure we understand best practice.</p> <p>Clarity on funding at national level, notwithstanding ongoing changes.</p>	5	4	20	<p>Internal processes and procedures to be reviewed to identify improvements</p> <p>Quantification of Scottish Super Sponsor scheme (SSS) numbers, data integrity work, background checking to be done by CH&H resource</p> <p>Quantification of future resource demands to be identified and articulated through oversight and working group meetings</p> <p>Improvement work to ensure processes and resource deployment are as effective as they can be</p> <p>Working closely with SG & COSLA to inform future iterations of Guidance for clarity and confirming with SG & COSLA colleagues that ELC cannot source social housing properties as housing pressure continues to be extreme</p> <p>Children's services is developing a host families scheme to provide accommodation and support for UASC.</p> <p>Housing Options Team Leader (Refugees and Asylum Seekers) and two Tenancy Support Officers, to commence posts by 31 October 2022.</p>	4	3	12	<p>December 2022</p> <p>December 2022</p> <p>December 2022</p> <p>December 2022</p> <p>December 2022</p> <p>November 2022</p>	<p>Risk refreshed by Head of Housing 21st September 2022 with no changes to risk scores.</p> <p>Risk created 9th May 2022 by Head of Housing.</p>

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		<p>short notice and the frequency is dependent on their rate of arrival in the UK. This mandatory allocation has been increased without consultation.</p> <ul style="list-style-type: none"> This presents a significant resource challenge in terms of providing accommodation, potentially a care placement, housing and social work support. The national local crisis in fostering resources is compounding the service risk. Some refugees and asylum seekers are reluctant to settle in East Lothian, preferring to be in bigger cities. There is a likelihood of them leaving on an unplanned basis putting them at risk of exploitation. 	Successful recruitment of Team Leader and two Tenancy Support Officers.									
ELC CR 8	Reputation Financial	<p>Climate Emergency</p> <p>East Lothian Council has statutory duties to mitigate its emissions, adapt to climate change and act sustainably. The Scottish Government's Climate Change Act (2009) requires the Council to support the delivery of the national net zero targets and adaptation programmes.</p> <p>The risks associated with the responsibilities are:</p> <ul style="list-style-type: none"> Failure to meet our statutory duty in Scotland's Climate Change Act (2009). Lack of financial and staff resources to mitigate emissions and deliver the net zero interim target by 2030 and full target by 2045. Unknown costs of the transformational change needed to adapt to climate change impacts. Risk aversion, particularly in relation to new technologies that could support mitigation and adaptation. Reputational damage and failure in corporate social responsibility if climate action is not mainstreamed across the Council. Lack of/unclear funding and unbudgeted costs to reduce carbon emissions, e.g. for the transformational changes needed in Fleet¹ and Asset² Management. <p>The latest IPCC sixth assessment reports show that we have reached a tipping point where we will face extreme weather and climate change impacts despite efforts to mitigate greenhouse gas emissions. To cope with these risks we need to ensure that our adaptation efforts are as ambitious as our mitigation actions.</p> <p>The Council are making progress on the Climate Emergency risks. However, there is an urgent need to secure the funding, resources, tools and powers to enable us to deliver net zero. Until then, our capability of transformational change to reduce risk is uncertain.</p> <p>¹Fleet Management: We need to replace public sector fleet vehicles with ULEV by 2025. However, funding from the Scottish Government is limited and focused on smaller vehicles. Shifting ELC's heavy commercial fleet to a UNLEV platform will require additional unbudgeted funding. Currently, the cost of an EV refuse collection vehicle is 2.5 times more expensive than a fossil-fuelled equivalent. Another cost implication is the charging infrastructure needed to support these vehicles.</p>	<p>Annual reporting to the Scottish Government to track CO₂e reductions and delivery of adaptation programmes.</p> <p>Annual reporting to the Council Cabinet to track actions and delivery towards ELC's Climate Change Strategy (2020-2025) to achieve net zero by 2045.</p> <p>Regular Council Climate Change Planning and Monitoring Group meetings to ensure Council-wide commitment to the Climate Change Strategy and Action Plan.</p> <p>Regular Council Energy Transformation Board meetings, to improve energy efficiency and energy supply from renewable sources while generating income from installing low carbon technologies across the Council's estate.</p> <p>The Council's COVID Recovery and Renewable Framework, in which a Green Recovery from COVID is a key principle.</p> <p>To address the climate change risks, the Council collaborates with:</p> <ul style="list-style-type: none"> Sustainable Scotland Network (SSN) and the Scottish Government, guiding public authorities to implement the National Climate Change Plan Update (Dec 2020). Adaptation Scotland and SSN, ensuring consistency and collaboration between public bodies in the response to the climate emergency. Transport Scotland, funding ELC's ULEV public sector fleet objective (2025). NB, funding options are limited to be either lease of part funded purchases. Thus, the opportunities to fully utilise ULEVs are limited. The Sustainable Transport Officers Group, which coordinates a multi-departmental response to increase active and sustainable travel. <p>East Lothian Climate Action Hub and Community groups, which supports public engagement to reach net zero.</p>	4	4	16	<p>Identify budget and funding streams to continue delivering transformational change to Fleet and Asset Management (e.g. staff resources to chase funding opportunities and support services to access them).</p> <p>Secure the tools, powers and resources to enable the delivery of a 'Net Zero Council'.</p> <p>Identify interim emission reduction targets across Council Services and implement a monitoring & evaluation framework in response to this.</p> <p>Deliver carbon literacy to Service Managers in the Council and prepare online module on climate emergency for all staff. To be piloted during September 2022.</p> <p>Engage with local partners to set carbon emissions reduction targets and take climate action with a first workshop with NBC AP in October 2022.</p> <p>Engage East Lothian Partnerships to include carbon emissions reduction targets in review and update of the East Lothian Plan.</p> <p>Developing a Public Engagement Plan following the Scottish Government's recommendations Sep 2021.</p> <p>Re-engage with the Resilient Communities initiative, to prepare East Lothian residents for emergencies and severe weather events.</p>	3	4	12	<p>Ongoing with annual review</p> <p>2025 - annual review</p> <p>Ongoing with annual review</p> <p>Ongoing with annual review</p> <p>December 2022</p> <p>December 2022</p> <p>December 2022</p> <p>March 2023</p>	<p>Risk refreshed September 2022 by Sustainability and Climate Change Officer with no change to risk scores.</p>

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				L	I	L x I		L	I	L x I		
		² Asset management: We anticipate the costs of transformational change for our built assets to reach net zero to be substantial. To achieve net zero, we need to ensure that capital is available (e.g. capital for asset reconfiguration, energy efficiency measures, energy generation, etc.). It is key to manage Council assets in line with the climate change agenda.										
ELC CR 9	Legal & Regulatory	<p>Limitation (Childhood Abuse) (Scotland) Act 2017</p> <p>Introduced on 4 October 2017 removing 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. The Act covers the period prior to 2004.</p> <p>In conjunction with the Scottish Child Abuse Inquiry there is an increased likelihood of survivors coming forward which will potentially result in financial pressures if historic claims of child abuse (see definition above) 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). It therefore is now not anticipated that this number will rise significantly, although claims may still be received. The Council's insurers have indicated that they will cover appropriate external legal costs and compensation payments. However, the requirements to comply with SCAI S21 requests are placing significant strain on internal resources within the legal, social work and records management teams for which there is no additional budget.</p> <p>The Child Abuse Inquiry continues to extend its investigations into other areas which may affect the Council. The Inquiry is currently considering foster care. There are currently two claims against the council.</p> <p>The CSWO has been called to give evidence to the public Inquiry about the experiences of children in foster care in East Lothian. This may result in claims being made against the council.</p> <p>The next phase of the Inquiry is in relation to residential schools and includes the previous St Joseph's, Tranent. Claims have been presented to successor authorities of LRC in relation to this establishment</p> <p>Redress Scotland established to provide survivors with an avenue to compensation where they do not wish to submit a claim directly to a successor organisation. Where the Redress Scheme is not used, any legitimate claimant may still raise action against ELC.</p> <p>Note that there remains a period from 2004 to present which is not covered by Scottish Government proposals/legislation for compensation schemes and as such any legitimate claim arising would need to be taken forward through ELC and/or Insurers.</p>	<p>It is a requirement under the act that the abuse occurred at a time when the individual was a child which is defined as being under 18.</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. Scotland-wide networking and information sharing on SCAI between authorities.</p> <p>Council has appointed external solicitors to provide legal support for the public fostering inquiry.</p> <p>Records Management expertise allows us to respond effectively to SAR requests and information requests / provide evidence. However, increase in volume of SAR requests received, not just in this area, are placing more pressure on the Information Governance team to be able to coordinate further work as required throughout the Council, to improve our records management systems to make them more efficient.</p> <p>Cross Lothian collaboration on Lothian Region period 1975 to 1996 (and predecessor authorities) re-records management etc. Accurate records post 1996 relating to East Lothian Council clients.</p> <p>Council Financial Reserve – may reduce the impact to service provision if claims extend beyond budget.</p> <p>The Scottish Government redress schemes is available for potential claimants to pursue. Where a survivor submits a claim to the redress scheme and accepts the compensation offered, a waiver is signed so that they may not submit an insurance claim. The maximum amount of compensation through Redress Scotland is £100,000.</p> <p>Regular discussions with Council's Insurance providers and brokers to ensure risk continues to be covered and/or mitigated to allow regular review for sufficient budgetary provision for any additional costs/claims that may not be covered by insurance.</p>	4	4	16	<p>Discussions planned to consider how to ensure sufficient staffing resource available to deal with claims, court actions, and submission of S21 requests and recovery of documentation and to preserve the Council's position.</p> <p>Fully engage with the SCAI to anticipate and forecast future claims and ensure ELC is represented well in the public hearings.</p> <p>Ensure current social work practice with children who are accommodated away from home meets high professional standards and complies with legislation and national standards to ensure they are safe and reduce the likelihood of any 'new' claims arising.</p> <p>Full review of the overall Council Records Management systems and behaviours required to be undertaken to streamline obtaining the relevant information requested.</p>	4	3	12	<p>All measures reviewed quarterly at cross service catch up meeting and will be ongoing for some time.</p> <p>Risk reviewed November 2022 by Insurance & Legal and CSWO with no changes to risk scores.</p> <p>Risk reviewed May 2022 by Chief Social Work Officer with planned score increased from 9 to 12.</p>	

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				L	I	L x I		L	I	L x I		
ELC CR 10	Physical and/or Psychological Impact on People Service Objectives Legal & Regulatory	Flooding and Coastal Erosion As the incidence of flooding and coastal erosion increases as an impact of Climate Change, there is an increased risk of disruption and damage to road and path networks, impact on public and community safety, property, businesses, harbours and natural heritage sites and an associated increase in claims against the Council.	<p>In 2016, a Flood Risk Management Strategy and a Local Flood Risk Management Plan for the Forth Estuary catchment was published. This publication outlines the specific objectives and actions to be undertaken to mitigate flood risk in the East Lothian area and complies with East Lothian Council's duties under the Flood Risk Management (Scotland) Act 2009.</p> <p>Flood risk and drainage issues are considered when processing planning applications and within long-term development planning.</p> <p>The Severe Weather Response Plan has been developed and ensures a co-ordinated and consistent multi-agency response across the county.</p> <p>Emergency surface water, coastal and river flooding procedures are in place and have proven effective.</p> <p>A Shoreline Management Plan has been produced.</p> <p>Advice on dealing with flooding is available on the Council website and directs people to the relevant websites, including SEPA's 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> <p>Watercourse inspections and clearance and repair works take place.</p> <p>Maintenance of existing flood protection schemes.</p>	4	4	16	<p>As part of the 2016-22 Local Flood Risk Management Plans, Flood Protection Schemes for Musselburgh and Haddington were included in the list of actions for the Forth Estuary Local Plan District. These works are proposed to be funded 80% by Scottish Government and 20% by East Lothian Council. The delivery of flood protection schemes is reliant on funding.</p> <p>ELC have undertaken Flood Studies for Haddington and Musselburgh and are currently progressing the Musselburgh Flood Protection Scheme.</p> <p>The Musselburgh Flood Protection Scheme is a fully established project. It has completed three of its nine stages, and is currently progressing Stage 4 (Outline Design) of the Scheme Design in accordance with the project's PRINCE2 Project Management System. An updated Timeline of Outline Design was approved in October 2022.</p> <p>Musselburgh FPS is not yet approved under the Flood Risk Management (Scotland) Act 2009 – the formal approval process will take place once the Outline Design stage is complete.</p> <p>Actions to manage flood risk will be proposed for the East Lothian area and included within the Forth Estuary Local Flood Risk Management Plan 2022-28, published in December 2022. This will include actions such as river and coastal flood studies, awareness raising and maintenance. Actions outlined within the plan will be subject to funding.</p> <p>Flood studies for Dunbar, West Barns & North Berwick (Coastal), Cockenzie, Port Seton, Longniddry & Prestonpans, and Tranent & Macmerry have been included in the 2021-28 Flood Risk Management Plan, and will be included in the 2022-28 Forth Estuary LFRMP.</p> <p>The Council's Severe Weather Response will be tested in an Emergency Planning exercise during 2023 which will incorporate Flooding.</p> <p>Improvements to introduce a risk-based process of undertaking watercourse inspections and delivering appropriate clearance and repair of watercourses will be implemented in late 2022.</p>	3	3	9	<p>2016-2022</p> <p>2024</p> <p>2024</p> <p>March 2023</p> <p>December 2022</p> <p>2028</p> <p>August 2023</p> <p>December 2022</p>	Risk reviewed and updated November 2022 with no change to assessment of current scores.

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ELC CR 11	Physical and/or Psychological Impact on People Legal & Regulatory	<p>Communicable Disease Outbreaks of Public Health Significance</p> <p>East Lothian Council continue to have the appropriate business continuity plans/contingency in place to ensure continued delivery of business critical services during the COVID19 outbreak.</p> <p>The Council will continue to carry out close ongoing monitoring of COVID and continues to be prepared for any future waves of the virus or alternate long term health issues.</p> <p>While as the situation continues to improve the Council will make itself ready to come out of Response and Business Continuity mode and to move towards Recovery.</p> <p>The risk will remain at the current level until the end of the 22/23 winter period.</p>	<p>Processes in place to establish proactive communicating, and encouraging compliance with all government and public health authorities' advice and reducing the impact/spread of misinformation by relying on information from trusted sources.</p> <p>Established mechanism to stand up the Council Management Team (Critical Incident Response Team) to oversee and direct the Council's response.</p> <p>COVID19 Recovery and Renewal Coordination Group is deployed overseeing planning for recovery and renewal across East Lothian.</p> <p>The Council has had to adapt its delivery of services beyond the COVID pandemic and now subsequent concurrent challenges including the cost of living crisis and ensuing economic volatility. The Recovery & Renewal Plan interventions remain valid and under constant review. ELC will continue to lead recovery supported by our partner agencies context of the Civil Contingencies Act 2004.</p> <p>Resilience Direct continues to be available for use to share information on a multi-agency basis.</p> <p>Business Continuity Plans in place in all services leading to staff continuing to work from home unless it is essential for them to be in their place of work.</p> <p>Public Health Scotland has published (September 2022) National Respiratory Surveillance Plan and also Plan for Monitoring and Responding to New SARS-Cov-2 Variants and Mutations. These plans detail how an effective and efficient surveillance service will be delivered in Scotland and sets out how the identification, investigation, risk assessment and response in relation to COVID19 variants and mutations will be carried out.</p> <p>The document recommends local authorities to stand ready to support any operational roll out of a VAM response.</p> <p>Protective Services continue to have regular engagement with NHS Lothian Health Protection Team and are ready to work in partnership with NHS Lothian in relation to standing up a response where required.</p> <p>HSCP continues to support delivery of the COVID19 vaccination programme.</p> <p>Resilient Communities Groups exist in each Community Council area and Groups are ready to stand-up when required.</p> <p>Volunteer Centre East Lothian collaboration over support for local Third and Voluntary sector organisations able to respond to consequences across communities.</p>	3	4	12	<p>Ongoing deployment of JCVI vaccine and booster programme and monitoring of COVID case prevalence across East Lothian to inform service interventions and timely community information and updates re service delivery and ongoing safety measures.</p> <p>The Council will follow the updated SG Framework to ensure that sick pay and staffing practices are aligned with public health aims, adapting premises to make them safer for customers and staff, and enabling hybrid working where that makes sense and supports businesses and individuals.</p>	3	3	9	<p>All measures are live and monitored on a weekly basis.</p> <p>Risk reviewed November 2022 by Head of Operations, H&SCP and Service Manager, Protective Services with risk title and content edited from only COVID to all Communicable Diseases.</p> <p>Risk fully reviewed and refreshed by Executive Director of Place, CMT and Risk Owners May 2022 with current risk score reduced from 16 to 12 and residual score from 12 to 9.</p> <p>Risk fully reviewed and refreshed by Executive Director of Place, CMT and Risk Owners March 2022 with current risk score reduced from 20 to 16 and residual score from 20 to 12.</p>	

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				L	I	L x I		L	I	L x I		
			The Council provides a prime source of local EL public information, constantly updated, in the Council Website as well as regular updates on Social Media platforms.									
ELC CR 12	Physical and/or Psychological Impact on People	<p>Public Protection – Risk of Harm</p> <p>The Council has a legal responsibility to address concerns that may require a Child or Adult protection response. The Council also has an obligation to manage offenders through the Justice Social Work service and contribute to MAPPAs arrangements.</p> <p>It should be noted that by the very nature of the work involved in Child Protection, Adult Protection, management of offenders and people experiencing domestic abuse this is a high risk business even with all the controls and measures in place.</p> <p>Any failure to adequately respond to concerns may negatively impact on children and adults, who may be at risk of harm. This 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, local MAPPAs arrangements, Violence against Women and Girls (VAWG) 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>There are continuing issues with the delivery of Social Care Services within the Care Home and Care at Home sector. There is the potential for a service failure which could place vulnerable adults at risk of harm.</p> <p>There has been a long standing waiting list for an Outreach Service from Women’s Aid Mid and East Lothian which is the specialist service provider for Women experiencing or having experienced domestic abuse. There is a funding gap created by non-recurring revenue streams and increased demand.</p> <p>In the context of rising demand for domestic abuse supports in the county, the council’s arrangements for delivering Equally Safe, the national strategy to eradicate violence against women and girls requires a stronger strategic and partnership focus. Without this, East Lothian will not reduce the numbers of people experiencing harm through domestic abuse.</p> <p>Police Scotland had proposed unilateral changes to information sharing arrangements within MAPPAs that would have had serious repercussions for the safe operation of MAPPAs and the council’s ability to deliver its duties as a responsible authority. Whilst the imminence of this risk has been reduced by extending the deadline for the change, the underlying barriers have not been resolved and some uncertainties remain around operational joint</p>	<p>Strategic Structure</p> <p>The East and Midlothian Public Protection Committee (EMPPC) is the local strategic partnership responsible for the overview of policy and practice in relation to Adult Protection, Child Protection, Offender Management and Violence Against Women and Girls. The primary aim of the Committee is to provide leadership and strategic oversight of Public Protection activity and performance across East Lothian and Midlothian. It discharges its functions through four sub-groups which meet quarterly:</p> <ul style="list-style-type: none"> • Performance and Quality Improvement sub-group maintains overview of work through the door and performance in relation to CP and ASP work • Learning and Practice Development sub-group takes forward our 2021-23 strategy for Multi-agency training, and oversees our training programme. Training needs on aspects of Public Protection are considered by this group and are informed by Training Needs Analyses undertaken by the East Lothian Workforce Development Officers in Children’s Services and the HSCP. • VAWG delivery group keeps oversight of services for gender based violence • East and Midlothian MAPPAs Group (EMMG) oversees MAPPAs arrangements. <p>Critical Services Oversight Group (CSOG), Provides governance and leadership of EMPPC on a quarterly basis.</p> <p>The CSWO is chair of the local Strategic Oversight Group for MAPPAs and actively involved in national and local discussions around MAPPAs information sharing, supported by ELC legal and justice services. The East and Midlothian MAPPAs Group provides oversight and assurance of local MAPPAs performance and practice.</p> <p>The CSWO and Chief Executive are fully sighted on the current situation regarding VISOR. Access to VISOR requires Non-Police Personnel Vetting L2 or L3 and this is a highly intrusive process and colleagues in legal, Information Governance and HR have advised that JSW staff cannot be instructed to undertake this vetting and have confirmed that JSW need access to the information that VISOR holds only, not the system itself, to fulfil their duties under the Management of Offenders (Scotland) Act 2005 on which MAPPAs is based.</p> <p>Marac (Multi-agency risk assessment conferences) continues to operate on a four weekly basis, by Microsoft Teams, with additional meetings scheduled to respond to increase in demand, ensuring that the needs of and supports to highest risk victims of</p>	3	4	12	<p>A Joint Strategic Needs Assessment for Public Protection is being taken forward by CSOG.</p> <p>The Council Management Team and EMPCC learning and development sub-group will seek assurance that arrangements are in place for completion of Level 1 training.</p> <p>L&D</p> <p>Work has begun to refresh the knowledge and understanding of both CMT and SMT that child protection is everyone’s responsibility and to ensure that this key message is communicated and understood by all staff.</p> <p>The CSWO remains actively engaged in national meetings aimed at achieving a long-term solution to the MAPPAs information sharing / ViSOR issue ahead of the implementation of the replacement system MAPPSS. The CSWO will continue to provide regular assurance of the safety of MAPPAs practice to the CEO.</p> <p>Under the new East Lothian Safety and Justice Strategic Partnership, the national strategy Equally Safe will be progressed through its own dedicated sub-group.</p>	2	4	8	<p>June 2023</p> <p>May 2023</p> <p>TBC</p>	<p>Risk updated November 2022 by CSWO and Executive Director E&CS.</p> <p>Risk refreshed October 2022 by General Manager - Adult Social Work and Public Protection Team Manager with current score reduced from 16 to 12 and residual score from 12 to 8.</p> <p>Risk reviewed and refreshed by Public Protection Team Manager, March 2022. Risk reduced from 20 and 20 to 16 and 12 due to an improving picture.</p>

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		working between ELC and Police Scotland. East Lothian has no access to ViSOR.	<p>domestic abuse are planned for on a multi-agency basis.</p> <p>East Lothian Safe and Together implementation group will continue to meet to review and maintain oversight of training and embedding S&T in practice in East Lothian. This will also be monitored via EMPPC Learning and Development Sub-group.</p> <p>A Joint Strategic Needs Assessment for Public Protection has been developed and is being reviewed by CSOG. This projects increased demand for services and makes a number of recommendations for the future delivery of Public Protection services.</p> <p>ELC H&SCP Management attend NHS Gold meetings where the capacity gap is detailed and set in the context of the wider system risk caused by challenges facing NHS Lothian acute sites</p> <p>ELC H&SCP have regular Care at Home Oversight Group Meetings to monitor the levels of provision of essential care at home. The councils' CSWO attends this meeting to ensure discharge of assuring the quality of care. This will remain in place until there is assurance of stability.</p> <p>Care at Home service provision continues to be monitored via East Lothian and Midlothian Public Protection Committee and Critical Services Oversight Group which both meet quarterly.</p> <p>A risk management tool has been developed in relation to Care at Home to provide consistency in how the providers are assessing their capacity to respond and deliver their required level of service.</p> <p>Policies, Protocols, Procedures and Guidance are in place, subject to ongoing review and update and available on Public Protection website: www.emppc.org.uk.</p> <p>Chief Social Work Officer (CSWO) fulfils statutory role and responsibilities, overseeing and reporting on Public Protection issues to Chief Executive and Elected Members, reporting annually to Council giving oversight of Public Protection performance including assessment of risks and pressures.</p> <p>The Council continues to work towards delivering the UK Government's Counter Terrorism strategy, known as CONTEST, of which Prevent is a key element. EMPPC has a Prevent referral pathway which has been reviewed.</p> <p>The Lead Officer for Adult Protection leads the Council Officer forum, to support learning and practice and process consistency in Adult Protection.</p> <p>All Regulated Services e.g. Care homes for older people, residential units for young people, Schools are inspected by Care Inspectorate and Education Scotland. Improvement plans are implemented</p>									

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			<p>following all Regulated Services inspections. A weekly Care at Home Oversight Group has been established to oversee and manage risks in relation to staffing</p> <p>Both the Lead Officer for Child Protection and Adult Protection participate in the Inter-agency Referral Discussion Overview Group, which reviews and provides quality assurance of the decisions taken to manage vulnerable children and adults risks.</p>									
ELC CR 13	Service Objectives Legal & Regulatory	<p>Duty of Care to Public</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>Additional pressure within this area caused by external providers struggling to deliver through staffing issues.</p>	<p>Prioritise maintenance of safe staffing levels for all statutory services the partnership delivers.</p> <p>Briefing sessions, specialist training and supports are in place.</p> <p>Regular formal supervision in place for all staff including completion of PRD's and e-KSF, focusing on specific and agreed development needs.</p> <p>Clinical & Care Governance Committee established which is to provide strategic oversight within the Partnership. Chief Social Work Officer, Chief Nurse, Clinical Director, AHP Lead oversight and review of practice to assess workload allocation and risk management.</p> <p>Specific oversight groups established for example Care Home, Health & Safety and Risk Management.</p> <p>Services comply with required professional registration standards for all staff, e.g. SSSC, HCPC, NMC etc.</p> <p>"Safer Recruitment" practices and PVG checks embedded.</p> <p>LSI mechanism in place with reporting structure through PPC.</p> <p>Regular engagement with the Care Inspectorate reviewing services in place</p> <p>Risk assessment documentation shared with providers with client RAG in place to ensure services are prioritised for those most at risk.</p>	3	4	12	<p>Review of oversight and governance arrangements for assessment.</p> <p>Alteration of the workforce model for delivery of care a home services including expansion of internal delivery.</p>	2	4	8	<p>March 2023</p> <p>March 2023</p>	<p>New risk created November 2022 by Head of Operations, H&SCP.</p>
ELC CR 14	Physical and/or Psychological Impact on People	<p>Severe Weather</p> <p>There is a risk that severe winter weather will lead to an increase in 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>Communities may become isolated, particularly in rural areas, due to heavy and prolonged snow. In such cases communication with residents within these isolated areas</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 Council has a Severe Weather and Adverse Events Policy in place for all staff while the Council has its own mitigating measures for its own estates/property during severe weather.</p> <p>During Severe Weather events our Contact Centre becomes the first point of contact for any issues to be raised and responded to whilst our Communications team shares warnings and other relevant information with the public as this becomes available.</p>	3	3	9		3	3	9		<p>Risk reviewed September 2022 with no amendments made.</p>

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		<p>may become difficult as they become cut off, possibly aligned to power failure caused by strong winds and/or the weight of snow on the lines.</p> <p>There are limitations to the service the council can offer. The Council Roads team focus on treatment and snow clearing of the main priority road network, made up of the major routes where the majority of vehicle movements take place and also includes accesses to hospitals, ambulance stations, fire stations, other emergency service establishments, railway stations and schools. Primary Routes are treated and cleared of ice and snow first and then the Roads team move onto Secondary Routes and finally tertiary and minor routes which include residential areas, cul-de-sacs. During periods of extreme weather and heavy snowfall when roads and footways are affected by significant levels of lying snow, priority will be given to primary carriageway routes and primary footpath routes with resources deployed on these specified routes continuously until satisfactory snow clearance has been achieved before resources are deployed to any secondary routes and tertiary routes, so it maybe some time before we can attend to these areas.</p>	<p>The ELC Severe Weather Response Plan has been developed over many years and ensures a co-ordinated and consistent multi-agency response across the county. This plan is reviewed annually in conjunction with support from partner agencies.</p> <p>The ELC Severe Weather Response plan includes reference to and improvements learned from the 'Beast from the East' incident in 2018 when many parts of East Lothian become isolated because of the heavy and prolonged snow falls.</p> <p>The Council's Salt Barn has a capacity of 8,000 tonnes to meet demand arising from severe cold weather.</p> <p>Snow clearing equipment has been supplied to Primary Schools. Community Councils through Resilient Communities are able to request winter response equipment from the Council. These requests are considered as per their need. A number of grit bins are provided to enable self-help gritting of adopted roads and footways. Resilient Communities are encouraged to survey the grit bins in their area and report back to the Council if new bins or grit is required.</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>The majority of Community Councils have Resilient Community Groups who have created their own emergency response plans or asset registers of volunteers/skills available at a time of crises. Each Resilient Community has its own Single Point of Contact (SPOC) and deputy for resilient matters including severe weather. Communication and good working relationships have been created and maintained with these SPoCs/deputies throughout the year by ELC Emergency Planning staff.</p> <p>Work continues with the Resilient Communities and also involves other voluntary groups such as Tenants and Residents Groups. ELC organises an annual workshop for Resilient Communities which allows lessons learned and best practice to be discussed and progressed. It also allows for the public to meet responder agency staff such as the 'blue lights', SEPA and the utility companies.</p> <p>ELC finances all 20 Community Councils' annual insurance premiums ensuring that Insurance is not perceived as a barrier to invoking such plans.</p> <p>Training and awareness sessions, related to the activation of the ELC Severe Weather response plan, are completed on a regular basis. Partner agencies are often involved.</p>									

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ELC CR 15	Physical and/or Psychological Impact on People Legal & Regulatory	<p>Threat of Terrorism</p> <p>Delivering the UK Government's Counter Terrorism (CT) strategy, known as CONTEST (comprised of four components - Prevent, Protect, Prepare and Pursue).</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 that relates to Prevent.</p> <p>Failure to discharge this duty could mean sufficient steps are not taken to prevent an incident taking place, under Prevent, 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>Our capacity to monitor and respond if we are concerned about children with these lines of thinking is severely compromised as schools are closed and older teenagers are less likely to engage.</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 Head of Communities with members consisting of CMT, key senior managers, Police Scotland and a QMU representative.</p> <p>ELC has appointed senior members of staff as SPoC (Head of Children's Services) and Deputy SPoC (Executive Director Education and Children's Services) for Prevent as per statutory guidelines.</p> <p>A SPoC for Prepare and Protect although not a statutory requirement, has also been appointed (Emergency Planning, Risk and Resilience Manager).</p> <p>Under Protect the CMT are prepared should the Government raise the Security Level to Critical. Service Business Continuity plans take this into account. This includes staff working from home as a result of council facilities being closed during any emergency response.</p> <p>ELC follows and contributes towards the 'J' Division Contest group implementation plan.</p> <p>The SPOC Prevent Group in the East of Scotland is attended by the ELC SPoC.</p> <p>Prevent Multi-Agency Panels Chair (SPoC) and Depute (Iain Gorman) identified to chair multi-agency meetings established to discuss any referrals.</p> <p>Regular internal and external communication of any national counter-terrorism updates. Information regarding Protect and Prepare is received from the National Counter Terrorism Security Office. This information is then circulated to appropriate key ELC staff and local businesses.</p> <p>A Prevent working group, chaired by the Head of Children's Services, meets regularly and a Prevent reporting process has been established. A refreshed Prevent Delivery Plan has been completed and has been approved by the ELC Contest group. Progress of the Prevent delivery plan will be monitored through quarterly Prevent working group meetings and reporting to EL Contest group.</p> <p>Elected Members were briefed in January 2022.</p> <p>Joint training (with Midlothian) for PMAP members was undertaken.</p> <p>Home Office PMAP training was provided for managers in justice, children's and adult social work services.</p> <p>ELC have submitted an annual assurance statement of compliance with Prevent to Scottish Government</p>	3	3	9	<p>Awareness-raising sessions are being arranged with Police colleagues with independent service providers operating in East Lothian.</p> <p>CT police are offering bespoke Prevent training across other council services and supporting managers to update paper-based training materials for manual staff.</p> <p>Further service-specific Prevent training is being arranged for children's and justice social work services.</p>	2	3	6	<p>November 2022</p> <p>November 2022</p> <p>November 2022</p>	<p>Risk refreshed August 2022 noting changes to risk description and mitigation measures whilst no change to risk scores.</p> <p>Risk reviewed August 2018 by Board of Directors with Current Score reduced from 12 to 9.</p>

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			<p>relation to the new statutory guidance for Prevent and PMAP (Feb 2021).</p> <p>Education personnel are fully engaged with Prevent and appropriate filters have been installed on the Education infrastructure.</p> <p>Updated Prevent referral pathway has been agreed with EMPPC and communicated on the intranet, including the new national Prevent referral form.</p> <p>Whilst ELC Managers have received Prevent training through LearnPro previously, since November 2020 interim arrangements have been in place for all staff via Home Office resources pending the roll-out of new Scottish Government training materials. Ongoing exploration of other arrangements including toolbox sessions.</p> <p>The ELC Prepare and Protect SPoC liaises with Police Scotland and in particular the CT team to ensure current information on these areas is circulated to appropriate ELC key staff and staff in general if required. The SPoC also ensures important information is uploaded onto the ELC Intranet.</p>									
ELC CR 16	<p>Service Objectives</p> <p>Legal & Regulatory</p> <p>Physical and/or Psychological Impact on People</p>	<p>Business Continuity</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"> premises, through fire, flood or other unexpected incident; key staff or significant numbers of front-line staff for any reason e.g. a Pandemic; systems (IT, telephony, power failure etc.); any form of transportation due to a fuel shortage. <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 Continuity² Software.</p> <p>The Council carried out a Council Wide Business Continuity Exercise in November 2019 which successfully tested the BC capabilities of the Council.</p> <p>ELC staff have access to an e-learning package on Business Continuity which was reviewed and refreshed during March 2021.</p> <p>Business Continuity Plans are invoked as Services suffer BC issues with a fortnightly update of those plans invoked provided to CMT.</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. For single server failure - there are over 100 systems now running on virtual servers which automatically fall over to another server if there are</p>	2	4	8	<p>Progress Business Continuity Plans with Education and H&SCP in order that each School and Care Home has a plan.</p> <p>Whilst we would need to react to the specific circumstances of any particular attack or series of cyber-attacks, Business Continuity Plans should be reviewed to consider outages for a longer period up to 2 weeks. Noting that we are unlikely to lose everything by way of access to systems concurrently.</p>	2	3	6	<p>March 2023</p> <p>January 2023</p>	<p>Risk refreshed November 2022 noting changes to risk description and mitigation measures whilst no change to risk scores.</p>

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			<p>hardware issues. Specific disaster recovery arrangements are in place for the critical systems of telephony, e-mail and social care.</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>ELC services are encouraged to take all risks that may impact on East Lothian into account when completing their Business Continuity (BC) plans as an example, severe weather or electricity failure or extreme staff shortages. BC plans are key to ensure ELC services continue to provide their critical activities.</p>									
ELC CR 17	Legal & Regulatory	<p>Corporate Events Management</p> <p>Effective preparation and co-ordination across a number of services, for events held in East Lothian, is essential. Failure to achieve this could result in event safety being compromised followed by a risk of adverse reputational damage for the Council on a local/national/international level as well as possible legal ramifications at fatal accident enquiries accounting for action or non-action.</p> <p>COSLA, Police Scotland and the Health & Safety Executive (HSE) recommend that Local Authorities form a core group, led by a senior (strategic) officer, who will meet to discuss all events taking place within their area over a pre-determined period of time. This group includes category 1 responders 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 East Lothian Safety Advisory Group (ELSAG):</p> <ul style="list-style-type: none"> • Status of the principal e.g. HM Queen • Status of the event organiser e.g. Scottish Defence League • The size of the crowd or the number of spectators • Event site – proximity to residential area, remote, inaccessible • Whether alcohol is available or any other license is required • Impact upon local community • Type of Activity - hazardous • The profile of the event – National following increasing footfall/interest. • The requirement for a TTRO • At the request of one of the partner agencies • At the request of an event organiser <p>ELC is involved in events as they tend to take place in Council parks or on Council roads. 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, through TTRO's.</p>	<p>East Lothian Council has a revised SAG policy in place which came into effect May 2022 (reported into Members' Library Service).</p> <p>The East Lothian Safety Advisory Group (ELSAG) strategy comprises two main elements:</p> <ul style="list-style-type: none"> • Strategic Event Safety Oversight Group (SESOG) • Safety Advisory Group (SAG) <p>The SESOG will hold SAG process overview meetings (at least twice annually) to prescribe criteria for which event organisers are invited to participate in the Safety Advisory Group process and to confirm which events require to attend SAG, based on the risk profile. The SESOG will be Chaired by an East Lothian Council Head of Service.</p> <p>The Emergency Planning, Risk and Resilience Manager, will Chair ELSAG meetings for Major and Large scale events and the ELC Emergency Planning, Resilient Communities and Events Officer will chair the ELSAG for small and medium scale events, except for any specific events where the SESOG determines otherwise.</p> <p>Events that require to be put through the SAG are managed through a risk profile process which grades each event as having a Red, Amber or Green (RAG) risk. Events graded as Green are not required to attend a SAG meeting. Those graded Red and Amber are required to attend a SAG meeting.</p> <p>The SAG process co-ordinates preparation for various events as per the risk profile, with representation from relevant Services areas and Multi-Agency Partners.</p> <p>Event guidance for organisers of events is published on the Council website.</p> <p>Where the SAG group is set up, for a specific event, it has no statutory power to stop it taking place. However, the SAG group can withdraw its support and co-operation, for any event, which may mean that the event cannot proceed. In the</p>	2	3	6						Risk refreshed August 2022 with no change to risk scores.

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		<p>If the event organisers fail to have the correct licences or safety processes in place it is the organisers who face the risk of possible criminal prosecution.</p> <p>East Lothian Council is itself responsible for organising several events on an annual basis. For each event an event organiser will be identified from within the Council.</p> <p>All event organisers should attend a SAG meeting if required to do so.</p>	<p>circumstances the event organiser will be advised to notify their insurance provider. That said other agencies or partners of the Group may act independently of the ELSAG and use their own statutory powers to unilaterally prevent the event from taking place. Police Scotland will always provide the final advice on public safety.</p> <p>Events information and documentation accessed through the ELC website reviewed by the ELC Event Safety & Resilience Officer, maintaining oversight of the processes linked with the ELSAG, through his/her line manager, to continually improve the overall system.</p> <p>Only events organised and managed directly by ELC are covered by our insurance, part of the due diligence into any event requires that all insurance/s are verified for the activities that are to be undertaken. Where ELC cover is not in place, it may be appropriate to have additional cover through event insurance providers.</p>									
ELC CR 18	Legal & Regulatory	<p>Equality</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"> report on mainstreaming the equality duty; publish equality outcomes and report progress; assess and review policies and practices; gather and use employee information; publish gender pay gap information; publish statements on equal pay; consider award criteria and conditions in relation to public procurement; publish in a manner that is accessible. <p>The Scottish Government has introduced the Fairer Scotland (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 2021-2025 was adopted in November 2021. 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"> Continue to lead a culture where respect, choice and understanding is fostered and diversity positively valued; Maintain a working environment where unlawful discrimination, harassment, victimisation or bullying is not tolerated; Continue to develop our understanding of the needs of different individuals and communities in a time of rapid change; 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; Improve understanding of the impact of poverty and inequality on people's lives; and 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 <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 & Social Care IJBs (East & 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>	2	3	6	<p>The Poverty Plan 2021-2023 (49 actions) will be implemented. Delivery will be monitored by the Poverty Working Group and a new East Lothian Partnership Governance Group.</p> <p>The new Equality Plan 2021-2025 (28 actions) will be implemented.</p> <p>Embed the use of the Scottish Government's Sustainable Procurement Tools into procurement procedures.</p>	2	3	6	<p>April 2023</p> <p>April 2023</p> <p>November 2022</p>	<p>Risk reviewed and updated August 2022 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>

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				L	I	L x I		L	I	L x I		
			<p>As per our statutory obligation, HR is annually capturing the Employment Monitoring information required under the Act. This is reported publically alongside the requirement to publish an annual Equal Pay Report.</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>									
ELC CR 19	Service Objectives & Legal Regulatory	<p>Development Plan</p> <p>Failure to maintain an up-to-date Development Plan could result in an out of date planning strategy and policy context for planning decisions in East Lothian; it could:</p> <ul style="list-style-type: none"> contribute towards the Council not being able to achieve Council Plan objectives – Growing our Economy and Growing our Communities – and related Single Outcome Agreement objectives; lead to failure to accord with more recent higher level plans and legislation; undermine our ability to defend local planning decisions leading to 'planning by appeal'. This could result in unplanned development at odds with the planning strategy for East Lothian, and consequent reputational damage; undermine our ability to secure S75 contributions towards essential infrastructure with consequent impact on corporate capital and revenue planning. 	<p>Maintenance of the Local Development Plan Scheme with timescales (last reviewed June 2021).</p> <p>Interim Regional Spatial Strategy has been prepared, informing NPF4. The Regional Prosperity Framework has been ratified by the SE Scotland authorities. The final draft NPF4 has been published by the Scottish Government, which when approved will form part of the Development Plan.</p> <p>SG and SPG all approved/adopted, including Developer Contributions Framework.</p> <p>Impact of SDP2 rejection by Scottish Government is mitigated by having an approved housing land audit, up to date LDP and a greater than 5 years effective housing land supply Preliminary work for LDP2 being prepared at present. Public engagement being planned.</p>	3	2	6	<p>Work on LDP2 will increase as NPF4 is finalised by the Scottish Government. The final draft is now laid before the Scottish Parliament and is likely to be approved late in 2022/early in 2023.</p>	1	2	2	February 2023	<p>Risk reviewed by Head of Service - Development, November 2022 with no amendments to scores.</p> <p>Risk Refreshed by Service Manager March 2021 with Current Score reduced from 8 to 6.</p>
ELC CR 20	Reputation & Legal Regulatory	<p>Standards in Public Life</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>Standing Orders (the Schemes of Administration and Scheme of Delegation) are regularly reviewed and revised.</p> <p>The Council adopted a Code of Conduct for its employees in February 2020 giving all employees greater clarity around the standards of behaviour expected of them. Breach of the Code may amount to a disciplinary offence.</p> <p>Training on the Councillors' Code of Conduct is offered to Members periodically with regular updates from the Standards Commission circulated to Members.</p> <p>The Council's Monitoring Officer and Depute Monitoring Officers provide advice as required.</p> <p>An induction programme for new Councillors was delivered to both new and returning Members. This included training on standards in public life and, specifically, on compliance with the requirements of the Councillors' Code of Conduct.</p> <p>A 100-day review took place with our Elected Members in August 2022. This was carried out by way of a</p>	2	2	4	<p>The Council's Standing Orders will be reviewed in advance of the implementation of Hybrid Committee meetings to ensure they are suitable for this format. The Scheme of Administration is likely to be reviewed following the Local Government Elections in May 2022 to reflect any changes required by the incoming Administration.</p>	2	2	4	December 2022	<p>Risk Reviewed by Head of Corporate Support September 2022 with no change in risk scores.</p> <p>Risk reviewed April 2020 by Service Manager – People and Governance with both scores reduced from 6 to 4 due to Cllrs familiarity with the Code and the new Code of Conduct from Employees.</p>

Risk Ref.	Risk Category	Risk Description	Existing Risk Control Measures	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			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		
			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.									

REPORT TO: East Lothian Council

MEETING DATE: 13 December 2022

BY: Executive Director for Education and Children's Services

SUBJECT: Learning Estate Strategy

6

1 PURPOSE

- 1.1 To present to Council the East Lothian Council Learning Estate Strategy (LES) which sets out East Lothian Council's current position, ambitions and continuous improvement priorities for its learning estate.
- 1.2 The strategy is a high-level, education-specific, strategic document, which will be underpinned by a Learning Estate Improvement Plan (LEIP). The LEIP, to be developed early in 2023, will set out how the strategy will be realised in practice, and will give more specific detail about condition, suitability and roll projections, and how future developments in the learning estate will be prioritised.

2 RECOMENDATIONS:

- 2.1 The Council is recommended to:
- a. Approve the Learning Estate Strategy
 - b. Note that an associated Learning Estate Improvement Plan will be developed early next year.

3 BACKGROUND

- 3.1 Following the publication of the Scottish Government's Learning Estate Strategy in 2019 [Learning estate strategy - gov.scot \(www.gov.scot\)](http://www.gov.scot) it became a requirement that every local authority should have its own Learning Estate Strategy. Over the course of the last 18 months, the Education Service has been carrying out pre-consultation activity to support the development of the Learning Estate Strategy.

- 3.2 East Lothian continues to be one of the fastest growing areas in Scotland, with the population projected to grow by about 1% a year over the next 20 years. Significant growth is projected across all age groups but particularly among children and older people – the age groups which rely most heavily on council services – education and social care. The number of children 0-15 years old is projected to grow by over 15%. It is therefore essential that, as a local authority, we continue to address current and future capacity issues across our Learning Estate.
- 3.3 The Education Service has a statutory responsibility for leadership and the delivery of efficient and effective education in schools, whilst working closely with the Infrastructure Service, which has responsibility for the maintenance and management of the physical buildings and grounds. Working with key Council services such as Finance, they manage a portfolio of property assets within the Learning Estate.
- 3.4 It is our aspiration that the East Lothian learning estate is accessible, in good condition, well maintained and suitable. This context will enable East Lothian Council to meet its statutory obligations, whilst providing high quality, modern public services, which meet the current and future needs of communities.
- 3.5 A range of consultation requirements are outlined in the strategy to ensure we meet our statutory duties and capture stakeholder feedback.
- 3.6 Strategic overview and governance of all learning estate activities are provided by the Learning Estate Senior Managers' Group (LESM); a panel of senior leaders from across key Council services which is chaired by the Executive Director of Education and Children's Services.

National Context

- 3.7 Scotland's Learning Estate Strategy outlines a vision for a learning estate of the future which supports excellence and equity for all.
- 3.8 It was published in the context of the refreshed National Performance Framework, which invites an integrated approach to achieving the following national outcomes most specific to Scotland's learning estate:
- we grow up loved, safe and respected so that we realised our full potential
 - we are well educated, skilled and able to contribute to society
 - we are healthy and active
 - we live in communities that are inclusive, empowered, resilient and safe
 - we have thriving and innovative businesses, with quality jobs and fair work for everyone
 - we have a globally competitive, entrepreneurial, inclusive and sustainable economy

- 3.9 Background information on other key national legislation, guidance, policies and strategies which inform and influence East Lothian Council's Learning Estate are outlined in Section 3 of the strategy.

Aspirations for the Learning Estate in East Lothian

- 3.10 East Lothian Council's Learning Estate Strategy reflects the ten guiding principles contained within the Scottish Government's Learning Estate Strategy.
- 3.11 Of particular importance are our aspirations to:
- adopt a place-based approach, ensuring that schools sit at the heart of their communities;
 - provide facilities that help children and young people with Additional Support Needs (ASN) to feel calm, safe, supported and ready to learn;
 - provide digitally-enabled and connected learning spaces;
 - deliver energy-efficient and sustainable approaches to the development of our learning estate.
- 3.12 These aspirations will also ensure that we deliver the requirements of the National Improvement Framework, supporting the Education Service to ensure a commitment to excellence and equity.
- 3.13 We aim to actively involve our children and young people in decision-making and planning with regard to how their Learning Estate is developed and improved to accentuate their rights.
- 3.14 The Learning Estate Strategy provides a platform that underpins East Lothian Council's wider Property Asset Strategy. Both strategies explore opportunities to develop better, more affordable, sustainable and efficient integrated services across East Lothian.
- 3.15 Development of the Learning Estate should take full cognisance of the aims of the Council's Climate Change strategy.

Conclusion

- 3.16 We recognise the need to develop our Learning Estate in consultation with all relevant parties across the Council using consistent principles, criteria and approaches to prioritisation. By having a clear rationale for developing the Learning Estate, as described within this strategy, we can deliver improved, affordable outcomes, and realise the priorities within East Lothian Council's Plan.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

5.1 An integrated impact assessment is planned.

6 RESOURCE IMPLICATIONS

6.1 Financial – the ambitions set out in our strategy carry a significant resource and affordability challenge, in the context of high inflation, rising interest rates and wider financial challenges. The implementation plan will need to take cognisance of the existing pressures on capital and revenue budgets and operate within the affordability parameters outlined in the Council's Financial and Capital Strategies.

6.2 Personnel – none

6.3 Other – none

7 BACKGROUND PAPERS

7.1 [Learning estate strategy - gov.scot \(www.gov.scot\)](http://www.gov.scot)

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DATE	13.12.22

LEARNING ESTATE STRATEGY

2022-32



East Lothian Council

Learning Estate Strategy

2022-2032

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FOREWORD

East Lothian continues to be one of the fastest growing areas in Scotland, with the population projected to grow by about 1% a year over the next 20 years. Significant growth is projected across all age groups but particularly among children and older people – the age groups which rely most heavily on council services – education and social care. The number of children 0-15 years old is projected to grow by over 15%. It is therefore essential that, as a local authority, we continue to address current and future capacity issues across our Learning Estate.

In East Lothian we are ambitious for our children and young people. Working together, we support them to be confident, resilient and to achieve their true potential, within their school and in the wider community. We have a relentless focus on inclusion, achievement, ambition and progress for all, throughout all ages and stages. We aspire to create an environment where all young people are supported to live, learn and achieve within their own community. The Learning Estate plays a vital role in providing high quality, inspiring and nurturing environments to support this work.

We aim to create a fully inclusive learning estate that enhances learning, teaching, attainment and achievement, community involvement, partnership, collaboration and employability skills development. At its heart, this vision will support children and young people to thrive throughout all stages of their learning journey, from early years to secondary and on to the world of employment, education, or training.



1. PURPOSE

This Learning Estate Strategy (LES) sets out East Lothian Council's current position, ambitions and continuous improvement priorities for its learning estate from an education perspective, as well as taking into consideration responses to the key themes that were gathered in a series of pre-consultation community events in 2021. Our regional aspirations align with the ambitions contained within The Scottish Government's document, *Scotland's Learning Estate Strategy: Connection People, Places and Learning (2019)*, and also with East Lothian Council's values, *Enabling, Leading, Caring*.

Following the publication of the Scottish Government's Learning Estate Strategy, it became a requirement that every local authority should have a Learning Estate Strategy.

This strategy is designed to be a high-level, strategic document, which will be underpinned by a Learning Estate Improvement Plan (LEIP). The LEIP will set out how the strategy will be realised in practice, and will give more specific detail about condition, suitability and roll projections, and therefore order of priority for development.

It must be acknowledged that the ambitions set out in our strategy carry a significant resource and affordability challenge, in the context of rising inflation.

2. BACKGROUND

2.1 East Lothian Council's Learning Estate

The Education Service has overall responsibility for leadership and the delivery of education in schools, whilst working closely with Infrastructure, with responsibility for the maintenance and management of the physical buildings and grounds, Finance and other key Council services to manage a portfolio of property assets within the Learning Estate.

It is our aspiration that the ELC Learning Estate is accessible, in good condition, well maintained and suitable. This context will enable East Lothian Council to meet its statutory obligations, whilst providing high quality, modern public services, which meet the current and future needs of communities.

2.2 Pre-Consultation

2.2.1 Learning Estate Review (LER)- Pre-consultation

East Lothian Council will actively seek the views of key stakeholders and communities, to inform strong decisions, leading to improve services for East Lothian residents.

Two pre-consultations were undertaken as part of the development of this Learning Estate Strategy. Such consultation is advised as good practice under the *Schools (Consultation) (Scotland) Act 2010*.

Phase 1 of the *Learning Estate Review Pre-Consultation* was an online information-gathering exercise (in the context of the restrictions imposed by COVID-19), utilising a questionnaire hosted on the Council's Consultation Hub. The process was designed to offer schools and communities the opportunity to share their opinions on the condition of the existing learning estate and their experiences of how the estate supports both learning and community use.

Phase 2 of the pre-consultation process invited members of the public to further share their feedback in a variety of ways; by completing an online survey, emailing the Learning Estate Team or by joining a series of online drop-in sessions (one for each cluster area) to take part in a live discussion. This phase was supported by a website which included maps showing the location of all the council's schools and other facilities, information on the buildings' condition, suitability ratings, school capacity details and roll projections. The cost per head, per pupil was also provided. Stakeholders and communities were provided with a broad range of detailed information about the Council's existing school estate, at school, catchment and county level.

2.3 Statutory Consultations

Upon completion of the pre-consultation phases, stakeholder feedback has been gathered and analysed. As per The Schools (Consultation) (Scotland) Act 2010 and a range of other statutory consultation processes, any suggested amendments or improvements would need to be passed through the appropriate statutory function. This provides further opportunities for learners, elected officials, stakeholders and communities further to question and comment on the Learning Estate Improvement Plan (LEIP).

2.3.1 Pre-Application Consultations

The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 stipulates that any project with a gross floor area greater than 5000sqm or a site area greater than 2 hectares will be classed as a Major Development and as such is subject to a 12-week pre-application consultation process. This consultation process is prepared and run by the applicant.

2.3.2 Formal Planning Applications

Planning permission is legally required for any 'new' development. Information pertaining to the development is submitted to East Lothian Council Planning Department which is then responsible for running the statutory consultation process.

2.3.3 Schools Consultations

East Lothian Council is committed to undertaking the necessary formal consultations required in line with the *Schools (Consultation) (Scotland) Act 2010* if we propose to undertake any of the ten listed changes to our school estate.

2.3.4 Catchment Reviews

2.3.5 Statutory consultation through Local Development Plan 2

2.4 Project Delivery Strategy

The LES and LEIP will provide a clear vision and action plan, ensuring a collaborative approach across East Lothian Council services to the improvement of the Learning Estate. Consistent, transparent processes and timelines will be communicated to all stakeholders prior to any project initiation. Decisions will be made with:

- linkage to the feedback received in the pre-consultation phases
- clear timelines
- financial commitment
- political support
- further consultation as required.

In terms of governance, strategic overview of all Learning Estate activities is provided by the Learning Estate Senior Managers' Group (LESM). This consists of a panel of senior leaders from across key Council services and is chaired by the Executive Director of Education and Children's Services. All operational matters will be reviewed monthly by the Learning Estate Project Board (LEPB).

3. NATIONAL CONTEXT

This section provides background information on key national legislation, guidance, policies and strategies which inform and influence East Lothian Council's Learning Estate.

3.1 Scotland's Learning Estate Strategy 2019 (SGLES)

[Learning estate strategy - gov.scot \(www.gov.scot\)](http://www.gov.scot)

In 2019 The Scottish Government and CoSLA (Convention of Scottish Local Authorities) jointly published *Scotland's Learning Estate Strategy: Connection People, Places and Learning* outlining the vision for a learning estate of the future which supports excellent and equity for all,

"By placing the whole learning estate at the heart of meeting the needs of Scotland's communities, learnings and businesses and adopting a more integrated approach, we will improve the outcomes for all of our learners and enable sustainable and inclusive economic growth" – John Swinney MSP and Cllr Stephen McCabe.

The strategy was published in the context of the refreshed National Performance Framework, which invites an integrated approach to achieving the following National Outcomes most specific to Scotland's learning estate:

- we grow up loved, safe and respected so that we realised our full potential
- we are well educated, skilled and able to contribute to society
- we are healthy and active
- we live in communities that are inclusive, empowered, resilient and safe
- we have thriving and innovative businesses, with quality jobs and fair work for everyone
- we have a globally competitive, entrepreneurial, inclusive and sustainable economy

3.2 Ten Guiding Principles

[Learning estate strategy - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Scotland's Learning Estate Strategy sets out 10 guiding principles. These have been refreshed to build up and supersede those included in the 2009 *School Estate Strategy: Building Better Schools*

to reflect lessons learned and to take a more holistic approach across the whole of Scotland's learning estate:

1. Learning environments should support and facilitate excellent joined up learning and teaching to meet the needs of all learners.
2. Learning environments should support the wellbeing of all learners, meet varying needs to support inclusion and support transitions for all learners.
3. The learning estate should be well-managed and maintained, making the best of existing resources, maximising occupancy and representing and delivering best value
4. The condition and suitability of learning environments should support and enhance their function.
5. Learning environments should serve the wider community and where appropriate be integrated with the delivery of other public services in line with the place principle.
6. Learning environments should be greener, more sustainable, allow safe and accessible routes and be digitally enabled.
7. Outdoor learning and the use of outdoor learning environments should be maximised.
8. Good consultation about learning environments, direct engagement with learners and communities about their needs and experiences, and an involvement in decision making processes should lead to better outcomes for all.
9. Collaboration across the learning estate, and collaboration with partners in localities, should support maximising its full potential.
10. Investment in Scotland's learning estate should contribute towards improving learning outcomes and support sustainable and inclusive economic growth.

3.3 The United Nations Convention on the Rights of the Child (UNCRC)

[UN Convention on the Rights of the Child - UNICEF UK](#)

The United Nations Convention on the Rights of the Child (UNCRC) covers all aspects of a child's life and set out the civil, political, economic, social and cultural rights to which all children everywhere are entitled. The United Kingdom ratified the UNCRC in 1991 and in March 2021 the Scottish Parliament passed a bill to incorporate the UNCRC into Scots Law.

The UNCRC is central to the Scottish Government's approach to improving outcomes for children and young people including GIRFEC. Once incorporated in to Scot's Law, there will be a requirement for all local authorities to consult with children and young people on the development of the learning estate.

3.4 Schools (Consultation) (Scotland) Act 2010

[Schools \(Consultation\) \(Scotland\) Act 2010 \(legislation.gov.uk\)](#)

The *Schools (Consultation) (Scotland) Act 2010* sets out the process that a local authority must follow when it proposes to make significant changes to its school estate, such as closing a school or changing a school's catchment area.

3.5 The Education Scotland Act (1980)

[Education \(Scotland\) Act 1980 \(legislation.gov.uk\)](#)

The Education Scotland Act (1980) places a statutory duty on authorities to make adequate and efficient provision of school education for their area. The authority is also responsible for taking into account the needs of the whole area and the likely pattern of need in the future, beyond the current school population.

3.6 Standards in Scotland's Schools Act (2000)

[Supporting documents - Standards in Scotland's Schools etc. Act 2000 statutory guidance - gov.scot \(www.gov.scot\)](#)

It is presumed that, unless exceptional circumstances exist, children and young people will be educated within mainstream schools. It is recognised that where children and young people require a higher level of support than can be provided within mainstream schools, a specialist provision may be necessary. It is expected that this will be the case for a small number of children with enduring, significant and complex needs.

3.7 Capacity Guidance

[Determining primary school capacity: guidance for local authorities - gov.scot \(www.gov.scot\)](#)

3.7.1 Primary Schools

The Scottish Government's document *Determining Primary School Capacity Guidance 2014* provides guidance on primary school capacity modelling for local authorities.

This clear and consistent basis for calculation the capacity of schools is provided to assist in the following:

- Forward Planning
- Curricular and Organisational Needs
- Placing Requests
- Calculation of Performance Indicators
- Informing Consultations on Proposed Changes to the School Estate
- Scottish Government Policy

3.7.2 Secondary Schools

[Part 3: Secondary Schools - Determining primary school capacity: guidance for local authorities - gov.scot \(www.gov.scot\)](#)

Although there is no Scottish Government guidance in this regard, other local authorities have published circulars regarding secondary school capacity assessment and East Lothian Council has been required to assess capacity to enable breaches to be identified and expansions designed.

3.8 The Education (Additional Support for Learning) (Scotland) Act 2004 (as amended 2009) [The Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(1library.net\)](#)

The *Education (Additional Support for Learning) (Scotland) Act 2004 (as amended 2009)* provides the legal framework for the provision of additional support for learning.

The Act recognises and makes provision for the fact that support may be required by children and young people for any number of reasons and for varying periods of time. It places duties on the education authorities to identify, make provision for and review provision for the additional support needs of children and young people within its local authority.

3.9 Climate Change

[The Paris Agreement | UNFCCC](#)

www.eastlothian.gov.uk/downloads/download/13283/climate_change_strategy_2020-25

All of Scotland's 32 local authorities signed Scotland's Climate Change Declaration in 2007 and it is recognised that the public sector is on the frontline of the response to the global climate emergency.

In August 2019, East Lothian Council's Elected Members unanimously agreed to declare a Climate Emergency. The Council resolved to take action to make all our Council Services net Zero Carbon as soon as reasonably practicable or in any case by 2045 and to work with our communities and partners towards making East Lothian a carbon neutral county.

The strategy's Key Priority 8 *Our Schools and Young People* seeks to involve and empower our young people in tackling climate change locally and ensure our schools are exemplary in embedding sustainability. The Learning Estate will be integral to the success of this priority.

3.10 The School Premises (General Requirements and Standards) (Scotland) Regulations 1967 [The School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967 \(legislation.gov.uk\)](#)

The *School Premises (General Requirements and Standards) (Scotland) Regulations 1967* prescribes the broad minimum standards that school buildings must meet to ensure that the specific needs of pupils are met, particularly on issues that might impact their welfare or education.

4. ASPIRATIONS FOR THE LEARNING ESTATE IN EAST LOTHIAN

This section outlines the aspirations that East Lothian Council has for its Learning Estate and the information that is utilised as a basis for decision making:

4.1 Education Priorities, Aspirations and the Ten Guiding Principles

It is the objective of East Lothian Council to reflect the Scottish Government's Ten Guiding Principles in the design of the learning estate and through the aspirations of education leaders across the region. We will:

- develop a Learning Estate with flexible, specialist spaces and resources that will enable teachers (and partners) to interrupt the cycle of poverty and create equitable access to high quality educational pathways and experiences
- construct environments which support children and young people to develop the skills, through strategic partnership and co-location of services, for learning, life and work
- adopt a place based approach, ensuring that schools sit at the heart of their communities; functioning as learning and intergenerational community wellbeing hubs that will bring communities together improve education, health and employability outcomes for children, young people and adults
- provide facilities that help children and young people with Additional Support Needs (ASN) to feel calm, safe, supported and ready to learn. All environments should enable a nurture-based approach and create opportunities for health, wellbeing, inclusion, active learning
- provide outdoor learning and play spaces that reconnect with the natural environment, which is recognised as having beneficial effects upon learning and social development
- provide digitally-enabled and connected learning spaces
- deliver optimal environmental learning and teaching conditions in terms of temperature, acoustics, ventilation, natural light and controllability. Learning spaces are assessed as “fully supporting learning and teaching”, which is graded as condition ‘A’ good, through to “seriously impeding learning and teaching”, which is graded as condition ‘D’ bad.
- deliver energy efficient and sustainable approaches to the development of our learning estate
- plan for the delivery of appropriate infrastructure to develop safe routes to school

Priorities of the National Improvement Framework:

[National Improvement Framework \(NIF\) - Schools - gov.scot \(www.gov.scot\)](https://www.gov.scot/national-improvement-framework/schools)

The National Improvement Framework sets out the vision for Education in Scotland:

- **Excellence through raising attainment:** ensuring that every child achieves the highest standards in literacy and numeracy, as well as the knowledge and skills necessary to shape their future as successful learners, confident individuals, responsible citizens, and effective contributors;
- **Achieving equity:** ensuring every child has the same opportunity to succeed, with a particular focus on closing the poverty related attainment gap.

We are committed to delivering both **excellence** in terms of ensuring children and young people acquire a broad range of skills and capacities at the highest levels, whilst also delivering **equity** so that every child and young person should thrive and have the best opportunity to succeed, regardless of their social circumstances or additional needs.

Clearly, our Learning Estate has to be fit for purpose in order to underpin the delivery of this, using the key drivers of improvement:

- school leadership
- teacher professionalism
- parental engagement
- assessment of children's progress
- school improvement
- performance information

4.2 Core Facts Surveys and Reporting

[Scottish Exchange of Data: school estates core facts - gov.scot \(www.gov.scot\)](http://www.gov.scot)

As well as being a requirement of the Scottish Government's Learning Estate Strategy (2019), East Lothian Council shares the ambition, that as a minimum, all schools within the Learning Estate should be rated 'B' or above, for both Condition and Suitability (except for new build schools which should be rated 'A').

As set out in the Guiding Principles, the condition and suitability of all learning environments should support and enhance their function.

East Lothian Council is committed to fulfilling its obligations in reporting the outcomes of our Core Facts Surveys annually to the Scottish Government, for publication in its annual *School Estates Core Facts Survey* and to keeping this data current, in order to inform better decision making.

Suitability Core Facts surveys are carried out and/or reviewed annually by East Lothian Council to ensure the Learning Estate is fit for the purpose of delivering an effective modern curriculum. This review informs the Council's Capital Plan.

The suitability rating for each school is based on the following criteria set by the Scottish Government:

- A: Good – Performing well and operating effectively
- B: Satisfactory – Performing well but with minor problems
- C: Poor – Showing major problems and/ or not operating optimally
- D: Bad – Does not support the delivery of service to children and communities

4.3 UN Convention on the Rights of the Child (UNCRC)

[UN Convention on the Rights of the Child - UNICEF UK](http://www.unicef.org)

In East Lothian we aim to actively involve our children and young people in decision making and planning with regards to how their Learning Estate is developed and improved to accentuate their rights.

4.4 Schools (Consultation) (Scotland) Act 2010

[Schools \(Consultation\) \(Scotland\) Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

East Lothian Council will fully consult with stakeholders and communities, as per legislation, in advance of any proposed changes to the Learning Estate, as appropriate.

4.5 Specialist Provision and Severe and Complex

As outlined in East Lothian's 'Inclusion, Equality and Accessibility for All Policy' (2020) , we aspire to provide high quality, bespoke facilities that can enhance indoor and outdoor learning opportunities to meet the growth of demand and complexity of need in East Lothian. We are determined to meet the needs of pupils in their own communities and for this to happen we will commit to providing specialist provision within each Associated School Group (ASG).

4.6 Gaelic Medium Education (GME)

East Lothian Council currently provides both primary and secondary Gaelic Medium Education through a partnership arrangement with City of Edinburgh Council. This will be kept under review.

4.7 Denominational Secondary Education

East Lothian Council currently provides secondary level denominational education through a partnership arrangement with Midlothian Council. This will be kept under review.

4.8 Primary and Secondary School Capacities

East Lothian Council aspires for school capacities to maximise educational benefits for children and young people, providing opportunities to fully deliver the entitlements and experiences and outcomes of Curriculum for Excellence, while maintaining a focus on affordability.

4.9 Business Planning & Revenue Budget

East Lothian Council aims to provide a high quality, sustainable and affordable portfolio of Learning Estate assets, through an integrated partnership approach to the delivery of services. Prudent investment planning and a strategic approach to income generation are central to the achievement of a Learning Estate that fulfils the aspirations of the SGLES 'Ten Principles of Design'

4.9.1 Capital Plan

The process for deciding how much East Lothian Council will raise in income and spend on services in future years is an ongoing process.

Plans will be affected by changing political structures, new demands or legislation, the state of the general economy, demographics and events that we cannot always predict. However, the Council Plan 2017-2022 and the annual budget will underpin decision-making.

The annual budget, which is a public document, is the financial expression of the objectives of East Lothian Council, including those associated with an affordable, sustainable and high quality Learning Estate. Clear opportunities exist and should be built upon, within the Learning Estate, to generate revenue.

4.9.2 Other Council Buildings

The Learning Estate Strategy provides a platform that underpins East Lothian Council's wider *Property Asset Strategy*. Both strategies explore opportunities to develop better, more affordable, sustainable and efficient integrated services across East Lothian. With significant financial pressures and changing demographics within the county, these strategies, in conjunction with Local Development Plan 2 should better inform the *Council Asset and Management Plan 2018 – 2023* and the consequential action plan of that report.

4.10 Transport and Planning

Our Learning Estate should be accessible, with strong transport and digital connectivity. Safe walking and cycle routes to school are integral to our vision.

East Lothian Council's *Local Development Plan 2018* sets out the following over-arching transport policies which align with our aspirations for the learning estate:

Policy T1: New developments shall be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as private vehicle, including adequate car parking provision in accordance with our standards;

Policy T2: New development must have no significant adverse impact on:

- road safety
- the convenience, safety and attractiveness of walking and cycling in the surrounding area
- public transport operations in the surrounding area, both existing and planned, including convenience of access to these and their travel times
- the capacity of the surrounding road network to deal with traffic unrelated to the proposed development
- residential amenity as a consequence of an increase in motorised traffic

4.11 Safer Routes to School

We aspire to provide a Learning Estate that is safe and accessible by foot, by bike or by car.

East Lothian Council has a *Road Safety Plan* which aims to deliver the following initiatives, which align with our aspirations for the learning estate:

- deliver Active School Travel at all schools with the support of the East Lothian Council Road Services
- close collaboration between school communities and Road Services to address school gate congestion and Safer Routes to School issues
- deliver cycle training (Bikeability, Cycling Scotland) in primary schools.
- deliver road safety at Early Learning and Childcare settings and schools as promoted in 'Road Safety' within Curriculum for Excellence
- a full infrastructure appraisal and requisite budget to achieve the full aspirations of the project

4.12 Climate Change

East Lothian Council plans to take urgent action to make all our Council Services Net Zero as soon as reasonably practicable or in any case by 2045 and will lobby, support and work with government, all relevant agencies, partners and communities to fulfil this commitment. The Council will also work with our communities and partners towards making East Lothian carbon neutral, enabling the county to deliver its part of wider national and international commitments, and to prepare for the impacts of climate change. The Climate Change Strategy sets out how East Lothian Council will work in partnership with our local communities, businesses, organisations and individuals to tackle climate change. The Council will also work with its partners in the East Lothian Partnership to help achieve a reduction in carbon emissions, and improve sustainability and equality across East Lothian. Any development of the Learning Estate should take full cognisance of the aims of this strategy.

https://www.eastlothian.gov.uk/downloads/file/29179/climate_change_strategy_2020-2025

CONCLUSION

The principles set out in this strategy will be used to shape future planning and prioritisation across the learning estate and our localities.

The associated Learning Estate Implementation Plan will set out how this will be done in practice, and will give more specific detail about condition, suitability and roll projections, and therefore order of priority for development.

We recognise the need to do this in consultation with all relevant parties across the Council using consistent principles, criteria and prioritisation approaches. By having a clear rationale for developing the learning estate, as described within this strategy, we can deliver improved, affordable outcomes, and realise the priorities within East Lothian Council's Plan.

Appendix 1: The Current Education Estate

1. Dunbar Associated School Group

Dunbar and its surrounding areas are situated at the eastern end of East Lothian. It includes the settlements and areas of Dunbar, East Linton, West Barnes, Stenton and Innerwick. This ASG includes one secondary school, five primary schools and four early learning and childcare settings (ELC):

- Dunbar Grammar School
- Dunbar Primary School and ELC setting: John Muir Campus
- Dunbar Primary School: Lochend Campus
- East Linton Primary School and ELC setting
- Innerwick Primary School
- Stenton Primary School
- West Barnes Primary School and ELC setting

2. Haddington Associated Schools Group

Lying in the middle of the county, Haddington and its surrounding communities stretch from Humbie and Saltoun in the east and Garvald in the west. Haddington is the administrative capital of East Lothian. This ASG includes one secondary school and four primary schools, each with an associated early learning and childcare setting (ELC):

- Knox Academy
- Haddington Primary School and ELC setting: Lower Campus
- Haddington Primary School: Upper Campus
- Letham Mains Primary School and ELC setting
- St Mary's RC Primary School and ELC setting
- Yester Primary School and ELC setting

3. Musselburgh Associated School Group

Musselburgh and its surrounding areas are situated at the western end of East Lothian close to Edinburgh. It includes the settlements of Musselburgh, Wallyford, Whitecraig, Carberry, and Old Craighall. This ASG currently includes one secondary school and seven primary schools, each with an associated early learning and childcare facility (ELC):

- Musselburgh Grammar School
- Campie Primary School and ELC setting
- Loretto RC Primary School and ELC setting
- Musselburgh Burgh Primary School and ELC setting
- Pinkie St Peter's Primary School and ELC setting
- Stoneyhill Primary School and ELC setting
- Wallyford Primary School and ELC setting
- Whitecraig Primary School and ELC setting

Proposals for a new primary school and early learning and childcare facility for the new Craighall masterplan development are currently underway.

Following the completion of Wallyford Learning Campus in 2023 both Wallyford Primary School and Pinkie St Peter's Primary School will migrate to the new Wallyford Associated School Group.

4. North Berwick Associated School Group

North Berwick and its surrounding areas are situated at the eastern end of East Lothian. It includes the settlements and areas of North Berwick, Dirleton, Drem, Gullane, Aberlady and Athelstaneford. This ASG has one secondary school, five primary schools and four early learning and childcare facilities (ELC):

- North Berwick High School
- Aberlady Primary School and ELC setting
- Athelstaneford Primary School and ELC setting
- Dirleton Primary School
- Gullane Primary School and ELC setting
- Law Primary School and ELC setting

5. Prestonpans Associated School Group

Prestonpans and its surrounding areas are situated at the western end of East Lothian by the Firth of Forth. It includes the settlements of Cockenzie, Port Seton and Longniddry. This ASG currently has one secondary school and four primary schools, each with an associated early learning and childcare facility (ELC):

- Preston Lodge High School
- Cockenzie Primary School and ELC setting
- Longniddry Primary School and ELC setting
- Preston Tower Primary School and ELC setting: Lower Campus
- Preston Tower Primary School: Upper Campus
- St Gabriel's RC Primary School and ELC setting

Proposals for a new primary school and early learning and childcare facility for the new Blindwells masterplan development are currently underway.

6. Tranent Associated School Group

Tranent is situated towards the west of East Lothian lying between Haddington and Musselburgh on the south side of the A1. It includes the settlements of Tranent, Ormiston, Elphinstone, Macmerry, Saltoun and Pencaitland. This ASG has one secondary school and eight primary schools, each with an associated early learning and childcare facility (ELC):

- Ross High School
- Elphinstone Primary School and ELC setting
- Humble Primary School and ELC setting

- Macmerry Primary School and ELC setting
- Ormiston Primary School and ELC setting
- Pencaitland Primary School and ELC setting
- Saltoun Primary School and ELC setting
- Sanderson's Wynd Primary School and ELC setting
- St Martin's RC Primary School and ELC setting
- Windygoul Primary School and ELC setting

7. Wallyford Associated School Group (Proposed)

Wallyford is situated to the south-east of Musselburgh and following the completion of the new Wallyford Learning Campus in 2023 it will become the centre of East Lothian Council's newest associated school group. This proposed ASG will include one secondary school and two primary schools, each with an associated early learning and childcare facility (ELC):

- Wallyford Learning Campus
- Pinkie St Peter's Primary School and ELC setting
- Wallyford Primary School and ELC setting

8. Specialist Provisions

Early Learning and Childcare Specialist Provision

- Green Room, The Hub, Sanderson's Wynd Primary School (Tranent ASG)

Primary Specialist Provisions

Severe and Complex - Autistic Spectrum Disorder (ASD)

- The Cove, Dunbar Primary School (Dunbar ASG)
- Woodside, Windygoul Primary School (Tranent ASG)

Severe and Complex – Learning and Autistic Spectrum Disorder (ASD)

- The Hub, Sanderson's Wynd Primary School (Tranent ASG)

Secondary Specialist Provisions

Severe and Complex – Learning

- Ross ASN Department, Ross High School (Tranent ASG)
- Wallyford Learning Campus (Wallyford ASG) – This provision will open in August 2023

Severe and Complex - Autistic Spectrum Disorder (ASD)

- Meadowpark, Knox Academy (Haddington ASG)

Appendix 2: Education Capacities

For each sector there are methodologies that need to be applied to inform capacity:

ii. Education Forecasting Methodology

East Lothian Council has a comprehensive *Education Provision Forecasting Guide* which informs the operational capacity and forward planning.

The current methodology for forecasting primary and secondary school rolls has been used by East Lothian Council since 1996. The methodology for projecting eligible 2-year-olds, 3- to 5-year-olds and Additional Support Needs (ASN) Specialist Provision populations within each catchment area was developed by East Lothian Council during 2015- 2016.

The projection sets are trends-based forecasts and take into consideration a wide range of evidence from the local catchment area and/or local authority Education establishment (as appropriate). This evidence includes the number of births and children (nursery, primary and secondary school age) attending East Lothian schools and ELC settings from new build housing developments in each catchment area since 2003/04.

There are two main updates to the Education population projections each year. The Early Years projections are prepared in the summer term to take account of the final nursery intake period each year. The primary, secondary and ASN projections are prepared in the autumn term, based on the latest validated and published September Census Rolls. These are the official set of annual projections used to support school budget and Education Estate capital expenditure planning as well as in the assessment of planning applications. Pupil roll projections are generated in the main for up to 15 years although the error margin will widen the further into the future.

iii. Planning Capacity

In East Lothian, primary school capacities are expressed in terms of total planning capacity together with the number of class teaching spaces required to accommodate the projected number of pupils from year to year. The planning capacities are also used to assess the impact of new development on schools, so that appropriate developer contributions can be collected.

The planning capacity is a theoretical measure of the total number of pupils and classes which could be accommodated in a school, based on the number and size of teaching spaces. It is also informed by the pupil distribution across class stages and the class organisation required for the projected pupil numbers. This is the figure which is provided to the Scottish Government in the annual School Estate Core Facts Statistical return and provides the basis for the Council to plan for future changes in the school estate and to assess the need for future investment.

iv. Nursery Capacities

The maximum capacity for nursery classes under the management of East Lothian Council is restricted by the Care Inspectorate requirements for the building (net area of classroom spaces and number of pupil toilets).

Net areas of classroom space required per pupil are as follows:

Children aged <2 years: minimum 3.7m²/pupil
Children aged 2-3 years: minimum 2.8m²/pupil
Children aged >3 years: minimum 2.3m²/ pupil

v. Primary School Capacities

Capacities for East Lothian Primary Schools are expressed as Planning Capacities and classroom numbers. The statutory maximum class sizes which help inform these capacities are as follows:

Primary 1: 25 pupils
Primary 2-3: 30 pupils
Primary 4-7: 33 pupils
Composite class: 25 pupils

v. Secondary School Capacities

Secondary School capacity is calculated in accordance with *The School Premises (General Requirements and Standards) (Scotland) Regulations 1967*. Other relevant recognised reference documents published by the Scottish Futures Trust are used to inform best practice.

vi. Denominational Capacity

As per the Education (Scotland) Act 1980 East Lothian Council currently provides secondary level denominational education through a partnership arrangement with Midlothian Council.

vii. Current School Occupancy

This is a percentage which shows the school roll against the capacity of each school, it can also be referred to as sufficiency. East Lothian Council submit information to the Scottish Government on our school's sufficiency each year.

An excessively high level of occupancy could easily lead to over-crowding, whilst an excessively low level is unlikely to be sustainable, affordable or offer best value. An ideal occupancy level would be approximately 85%, however our target occupancy band is between 75% and 90%.

viii. Response to Planning Applications

When a planning application for a residential development of 5 units or more is submitted, the development proposal is currently assessed against existing Education Provision capacity within the catchment area and/ or the associated school group that the development proposal lies within.

ix. Catchment Reviews

A council has to consult with parents, children, young people and the wider community when it proposes changes to its school estate. This includes changes such as proposals to close schools or change a school's catchment area.

The [Schools \(Consultation\) \(Scotland\) Act 2010](#) sets out the process that councils must follow when they do this. The Act also gives HM Inspectors a role in the process. The Act was amended in 2014 in part 15 of [The Children and Young People \(Scotland\) Act 2014](#).



Versions of this leaflet can be supplied in Braille, large print, audiotape or in your own language. Please phone Customer Services if you require assistance on 01620 827199

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REPORT TO: East Lothian Council

MEETING DATE: 13 December 2022

BY: Executive Director for Place

SUBJECT: Community Benefits from Offshore and Onshore Wind Installations

7

1 PURPOSE

- 1.1 This report highlights the varied practice arising around community benefit funds arising from offshore and onshore wind installations. It draws attention to the Scottish Government *Good Practice Principles for Community Benefits from Onshore Renewable Energy Development* (Scottish Government, May 2019) as well as the Scottish Government's draft guidance document '*Scottish Government Good Practice Principles for Community Benefits from Offshore Renewable Energy Developments*' (2018), which has not been finalised.
- 1.2 The intention is to encourage the Scottish Government's development of finalised guidance for offshore community benefits upon which councils and communities can rely and which promotes the allocation of benefits between local communities adjacent to installations and wider community objectives in the local authority area.

2 RECOMMENDATIONS

Council is asked to:

- 2.1 Note the Scottish Government's Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments;
- 2.2 Note that discussions are to take place with the Association of East Lothian Community Councils and the wind energy developers active in East Lothian about the Association's proposal to develop a voluntary scheme to split community benefits between communities adjacent to renewable energy installations and a wider East Lothian Community Benefits Fund;

- 2.3 Note the varied practice in terms of how community benefits are funded and allocated and the lack of finalised and clear guidance relating to Offshore wind developments; and,
- 2.4 Mandate the Economic Development Spokesperson to call upon the Scottish Government’s Cabinet Secretary for Net Zero, Energy and Transport to finalise guidance for the valuation and distribution of community benefits arising from offshore wind developments and seek the support of Paul McLennan MSP in this respect.

3 BACKGROUND

- 3.1 Community benefits are voluntary payments made by renewable energy companies to communities in the vicinity of their installations. They are not, formally, ‘compensation’ for the effects of living near renewable energy installations, but are intended to allow communities to share in profits being made from the use of natural resources. They are not a ‘material consideration’ in the planning process and are thus not taken into account in a decision over whether consent should be granted.
- 3.2 Community benefit payments typically commence once the windfarm is constructed and power generation has started and following detailed discussions with community representatives. The developers have dedicated employees who build relationships with communities and work towards agreement in the distribution of benefits.
- 3.3 The Scottish Government’s guidance around onshore wind requires the owner of the installation, following a process of consultation, to identify appropriate communities that will be involved in the community benefits scheme. “Consultation should be open, timely, fair and inclusive, enabling everyone with an interest the opportunity to be involved and heard.”¹
- 3.4 There are various models of administration of the benefits funds including through community councils and in some instances by local authorities. Typically there is an annual pot of money within each community benefit fund, which is allocated via a bidding process, to community groups who bring forward requests for funding for specific projects. SSE, one of the largest onshore wind providers employs full-time community benefits officers and produces an annual report showing the contributions that have been made to communities.
- 3.5 In relation to onshore wind, the Scottish Government Good Practice Principles “*promotes community benefits at the value equivalent to £5,000 per installed megawatt per annum, index linked for the operational lifetime of the project*”². The costs of onshore wind installations and the level of

¹ Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Development (Scottish Government; May 2019) Page 13

² Ibid Page 5

electricity likely to be generated is widely understood and this sum has been settled on as a reasonable level of contribution.

- 3.6 Large onshore wind farms can generate high levels of community benefit each year. For example, the developers seeking planning approval for the Newlands Hill Wind Energy Hub are projecting that this development will initially provide around £561k community benefit per annum and a potential total of £42m over the 40-year lifetime of the project. Because of large sums that could be generated for relatively small communities the Good Practice Guidance suggests that “*There may be an opportunity to be more flexible in terms of widening the geographical area of benefit to reach a greater number of individuals and organisations that could support projects that are area-wide ... Any decision to widen the area of benefit should form part of the discussions/consultation process with the community living within the boundary of the development area and the renewable energy business*”.³
- 3.7 The issue of wider geographic or East Lothian-wide community benefits is being considered by the Association of East Lothian Community Councils (AoELCC). A sub-group of the Association has produced a draft proposal for consultation which suggests splitting community benefits packages between ‘locally affected community councils’ and an East Lothian ‘Community Benefits Fund’. Renewable energy companies that attended a recent Energy Forum organised by Paul McLennan MSP, were in agreement in principle of splitting community benefits between locally affected communities and an East Lothian-wide community benefits fund.
- 3.8 At the AoELCC meeting that discussed the proposal for an East Lothian Community Benefits Fund, it was agreed that the Council would support the Association in working up the proposal with options around the possible split of benefits between locally affected communities and the wider East Lothian Fund, whether the Fund would include offshore as well as onshore development, the governance arrangements around the Fund, and the potential priorities or focus for distributing the Fund.
- 3.9 Turning to offshore wind, at the current time, the costs of installation and consequently profits that will arise are much less certain than those for onshore wind. The installations themselves will be at varying sea depths and varying distances from their operations and maintenance bases onshore. The maintenance costs of the installations are also higher as they involve operations in deep water and far out at sea. The turbines are frequently also located off the shore of more than one local authority area and the power is brought onshore to a substation that may be many miles in distance from the turbines generating the electricity.
- 3.10 In East Lothian power is being brought onshore from the NNG array of wind turbines with the cable coming onshore adjacent to Thorntonloch before the power travels 12km to a substation located in the Lammermuir Hills. The NNG windfarm is reported by EDF to be likely to be commissioned during 2023 and the website makes reference to bringing

³ Ibid. p. 16

forward a proposal for a community benefit fund in the coming months. (Appendix C – link to the NNG website). The wind farm will produce 450MW from 54 turbines. Planning permission in principle has been granted to Inchcape/Red Rock Power to bring power onshore to a substation at Cockenzie and an approval of matters application has recently been lodged, with the intention to start construction in 2023, assuming that the application is approved. The design for the wind farm. Located off the Angus coast, has changed recently, to use 72 larger 15MW turbines instead of the originally proposed 110 9.5MW turbines. This will allow the generation of 1GW of power. Inchcape/Red Rock have indicated that they will bring forward proposals for a community benefit fund in due course. There is also an option granted on land within the Cockenzie site to Seagreen to allow power from Seagreen 1A to be brought ashore at Cockenzie and this installation also has planning permission in principle. SSE, the owner of Seagreen has also indicated that it is prepared to bring forward a community benefit fund at the appropriate time, assuming that all necessary consents are achieved and the development of Seagreen 1A goes ahead.

3.11 Examples of benefits funds found from research into offshore wind include:

- Rhyl Flats, Llandudno, max output 90MW, annual fund of £75,000
- North Hoyle, Liverpool Bay, max output 60MW, annual fund of £60,000
- Sheringham Shoal, Norfolk, max output 317MW, commissioned in 2012 with total funds awarded since commission £1.1m
- Gwynt Mor Wind Farm, Wales, 540MW, commissioned in June 2015 with a lifetime fund (25 years) totalling £19m, as well as a tourism fund of £690,000 delivered during construction (improvements to historic pier, slipway to allow the launch of small boats, a contribution to the redevelopment of a historic harbour, a project to improve cycling and walking connections and beach improvements)
- London Array, Kent, max output 630MW, fund worth a total of £850,000 over the life of the turbines, split £200,000 to the local wildlife trust for nature conservation; £300,000 for community benefits and the remainder an endowment of a bursary to send one local student to university every year
- EOWDC, Aberdeen, max output 96MW, fund worth £3m, at £150,000 per year over 20 years.

3.12 This demonstrates the diversity of the amounts of funding arising and also in terms of how the funds are allocated. There are difficulties in making direct comparisons, as the size of the turbines, the depth of water they are in, the distance they are located off the coast and their method of maintenance all affects the economics of an offshore project and therefore the amount of benefit that can be afforded. The turbines can also be located many miles from the landing point for the power. The examples do, however, provide evidence that there are times when the funds have

been split between direct payments to local communities and payments to achieve wider objectives in the local area. It is also important to note that some of these payments in the examples above are split between a number of local authority areas according to the location of the turbines and the onshore apparatus. There is limited information on this, although the large Beatrice offshore array delivers community benefits to two local authority areas and the types of fund in each area are reported to be different.

- 3.13 The inconsistency of these positions points to the Scottish Government undertaking further work in relation to its draft guidance, in order that community benefits funds from offshore wind benefit from a more certain position. The guidance should also allow for agreements to be made to allocate portions of community benefit funds to wider objectives in the area, as well as an immediate funding pot for the adjacent local communities. This seems particularly logical in relation to offshore wind where the turbines can be many miles away from the onshore landing point and there is scope to balance the funding that arises across the wider community area. In all cases, however, it is acknowledged that the offer of benefits is voluntary on the part of the operator of the installation and the benefits are allocated overall for the community, not to fund the functions of the local authority.
- 3.14 It is proposed that the Council agrees to the Economic Development Spokesperson writing to the Cabinet Secretary for Net Zero, Energy and Transport asking for a dialogue in relation to offshore community benefit funds and calling upon him to finalise the guidance that is currently in draft. It is also proposed to ask Paul McLennan MSP to support this initiative and be involved in a meeting with the Minister.

4 POLICY IMPLICATIONS

- 4.1 Community benefits are a voluntary arrangement between the operator of the renewable energy installation and the local community and as such do not impact directly on the Council's policy.

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 – The allocation of community benefits may in some circumstances be controlled by the Council on behalf of the community so there is potential in the future for offshore benefits to impact on Council

resources. No direct financial consequences arise, however, from this call to the Scottish Government to finalise its guidance.

- 6.2 Personnel – Staff time is required to prepare correspondence for the Spokesperson for Economic Development and for continued research in this area.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Development (Scottish Government; May 2019)
- 7.2 The Scottish Government’s 2018 draft Good Practice Principles for Community Benefits from Offshore Renewable Energy Developments.
- 7.3 SSE’s annual community benefits report.
- 7.4 NNG windfarm webpage: [Neart na Gaoithe \(NNG\) Offshore Wind Farm - NNG Offshore Wind](#)

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DATE	2 nd December 2022

REPORT TO: East Lothian Council

MEETING DATE: 13 December 2022

BY: Executive Director for Council Resources

SUBJECT: Appointments to Committees and Outside Bodies

8

1 PURPOSE

- 1.1 To advise Council of the resignation of Councillor Kenny McLeod from the SNP Group, and of the implications of his resignation for committee and outside body membership.

2 RECOMMENDATIONS

- 2.1 Council is asked:
- to note the re-designation of Councillor Kenny McLeod as an Independent Councillor
 - to note that Councillor McLeod does not wish to take up his position on the Education Committee, and to seek nominations to fill this vacancy
 - to seek nominations to replace Councillor Allan on the East Lothian Education Trust from among Members who are members of the Education Committee (and who do not represent the Musselburgh ward)
 - to agree that Councillor McLeod be invited to participate in the two cross-party groups recently constituted by Council, as set out in paragraph 3.7.

3 BACKGROUND

- 3.1 Councillor Kenny McLeod intimated to the Chief Executive on 22 November 2022 that he would be resigning from the SNP Group with immediate effect, and that he would continue to serve his ward of Tranent, Wallyford and Macmerry as an Independent Councillor.
- 3.2 As a result of Councillor McLeod's resignation from the SNP Group, officers have considered the impact on political proportionality on committees. As a consequence, the SNP Group will lose a seat on

Planning Committee, Audit & Governance Committee and Education Committee.

- 3.3 Councillor McLeod is currently a member of the Planning Committee and, as an Independent Councillor, he will be entitled to a seat on this committee, which he has confirmed he will accept.
- 3.4 Councillor McLeod is entitled to a place on one of the scrutiny committees; Council is advised that he will continue to serve on the Audit & Governance Committee as an Independent Councillor.
- 3.5 As regards Education Committee, the SNP will lose a seat, and Councillor Liz Allan will step down. Although Councillor McLeod is entitled to a place on this committee, he has intimated that he does not wish to take up his place, and there is, therefore, now a vacancy on this committee. The Council is therefore asked to consider nominations to fill the vacancy on the Education Committee.
- 3.6 As Councillor Allan is stepping down from the Education Committee, she will also be required to step down from the East Lothian Education Trust, thereby creating a vacancy on that body. This space must be filled by a Member who is on the Education Committee (but who does not represent the Musselburgh ward). The Council is therefore asked to consider nominations for a place on the East Lothian Education Trust.
- 3.7 Members are asked to agree that Councillor McLeod be invited to participate in the Cross-Party Working Group on Budget Development and the Climate Change and Sustainability Forum, constituted by Council on 28 June 2022 and 23 August 2022 respectively.

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 East Lothian Council's Standing Orders

AUTHOR'S NAME	Lel Gillingwater
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CONTACT INFO	lgillingwater@eastlothian.gov.uk x7292
DATE	28 November 2022

REPORT TO: East Lothian Council

MEETING DATE: 13 December 2022

BY: Executive Director for Council Resources

SUBJECT: Submissions to the Members' Library Service,
10 October to 27 November 2022

9

1 PURPOSE

- 1.1 To note the reports submitted to the Members' Library Service since the last meeting of Council, as listed in Appendix 1.

2 RECOMMENDATIONS

- 2.1 Council is requested to note the reports submitted to the Members' Library Service between 10 October and 27 November 2022, as listed in Appendix 1.

3 BACKGROUND

- 3.1 In accordance with Standing Order 3.4, the Chief Executive will maintain a Members' Library Service that will contain:
- (a) reports advising of significant items of business which have been delegated to Councillors/officers in accordance with the Scheme of Delegation or officers in conjunction with Councillors, or
 - (b) background papers linked to specific committee reports.
- 3.2 All public reports submitted to the Members' Library are available on the Council website.

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 East Lothian Council's Standing Orders – 3.4

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager – Democratic Services & Licensing
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DATE	28 November 2022

**MEMBERS' LIBRARY SERVICE RECORD FOR THE PERIOD
10 October to 27 November 2022**

Reference	Originator	Document Title	Access
128/22	Head of Infrastructure	Building Warrants Issued under Delegated Powers between 01.09.22 – 30.09.022	Public
129/22	Head of Infrastructure	Assignment of the Ground Lease for Chalet Site, Dunbar	Private
130/22	Executive Director for Council Resources	Service Review Report – IT Service Review	Private
131/22	Head of Infrastructure	CIF Pump Tracks	Public
132/22	Executive Director for Place	Edinburgh and South East Scotland City Region Deal Annual Report 2021/22	Public
133/22	Head of Infrastructure	Sale of Land, Wallyford	Private
134/22	Executive Director for Council Resources	Procurement Annual Report	Public
135/22	Executive Director for Place	Summer Holiday Food, Activities and Childcare Programme 2022	Public
136/22	Head of Infrastructure	Building Warrants Issued under Delegated Powers, October 2022	Public
137/22	Head of Corporate Support	Changes to Establishment, October 2022	Private
138/22	Executive Director for Council Resources	Service Review – Customer Services, Part 3 (Digital & Systems Team)	Private
139/22	Head of Infrastructure	Assignment of the Ground Lease for Hazelbank Quarry, Fountainhall, Stow, Scottish Borders	Private

28 November 2022

