



## MINUTES OF THE MEETING OF THE CABINET

TUESDAY 8 NOVEMBER 2022  
VIA A DIGITAL MEETING FACILITY

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### Cabinet Members Present:

Councillor S Akhtar  
Councillor A Forrest  
Councillor C McGinn

Councillor F Dugdale  
Councillor N Hampshire (Convener)  
Councillor J McMillan

### Other Councillors Present:

Councillor L Allan  
Councillor C Cassini  
Councillor C McFarlane  
Councillor L Menzies

Councillor R Bennett  
Councillor L Jardine  
Councillor G McGuire  
Councillor B Ritchie

### Council Officials Present:

Mrs M Patterson, Chief Executive  
Ms L Brown, Executive Director for Education and Children's Services  
Ms S Fortune, Executive Director for Council Resources  
Ms E Dunnet, Head of Finance  
Ms M Ferguson, Head of Corporate Support  
Ms N McDowell, Head of Education  
Ms W McGuire, Head of Housing  
Mr T Reid, Head of Infrastructure  
Ms M Sullivan, Head of Development  
Mr C Grilli, Service Manager – Governance  
Mr P Vestri, Service Manager – Improvement, Policy & Communications  
Mr I Lennox, Team Manager – Assets and Regulatory  
Mr S Cooper, Team Manager Communications  
Ms A Cameron, Quality Improvement Officer (Early Years)  
Ms H Mimi, Commercial Development Officer  
Ms M Scott, Committees Officer

### Clerk:

Ms F Currie

### Apologies:

None

### Declarations of Interest:

None

**1. MINUTES FOR APPROVAL – CABINET 13 SEPTEMBER AND 27 SEPTEMBER 2022**

The minutes of the meetings of the Cabinet of 13 September and 27 September 2022 were approved.

**2. COMMUNICATION STRATEGY**

A report was submitted by the Executive Director for Council Resources seeking approval of the Communication Strategy 2022.

The Team Manager Communications, Stewart Cooper, presented the report. He provided background and context to the new five year strategy and highlighted the wider role of the Communications Team in supporting delivery of the Council Plan, promoting important public information and Council services, and engaging with local communities. He gave some examples of the advice and services provided by the Communications Team and highlighted the importance of collaborative working. He advised Members that effective communications practice had never been more crucial and that the new strategy aimed to build on the good work of recent years.

Councillor McMillan welcomed the strategy and its role in supporting other areas such as the Council's economic development plan and the local development plan. He agreed that communications had never been more important and that there needed to be strong links between the team and staff in service areas. He praised the work of Mr Cooper and his team, particularly during the pandemic when the strategy 'Stay safe; Support local; Love East Lothian' had done so much to promote the local economy. While acknowledging the work that had already been done, he encouraged the team to continue their efforts to promote the East Lothian brand.

Councillor McGinn echoed the sentiments of his colleague. He commended the work of the team during the pandemic, the 'Beast from the East' and the most recent severe storms when clear communications, providing up-to-date public information and supporting the work of Council services had been crucial. He said that, lately, there had been difficulties in filling staff vacancies within the Council and being able to promote these jobs on social media was a really useful tool. He welcomed the report and looked forward to working with the team in the future.

Councillor Forrest concurred with his colleagues. He said that having a communications adviser assigned to all services would ensure that the public were made aware of important information and key messages. He noted the variety of work undertaken by the team covering all aspects of communications and he welcomed the report.

The Convener also concurred. Referring to the recent storms as an example, he stated that when there was a major incident in East Lothian the public looked to the Council to find out what was happening. He was confident that the team would continue to ensure that local communities were well-informed on key issues and he thanked the team for their work.

**Decision**

The Cabinet agreed, by roll call vote, to approve the Communication Strategy.

### **3. CHARGING FOR ROAD CONSTRUCTION CONSENTS (RCCs)**

A report was submitted by the Executive Director for Place seeking approval for the proposed approach to charging for Road Construction Consents (RCCs) within Road Services in East Lothian Council.

The Team Manager – Assets & Regulatory, Ian Lennox, presented the report. He summarised the legislative background to the proposals and outlined the range of work involved in administering RCCs which included significant time spent in giving advice and guidance and attending site visits. He said that, at present, this was a free service offered to developers but it was now thought appropriate to charge for this additional work. In 2016 the Chief Planner for Scotland had recommended that councils work to align the RCC and planning processes to promote efficiency and earlier completion of the formal process once detailed planning was approved. Mr Lennox confirmed that the proposals in the report supported this intention and that the recommended charges had been calculated on a cost recovery basis, in line with legislation.

Councillor McFarlane asked if the charges would be applicable to utilities' companies as she regularly received complaints regarding the impact of works on roads and paths. Mr Lennox advised that this proposal related to a different policy; however, he was aware of the issues she mentioned and was in discussion with utilities companies and the Scottish Roads Commissioner.

In response to further questions from Members, Mr Lennox confirmed that while developers were only required to do the statutory minimum, it was in their interests to sign up to these proposals. He provided further clarification of the involvement of Road Services officers within the wider planning process and the conditions which could be placed on developers in respect of road completions within developments. He also confirmed that the proposals would ensure full cost recovery for the RCC service.

Councillor Forrest welcomed the report which he felt would encourage developers to work more closely with Roads Services officers to achieve required standards and move forward with major developments across the county.

Councillor McMillan said it was important that the Council used its powers for the good of communities and the environment and he welcomed the proposals within the report. He also acknowledged Councillor McFarlane's point regarding the need to address complaints about the impact of works undertaken by utilities' companies.

The Convener referred to frustrations experienced by residents moving into new developments over the time taken to complete new roads. He welcomed any proposal which could speed up this process and improve outcomes for residents.

#### **Decision**

The Cabinet agreed, by roll call vote, to approve the introduction of RCC charges set at a rate to allow cost recovery through implementing a charge per metre of road, from 1<sup>st</sup> April 2023. This proposal was in line with East Lothian's Charging Policy and would support the delivery of the Council's approved budget.

### **4. SUSTAINABLE HOURLY RATE FOR PARTNER PROVIDERS DELIVERING 1140 HOURS OF EARLY LEARNING AND CHILDCARE**

A report was submitted by the Executive Director for Education and Children's Services seeking approval of a sustainable hourly rate to be paid by East Lothian Council to Early

Learning and Childcare (ELC) partner providers in the Private, Voluntary and Individual (PVI) sectors, to deliver funded early learning and childcare from August 2022. This was in line with guidance from the Scottish Government that required all local authorities to review and set a sustainable rate for private providers.

The Quality Improvement Officer (Early Years), Alison Cameron, presented the report. She summarised the background to the requirement to pay a sustainable hourly rate to partner providers in the PVI sector and the factors taken into account when reviewing and setting that rate. She outlined the proposed changes to the rate and advised Members that while the financial impact in the current year was not significant, if no additional funding was forthcoming in 2023/24, the increase in costs would have to be met from the existing budget and may require a change to current service delivery models.

Responding to questions from Members, Ms Cameron confirmed that as part of funding for 1140 hours, there was an expectation that providers would pay the real living wage and that this would be followed up as part of regular quality assurance visits. She also expanded on the wider benefits available to partner providers through access to psychological services and to advice and guidance from the wider Quality Improvement Officer team.

Addressing the issue of funding, Ms Cameron reiterated that changes to existing service delivery models would be required if no additional funding was made available from the Scottish Government in 2023/24. She was already working with the Improvement Service to ensure that services were fit for purpose and working as efficiently and sustainably as possible, and she was confident that any necessary savings could be achieved.

Councillor Dugdale thanked officers for the report and for their consideration of all of the factors involved when setting the sustainable rate. She welcomed the expectation that providers would pay the real living wage as part of this agreement and that work was underway to ensure that these proposals could be sustained in the coming year. She said she hoped that additional funding would come forward for next year as it was important for the Council and the Scottish Government to work together to deliver for local families and children.

Councillor Akhtar supported her colleague's remarks. She reminded Members that East Lothian was one of the fastest growing local authority areas and the number of young people was projected to increase significantly. She said it was important that this demographic was taken into account and that adequate funding was provided to ensure the sustainability of services.

The Convener echoed his colleague's comments. He stated that £811,000 was a significant increase for the Council to fund in the current circumstances; where savings were already being made across all services. He expressed concern over the potential settlement from the Scottish Government for the next financial year and reiterated the level of challenge facing the Council.

Recommendations i and iii were approved by general agreement and recommendations ii, iv and v were approved, unanimously, by roll call vote.

## **Decision**

The Cabinet agreed, by roll call vote, to:

- i. Note the review of the hourly rate to be paid to PVIs delivering Early Learning and Childcare as outlined in the report.

- ii. Agree an increase from £5.31 per hour, currently paid for both eligible 2 year olds and eligible 3 – 5 year olds to be a separate amount payable with effect from August 2022, as follows :

Eligible 2 year olds	£7.90 per hour
Eligible 3 – 5 year olds	£6.39 per hour

- iii. Note that the cost of providing a lunch will no longer be a separate payment and the calculation of the new hourly rate included lunch costs.
- iv. Agree that the hourly rate was uplifted to support children who had been identified and agreed as meeting the criteria for exceptional additional support needs. Exceptional additional support needs had 3 levels and therefore the uplift would be allocated over 3 levels, with an increase to the new hourly rate of 40%, 60% or 80% to enable PVI settings to provide additional support to meet the needs of those children.
- v. Agree to review the hourly rate annually from the date of this report.

## 5. RENT CONSULTATION 2023/24

A report was submitted by the Executive Director for Place seeking approval to consult with Council tenants on a range of options in respect of a potential rent increase for 2023/24.

The Head of Housing, Wendy McGuire, presented the report. She outlined the options to be included in the rent consultation and acknowledged the challenges in finding a balance between that and the impact of any future rent increase on tenants already facing difficulties from the increased the cost of living, but also the significant challenges the Council are facing and the impact that no increase would have on both their modernisation and new build programmes. She referred to the recent legislation introduced to give additional protections to tenants and that a further decision was expected from the Scottish Government in January 2023 regarding restrictions related to the social rented sector. In the meantime, it was appropriate that the Council sought the views of tenants and she invited the Cabinet to approve the consultation which would be open from today until 16 December. A report would be brought to Council in February 2023 taking account of responses, and the forthcoming decision of the Scottish Government, and setting out proposals for Council rents in 2023/24.

Responding to questions from Councillor Akhtar, Ms McGuire said officers had worked closely with the East Lothian Tenants and Residents Panel (ELTRP) to ensure that the wording of the consultation was clear and that tenants understood how the new legislation and any future changes to it might impact on proposals. She confirmed that, at present, she was not aware of any support available to local authorities should the Scottish Government decide to maintain the cap on rent increases.

Councillor Forrest was aware that both ELTRP and tenants were keen to be involved in the consultation and to understand and comment on the options. Some work had already been done at the meetings to raise awareness and he looked forward to working with officers to promote the consultation.

The Convener pointed to the Council’s record of consultation with tenants and of its continuing efforts to deliver new homes. He said that in the past tenants had supported rent increases as these had resulted in improvements such as new bathrooms and kitchens, and

further affordable homes. He concluded that, regardless of the decision on rent increases, East Lothian would still be more affordable than surrounding areas such as Edinburgh, Midlothian and West Lothian.

Recommendations ii, iii and iv were approved by general agreement and recommendation i was approved, unanimously, by roll call vote.

### **Decision**

The Cabinet agreed to:

- i. Approve a consultation exercise with Council tenants on a range of potential rent increase options.
- ii. Note the context, legal position and rationale for this approach.
- iii. Note the modelling impacts as set out in paragraph 3.11 of the report.
- iv. Note that meaningful consideration of the consultation results are a key element in setting rents for 2023/24 and beyond.

Signed .....

Councillor Norman Hampshire  
Council Leader and Convener of Cabinet

**REPORT TO:** Cabinet  
**MEETING DATE:** 17 January 2023  
**BY:** Executive Director for Council Resources  
**SUBJECT:** Financial Update & Budget Development 2023 Onwards

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**2**

## **1 PURPOSE**

- 1.1 To provide Cabinet with an update on the national Local Government Finance settlement, the financial implications for East Lothian Council and associated budget gap.

## **2 RECOMMENDATIONS**

- 2.1 Cabinet is recommended to:
- Note the current position relating to the national Local Government Finance Settlement and the implications for East Lothian Council;
  - Note the associated revenue funding gap for East Lothian Council as set out in paragraph 3.9;
  - To note the updated budget development framework process for submitting amendments and to request that any formal amendments be submitted in accordance with the timeline set out in paragraph 3.19 of this report.

## **3 BACKGROUND**

- 3.1 The Council has during this year received a number of financial update reports relating to review of budget development strategy, including the approval of the Financial and Capital Strategies as part of the most recent Council meeting on 13 December 2022.
- 3.2 Since then, the Scottish Government has published its draft budget on 16 December, with individual Council allocations published as part of the Local Government Finance settlement on 20 December 2022. Details

setting out the main components of the national settlement, including the implications for East Lothian Council are set out below.

### **Local Government Finance Settlement**

- 3.3 Despite expectations that there may have been a multi-year national settlement, the draft grant allocations published are for 2023-24 only. The complicated nature of the national settlement is now proving to be a significant challenge. It is becoming increasingly difficult to interpret the terms of the national settlement and reconcile national messaging around funding provided in the settlement, including understanding any 'new' funding relative to funding aligned to support the delivery of new or existing national policy commitments. This increasing level of complexity makes it very difficult to understand what this means for the Council in terms of national funding, and to aid transparency of public messaging relating to the level of funding being made available to deliver Council services.
- 3.4 National revenue funding currently makes up in excess of 76% of the Council's overall general services revenue funding, therefore given the scale, any variation to grant funding levels can significantly affect the level of resources available for the Council to deliver essential local services. In addition, the Scottish Government provides national grant funding to support the delivery of capital investment programmes, with the large majority of the infrastructure programmes funded through wider borrowing.
- 3.5 The national settlement currently remains in draft pending clearance through the Parliamentary process with the current expectation that the staged debates will be complete in advance of the Council's budget consideration on 28 February 2023. Members will be kept updated should there be any changes to the draft settlement conditions during this Parliamentary process.
- 3.6 Whilst noting the draft status of the settlement and that it remains subject to change, the current key components of the Finance settlement for Local Government and the implications for the Council are set out below:

### **National Settlement**

- The draft Scottish Government Budget and related Local Government Finance Settlement has been provided covering 2023-24 financial year only;
- Total distributed national revenue funding of £12,396.5 million made up from the following:
  - £8,579.5 million (General Revenue Funding) – Note 1
  - £3,047.0 million (Non Domestic Rates) – Note 1
  - £776.1 million (Specific Grants) – Note 2
  - (£6.0 million) (National Redress Scheme) – Note 3



- Note 1 – General Revenue Funding + Share of Non Domestic Rates Pool provide funding to deliver local services;
  - Note 2 – Specific Grants funding can only be used to support policy intent, with the majority of funding used to support the delivery of Early Learning & Childcare expansion, Pupil Equity Fund and Criminal Justice Social Work, and a small sum of money to support the provision of Gaelic;
  - Note 3 – Top Slice from Local Government Finance settlement to support the cost of Historical Child Abuse Scheme as per agreement of COSLA Leaders.
- Total capital funding of £826.6 million made by from the following:
    - General Capital Grant           £687.5 million
    - Specific Capital Grant           £123.8 million – Note 1
    - Distributed to SPT               £15.3 million – Note 2
  - Note 1 – Includes national funding of £23.9 million to support Cycling, Walking & Safer Streets, with the remainder used to fund initiatives which East Lothian Council does not receive funding to support including: £7.6m to support Vacant and Derelict Land and £92.2m to support Transfer of Management of Development Funding.
  - Note 2 – Top sliced from Local Government Settlement and paid directly to Strathclyde Partnership for Transport.

#### General Services Revenue

- Around £500 million of additional revenue funding has been provided in the national settlement to Local Government. This funding is made up from the following with more details set out in the sections below:
  - £427 million funding to support new / existing revenue policy commitments;
  - £71 million new funding (0.57% uplift)
- Additional revenue funding to support new national policy commitments has been provided within the settlement details of which are set out below:
  - £105 million has been provided within the national settlement to support Empty Property Relief, alongside the transfer of responsibility for providing any relief to unoccupied properties to Local Authorities from 1 April 2023;
  - Providing a further £115.0 million to support Health and Social Care Services, with a requirement to transfer a minimum of £95 million in addition to recurring funding provided to the Integrated Joint Board (IJB) in 2022-23,

offset by £20 million non-recurring interim care money. This funding is to be used to support the following areas:

- £100.0 million to support adult social care pay
- £15 million uplift to free personal and nursing care
- £17.5 million to make progress towards implementing Free School meals for P6/P7;
- Additional £1.2 million to support school clothing grants;
- Additional £5.7 million to support Discretionary Housing Payment;
- Confirmation of previously confirmed funding to support existing policy / funding commitments including:
  - £140 million as a contribution to support cost of 2022-23 pay award;
  - £32 million continued funding as part of Whole Family Wellbeing Fund;
  - £2.4 million to support Local Heat and Energy Efficiency Strategy.
- Additional funding 'top sliced' from the national settlement:
  - £6 million contribution to support the cost of Historical Child Abuse Scheme;
  - £2.2 million to support the payment of SSSC registration fees in line with the 2022-23 national pay agreement.
- New additional non ring-fenced funding of £71 million has been made available in the financial settlement to support the remainder of the additional pressures within the financial settlement including; pay, inflationary pressures and wider external demand pressures.
- A number of funding streams have seen a reduction in the national settlement including, those set out below and these areas remain subject to on-going discussions between COSLA and the Scottish Government:
  - £9.1 million reduction in core funding to support delivery of early learning and childcare;
  - £32.8 million removal of funding relating to the recurring contribution provided by Scottish Government of 2021-22 Teachers Pay Claim;
  - £1.2 million to support the delivery of 1+ 2 Languages.

### Revenue – Specific Grants

- A £10 million increase in Specific Grant funding to support Pupil Equity Fund.

### Capital

- Additional £80 million to support the expansion of Free School Meals to P6/P7;
- £120.6 million capital funding as a contribution to support the cost of 2022-23 pay award.
- No general uplift in national core capital grant.

### Other Components

- In addition, the national settlement letter sets out the following additional elements as part of the settlement, with the impact of some of these components still subject to on-going national discussion:
  - Removal of Council Tax cap with Councils given freedom to determine Council Tax levels and expected to take full account of local needs and impacts on household budgets of the decisions they make;
  - Commitment to review 'Ring-fenced and directed funding streams' as part of partnership agreement between Local and Scottish Government;
  - Provide an enhanced focus on Community Planning Partnerships;
  - No public pay policy provided, with more detail to be set out in early 2023.

## **East Lothian Position**

### General Services Revenue Budget

- A total cash increase in national grant funding of £4.920 million which is made up from the following:
  - Core Revenue Support Grant (GRG + NDR) has increased by £1.861 million (0.9%);
  - An additional £1.110 million has been provided to support the delivery of new policy commitments including Empty Property Relief and progress towards implementing Free School Meals for P6/P7;
  - An additional £2.186 million has been provided to support the delivery of new policy commitments in Health and Social Care referenced above, adjusted for non-recurring interim care funding provided in 2022-23;

- A reduction of £0.237 million funding made up from:
  - Early learning & childcare of £0.216 million aligned to the £9.1 million national reduction;
  - A reduction of £0.021 million in school clothing grant, despite an increase of £1.2 million due to changes in national indicators;
- Note within the national settlement there are a wide range of changes from updating indicators including, a reduction of £0.482 million in Homeless funding, due to merging of funding lines in the national settlement.
- Contribution to the national 'self-financing Floor' of £3.425 million.

#### General Services Capital Budget

- Increase in core General Capital Grant of £0.098 million to receive General Capital Grant funding of £8.410 million;
- Specific grant funding of £0.478 million to support Cycling, Walking and Safer Streets;
- Current commitment to fund 80% of national Flood Prevention Scheme funding, recognising that a national review remains ongoing due to the significance and scale of funding pressures.
- Free School Meals expansion funding allocated within General Capital Grant of £1.544 million and £2.320 million contribution to 2022-23 pay settlement.

#### Budget Implications for East Lothian

- 3.7 Reflecting the national settlement details within update budget models, details of the draft officer budgets covering General Services Revenue, Capital and HRA are in development. This will be shared with political group leaders and members for the cross party budget working group and a budget briefing for all members will be held during January 2023.
- 3.8 These budgets remain subject to change, but key assumptions currently reflected within these budgets are set out below:
- The budgets have been prepared aligned to the approved budget development principles to reflect the 5 year strategy period covering 2023 – 2028.
  - The revenue support grant is projected as 'flat cash' across the strategy period. In addition, the budget reflects an anticipated share in additional funding in 2026-27 relative the anticipated increase of £100 million. These forecasts remain consistent with

the Scottish Government forecast projections set out in the Resource Spending Review published in May 2022.

- In the absence of a national pay policy, an amount equivalent to a 2% annual increase is reflected for all pay bargaining groups in each year aligned to previous budget assumptions.
- An estimated Council Tax increase of 5% in each year, aligned to indicative levels set out in approved budget at March 2022. The assumptions also include anticipated increased growth in Council Tax properties aligned with projected housebuilding targets.
- All of the previous flexibility arising from the previous Loans Fund review has now been applied by 2023-24. This position has significantly changed from previous forecasts largely as a result of; increased interest rates, increased costs within the capital programme and changes to timing of developers contributions. This will mean debt charges are projected to rise significantly during the strategy period and beyond aligned to the planned infrastructure investment set out in General Services Capital programme, and current interest rate projections, and is an area which is now proving to be unsustainable and will require review.
- The draft General Service budget includes previous planned efficiencies amounting to £1.755 million. Additional planned core service efficiencies of £13.423 million has currently been removed and will remain under consideration, pending clarity on what can be delivered.
- The Capital grant is flat lined in each of the years. Some projects remain dependent on confirmation of Scottish Government specific grant funding, most significantly relating to Flood Prevention Schemes. These are significant in value, and should this anticipated level of funding not be forthcoming consideration will need to be given to making further adjustments consistent with the approved capital limits set within the Financial Strategy.
- An estimated Rent increase of 5% in each year, aligned to indicative levels set out in approved budget at March 2022. These levels remain appropriate to ensure the parameters set out in the financial strategy relating to debt to income and minimum reserve levels are delivered. Should rent levels be set below this level, this will require changes to the draft models either through reductions in planned level of capital investment or revenue expenditure deliverables to enable the financial strategy parameters to be met.

3.9 The significant scale of the financial pressures now facing the Council remains at a highly critical level, with an **estimated funding gap in excess of £14.4 million to be met by 2023-24 (circa 5% of Council running costs) and projections this will rise to over £45.5 million deficit in the next 5 years.** Removing any indicative Council Tax increase in each of the 5 years would see this increase to £18.1 million

in 2023-24 and to £67.1 million by 2027-28. The scale of this remains exceptionally challenging and critical, and remains consistent with the significantly high Financial Sustainability risk rating set out in the corporate risk register.

### **National Lobbying**

- 3.10 COSLA has embarked on a strong lobbying campaign to save local services. In addition, COSLA Leaders unanimously have written a strong letter of representation to the First Minister and reiterating their deep concern about the level of resources allocated to Local Government, and the impact of the draft settlement will have on local communities.
- 3.11 The letter also calls for the Deputy First Minister to attend a Special COSLA Leaders meeting to hear first-hand the concerns of Council Leaders.
- 3.12 In addition, officers continue strong lobbying through all available avenues including Professional Associations, setting out significant concerns relating to the level of funding provided to Local Government relative to the provision of services and on-going requirements.

### **Budget Consultation**

- 3.13 As previously reported, the Council has undertaken a budget consultation on both General Service future spending priorities and a separate consultation on the proposed rent increase for 2023-24 in line with statutory guidance.
- 3.14 Both consultations have now closed, and results are currently being analysed and details will be made available through Members Library Service and also through cross party political group, and an update provided at the Council meeting in February 2023.

### **Next Steps**

- 3.15 The formal budgets including setting of Council Tax and Rent Levels for 2023-24 will be considered by Council at its meeting on **28 February 2023**. Every effort will be taken to meet these dates to ensure compliance with statutory requirements relating to rent and council tax notification and billing.
- 3.16 Given the national settlement remains in draft through the Parliamentary process, any changes to the national settlement arising during this process will be communicated to all Political Group Leaders and members of the cross party political working group.
- 3.17 The process for developing budget proposals and any formal amendments for 2023-24 is set out below, and remains aligned to the budget development framework principles already agreed by Council. A rolling programme of future budget development work is being developed and an update will be provided to Council in February 2023.

- 3.18 The Administration will develop budget proposals for General Services and Housing Revenue Account, including proposed Council Tax and Rent Levels for 2023-24. The papers will be issued to all members on 21 February 2023. Discussions will continue through the cross party budget working group up to and during this process with a view to identifying areas of potential common ground in relation to the budget proposals where possible.
- 3.19 Political Group Leaders can submit a budget amendment to the Administration draft budget proposal. The details for submitting amendments are set out below:
- An amendment submitted by any political group must be deemed competent, both in its ability to be delivered as well as ensuring that it can still deliver a balanced budget.
  - Political Group Leaders should during this period work with Finance officials around any suggested budget changes which may be reflected within any final proposed amendments, and how this would be balanced.
  - In line with standing orders, any final amendments to be considered by Council must be submitted through Group Leaders to the Head of Finance by noon on **Monday 27 February 2023**. Any budget amendments must be deemed competent and checked and signed off by Head of Finance in sufficient time to enable full competence checks to be undertaken.

#### **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.
- 4.2 There are no direct policy implications associated with approval of these draft budget proposals but clearly should they be supported by Council on 28 February 2023, individual elements within the proposals may lead to policy changes.

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

- 5.1 Equalities – impact assessments may be required for budget proposals which 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 - 13 December - Item 4 – Financial and Capital Strategies
- 7.2 Council – 22 November 2022 – Item 1 - Finance Update
- 7.3 Council – 1 March 2022 – Item 1 – Budget Development including setting of Council Tax and Council Rent for 2022/23
- 7.4 Council – 1 March 2022 – Item 2 – Budget Proposals on General Service – Amendment Submitted by the Labour Administration

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<b>DATE</b>	6 January 2023



**REPORT TO:** Cabinet  
**MEETING DATE:** 17 January 2023  
**BY:** Executive Director for Place  
**SUBJECT:** 2023-2027 Workforce Plan

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**3**

## **1 PURPOSE**

- 1.1 To present the 2023 – 2027 Workforce Plan to Cabinet for approval.

## **2 RECOMMENDATIONS**

- 2.1 Cabinet approve the 2023 – 2027 Workforce Plan.

## **3 BACKGROUND**

- 3.1 The 2018-2022 Workforce Plan was approved by Cabinet, 12 June 2018. Updates on progress with implementing the Plan's 27 actions have been presented to the Joint Consultative Committee (JCC) on several occasions. Although progress with several actions has been delayed by the impact of the COVID pandemic, the majority of actions have been completed. Some actions are ongoing and have incorporated into the 2023-2027 Workforce Plan.
- 3.2 Work began in summer 2021 to review the then current Plan and prepare a new Plan. This took account of progress made with the existing Plan as well as the new priorities arising from changing circumstances including the impact of the pandemic on the council's priorities and the council workforce. Whilst it had originally been intended to produce the new Plan in spring 2022 the continuation of the pandemic and council operating in business continuity mode delayed production of the new Plan.
- 3.3 A synopsis of the 2023-2027 Workforce Plan was presented to the JCC on 7<sup>th</sup> December 2022. Comments received from the JCC have been incorporated in the final draft of the Plan which is presented with this report.
- 3.4 The new Plan has been informed by analysis of the current council workforce profile; a review of the context and drivers of change that impact on the Council's workforce; a survey of Service Managers that identified trends,

challenges and desired actions at both Council and service levels; the results of the latest employee engagement survey; and analysis of the employee equalities monitoring information.

3.5 The Workforce Plan's vision is that:

*East Lothian Council will be an employer of choice and our staff will:*

- ❖ *have the skills, knowledge, experience and motivation to deliver the highest quality services*
- ❖ *be flexible and adaptable around our changing organisational needs*
- ❖ *take personal responsibility and ownership to be effective in their jobs and take every opportunity to be as productive as possible to deliver their agreed work priorities*
- ❖ *be resilient to change and instigate, as well as adapt to, changes in service delivery*
- ❖ *be satisfied and engaged and feel safe at work*
- ❖ *work in partnership across all services and with the Council's partners and communities to effectively deliver essential services and outcomes*
- ❖ *be customer focused and deliver person centred, trauma informed and inclusive services*
- ❖ *feel valued and recognised for the contribution they make to achieving the Council's vision and objectives*
- ❖ *be supported, empowered and trusted.*

3.6 The Action Plan to deliver this vision and address the issues identified by the needs analysis includes 32 actions based around three themes:

- Sustain a skilled, flexible, high performing and motivated workforce
- Support and initiate transformational change
- Build and sustain leadership and management capacity.

3.7 The Workforce Plan and its Action Plan reflect council's continuing and growing investment in its workforce. Its implementation will rely on continuing positive partnership between the Council, its staff and the Trade Unions.

## **4 POLICY IMPLICATIONS**

4.1 There are no policy implications arising from this report.

## **5 INTEGRATED IMPACT ASSESSMENT**

5.1 The subject of this report has been through the Integrated Impact Assessment process and no negative impacts have been identified.

## **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – there are no direct financial implications arising from adoption of the Workforce Plan. Any actions arising from adoption of the Plan that require amendments to the Council budget will be reported on separately if required.
- 6.2 Personnel – there are no direct personnel implications arising from adoption of the Plan. Any actions arising from adoption of the Plan that require a change in Council policy or have personnel implications will be reported on separately if required.
- 6.3 Other – none.

## **7 BACKGROUND PAPERS**

- 7.1 Synopsis of 2023-2027 Workforce Plan presented to Joint Consultative Committee, 7 December 2022

Appendix – 2023-2027 Workforce Plan

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<b>DATE</b>	9 <sup>th</sup> January 2023



# **East Lothian Council**

## **2023-2027**

# **Workforce Plan**

*January 2023*

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# 1. Introduction

The Council adopted the 2018-2022 Workforce Plan in June 2018. The Plan contained 38 actions based around three themes:

- Sustain a skilled, flexible, high performing and motivated workforce
- Support and initiate transformational change
- Build and sustain leadership and management capacity.

The 2018-2022 Plan has been reviewed and revised<sup>1</sup> in order to take account of progress with its actions<sup>2</sup> and the changing context and challenges, in particular the impact that the COVID pandemic, has had on the council and its workforce.

In developing the new 2023-2027 Workforce Plan account has been taken of the vision, objectives and values established by the 2022-2027 Council Plan.

The Vision:

***An even more prosperous, safe and sustainable East Lothian, with a dynamic and thriving economy that enables our people and communities to flourish.***

The Objectives:

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

The Council Values:

- **Enabling**
- **Leading**
- **Caring**

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<sup>1</sup> The development of the new Plan has been informed by analysis of the current council workforce profile; a review of the context and drivers of change that impact on the Council's workforce; a survey of Service Managers that identified challenges and desired actions; the latest employee engagement survey; and analysis of employee equalities monitoring data.

<sup>2</sup> Although progress with several of the Plan's 38 actions was delayed by the impact of the COVID pandemic, the majority of actions have been completed. Some actions are ongoing and have incorporated into the 2023-2027 Workforce Plan.

The 2023-2027 Workforce Plan aims to support the Council to achieve the vision, ambitions and objectives set out in the 2022-2027 Council Plan and address the challenges it faces by providing a coherent and consistent approach to ensuring a skilled, flexible, high performing, motivated, and well managed workforce. Our staff are our greatest asset and the Plan sets out how the Council and its staff will continue to work together to respond to the challenges we face in achieving our vision.

The Workforce Plan forms a key part of the Council's organisational, service and resource planning to support the delivery of the Council Plan. It will support the achievement of the ongoing transformation programme that is central to delivering the changes required – helping to ensure we have the right people with the right knowledge and skills in the right place at the right time. It will be key to ensuring the Council makes informed decisions about our employees, Human Relations policies and organisational development and training plans.

The Workforce Plan's vision is that:

*East Lothian Council will be an employer of choice and our staff will:*

- ❖ *have the skills, knowledge, experience and motivation to deliver the highest quality services*
- ❖ *be flexible and adaptable around our changing organisational needs*
- ❖ *take personal responsibility and ownership to be effective in their jobs and take every opportunity to be as productive as possible to deliver their agreed work priorities*
- ❖ *be resilient to change and instigate, as well as adapt to, changes in service delivery*
- ❖ *be satisfied and engaged and feel safe at work*
- ❖ *work in partnership across all services and with the Council's partners and communities to effectively deliver essential services and outcomes*
- ❖ *be customer focused and deliver person centred, trauma informed and inclusive services*
- ❖ *feel valued and recognised for the contribution they make to achieving the Council's vision and objectives*
- ❖ *be supported, empowered and trusted.*

The Workforce Plan and its Action Plan reflect council's continuing and growing investment in its workforce. Its implementation will rely on continuing positive partnership between the Council, its staff and the Trade Unions.

Following this brief introduction, the Plan is set out as follows:

**Section 2: Where Are We Now?** provides a summary of East Lothian Council's Workforce Profile.

**Section 3: What Is Driving The Change?** provides a summary analysis of the changing context, pressures and challenges which inform the Workforce Plan's objectives and actions.



**Chapter 4: The Action Plan** sets out 32 actions to deliver the workforce vision and address the issues identified by the needs analysis based around three themes:

- Sustain a skilled, flexible, high performing and motivated workforce
- Support and initiate transformational change
- Build and sustain leadership and management capacity.

## 2. Where Are We Now? East Lothian Council's Workforce Profile

### Headcount and Grading Breakdown

As at 31 March 2022 the council employed a total of 4,890 staff. Since not all staff are full time this equates to 4,032 full time equivalent (FTE) staff. This is an increase 494 FTE over the past 5 years. Most of this increase in staffing has been in the Education service with additional teachers in schools and additional staff to deliver the Scottish Government's commitment to provide 1140 hours Early Learning and Childcare.

Grade	Sum of FTE		
	Female	Male	Total
Teacher	851.68	272.97	1124.65
Grade 04	302.80	192.27	495.07
Grade 07	313.84	93.15	406.99
Grade 06	287.07	114.63	401.70
Grade 05	325.33	61.64	386.97
Grade 08	220.58	106.11	326.68
Grade 09	159.06	89.57	248.63
Grade 10	101.34	59.39	160.73
Craft Worker	-	145.22	145.22
Grade 01/ 02/ 03	123.06	21.16	144.22
Grade 11	44.76	41.10	85.86
Grade 13	10.60	23.60	34.20
Apprentice	7.00	16.00	23.00
Grade 12	9.60	5.86	15.46
Executive	9.00	3.00	12.00
Paid Work Experience	6.58	2.28	8.86
Kickstart	0.71	7.86	8.57
External Secondment	2.00	1.00	3.00
<b>Total</b>	<b>2775.01</b>	<b>1256.80</b>	<b>4031.81</b>

Just under 40% of council staff are employed in schools. Teachers account for the largest number of FTE staff across the Council. Local Government Grade 4 is the grade with the largest FTE across Local Government roles. Just over half (51%) of staff on this grade are based within our schools.

Further detailed analysis shows that a higher proportion of part-time and low paid staff are female, working mainly in Health and Social Care, Education and Facilities services.

### Equalities Monitoring

The Council publishes an annual Equality in Employment Monitoring report, providing details of the current workforce according to the protected characteristics

set out in the Equality Act 2010. The data shown below is taken from the latest report for the year 2021/22 that was published in December 2022.

### Age

An aging workforce has been a risk acknowledged by the Council in previous Workforce Plans and the Council has implemented a number of youth initiatives which along with recruitment and succession planning form part of the Council's strategy to retain skills and knowledge whilst developing and attracting young talent into the workforce.

The latest monitoring data shows that there has been an increase in staff in the younger age groups. Although it has decreased over the last three years, the age group with the highest percentage of employees remains the 46-55's. However, in line with the previous two years we have seen a further increase in employees in the lower age groups (16-25, 26-35 and 36-45). The proportion of council staff aged under 46 increased from 44.7% in March 2020 to 48.1% in March 2022.

Age Group	2019/20		2020/21		2021/22	
	Count	%	Count	%	Count	%
16-25	207	4.53	225	4.80	282	5.68
26-35	808	17.68	836	17.83	927	18.67
36-45	1028	22.49	1064	22.69	1179	23.74
46-55	1402	30.68	1417	30.22	1426	28.72
56-65	1034	22.63	1057	22.54	1059	21.33
>66	91	1.99	88	1.88	91	1.83

### Sex

The sex profile of the council workforce has remained fairly static over the last three years and is still predominately female (73% female and 27% male).

Sex	2019/20		2020/21		2021/22	
	Count	%	Count	%	Count	%
Female	3293	72.06	3401	72.53	3623	72.96
Male	1277	27.94	1288	22.74	1343	27.04

### Disability

The number and percentage of staff who identify as having a disability has increased slightly over the last three years from 154 (3.37%) in 2019/20 to 213 (4.29%) in 2021/22.

Disability	2019/20		2020/21		2021/22	
	Count	%	Count	%	Count	%
Yes	154	3.37	165	3.52	213	4.19
No	3656	80.00	3798	81.00	4062	81.80
Unknown	760	16.63	726	15.48	691	13.91

### Sexual Orientation

There has been a slight increase in the number and percentage of staff who identify as gay, lesbian or bi-sexual from 77 (1.69%) in 2019/20 to 103 (2.07%) in 2021/22.

Sexual Orientation	2019/20		2020/21		2021/22	
	Count	%	Count	%	Count	%
Bisexual	16	0.35	17	0.26	33	0.66
Gay	36	0.79	41	0.87	47	0.95
Lesbian	25	0.55	25	0.53	23	0.46
Heterosexual	4015	87.86	4120	87.87	4350	87.60
Unknown	478	10.46	486	10.36	513	10.33

### Race

Since the categories used in the survey in 2021/22 changed it is not possible to draw a direct comparison with previous years. However, around 92% of council staff identify as being white and just over 1% of the council workforce identify as non – white or other ethnic backgrounds. This aligns with the 2011 census data for East Lothian, although it does not take account of the background of those who preferred not to answer the question. Also, since there is likely to have been an increase in non-white residents in East Lothian since the last census the council’s workforce is likely to be under-representative of the non-white communities living in the county.

Race profile	2021/2022	
	Count	%
Asian or Asian British	32	0.64
Black, Black British, Caribbean or African	-	-
Mixed or multiple ethnic groups	11	0.22
Other ethnic group (including Arab)	18	0.34
Prefer not to answer/ unknown	331	6.66
White	4565	91.93

### Equal Pay/ Gender Pay Gap

The Council addressed the historical issue of equal pay through its Single Status Scheme implementation in 2008 and has no live equal pay claims.

The Council also has a relatively good record in regards to the gender pay gap. This is the difference between men’s and women’s earnings measured as the average (mean) hourly rate of pay excluding overtime payment for female employees divided by the average hourly rate for male employees. A figure of zero shows no gender pay gap.

The Council’s 2021-2022 Equal Pay Audit (analysis of the average hourly rate paid to female and male staff) showed that the mean (average) gender pay gap is 4.15% - for every £1 a male employee earns, on average a female employee earns 4p less.

The reason for the pay gap is highlighted by analysis of the breakdown of female and male employee by pay quartile. The expectation would be that the gender breakdown in each quartile is reflective of the overall gender breakdown of 72.78% female and 27.22% male. As is shown in the table below, the quartile analysis fairly

represents the gender spread in the Upper Quartile. Since 2012/13 over 50% of the Council's highest 5% paid employees have been women. In 2022 around three quarters of the Council's Chief Officers (Council Management Team) are female.

However, in both the Lower Quartile and the Lower Middle Quartile the ratio of males-to-females is reduced. This is explained by the high proportion of care and support workers in this quartile – roles which are predominantly undertaken by female employees. In the Upper Middle Quartile, the ratio of males-to-females is increased. This is explained by the high proportion of craft workers and managers in this quartile – roles which are predominantly undertaken by male employees.

<b>Pay Quartile</b>	<b>Female Employees</b>	<b>Male Employees</b>
<b>Lower Quartile</b>	76.53%	23.47%
<b>Lower Middle Quartile</b>	79.92%	20.08%
<b>Upper Middle Quartile</b>	60.76%	39.24%
<b>Upper Quartile</b>	73.90%	26.10%

### 3. What Is Driving Change?

This chapter will summarise the context and key challenges which impact on the council's workforce requirements – the impact of the COVID pandemic and systemic (long-term) challenges such as the council's finances and population growth. It will then set out the workforce related priorities identified by council Service Managers and issues raised by staff in the most recent employee engagement survey. The final section identifies issues raised by the equalities monitoring and equal pay data analysis outlined in the Chapter 2.

#### Impact of COVID

The COVID-19 pandemic forms the backdrop for the 2022-2027 Council Plan and the 2023-2027 Workforce Plan. Whilst the long term impact of the pandemic will not be known for some time, it is already clear that it has had significant impacts on society, the economy, health and wellbeing of citizens, and on public services.

The risks that COVID has created in relation to the Council workforce – sickness absence, staff mental health and fatigue and issues around recruitment and retention of staff – have been highlighted in the Council's Corporate Risk Register. The latest (December 2022) Corporate Risk Register<sup>3</sup> increased the Workforce Challenges risk to a 'High Risk' and highlighted the reduced ability to provide a full range of services to the public and to provide internal support services. Some services continue to operate in Business Continuity mode due to staff shortages, with only critical activities being provided in some areas.

The pandemic highlighted the importance of the council workforce, which adapted to new ways of working, new demands and expectations, due to the pressures caused by lockdown. During the first lockdown, over 2,000 council staff were working from home, and after schools went back there were still around 1,000, previously office based staff, who worked from home throughout 2021 and 2022.

In recognition of the changes in working patterns that arose in response to the pandemic lockdowns the council adopted new Homeworking and Flexible Working Policies in April 2022. The benefits of homeworking are summarised in the Homeworking Policy:

*'Homeworking forms part of the council's range of flexible working policies and potential benefits include flexibility of working times; improved service delivery; increased productivity, motivation and morale; potential for employee retention and recruitment; reduced travel time and costs; savings on office space and servicing all of which help achieve the aims of the East Lothian Council Plan, the Council Asset Strategy and Management Plan and the Climate Change Strategy.'*

As of December 2022 305 staff have formally contracted to work from home and a further 40 have applied for Hybrid Worker status.

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<sup>3</sup> [ELC20221213\\_05\\_Corp\\_Risk\\_Register.pdf](#)

The Association for Public Service Excellence (APSE) Local Government Survey Post-COVID Return to Work (September 2022) highlighted the need for councils to adapt to new ways of working arising from previously office based staff working from home and / or in a hybrid way. The analysis arising from the survey focussed on three issues:

- Workstyles – focus on staff health and wellbeing, skills and capabilities
- Workspaces – the right spaces for hybrid working
- Worktools – the right technology

It identified a series of issues around these themes including:

- The need for managers and staff to adapt to ‘remote working’ – supervision and management of remote staff and teams is crucial; more 1-1s, support and supervision, need for face-to-face interaction between staff
- Additional support for managers in supporting and managing staff and teams working from home and in hybrid ways/ different locations
- Support for staff being managed remotely
- Greater awareness staff wellbeing
- Need to avoid appearance of two-tier culture between staff in job roles able to work from home and those unable to work from home
- Informal collaborative workspaces to allow conversations to take place
- Agile working policies for all staff
- The effective use and roll out of digital technology and software.

## **Systemic (long-term) Challenges**

As well as responding to the challenges posed by the pandemic the Workforce Plan also needs to take account of the systemic, long-term challenges faced by the council, its communities and citizens. These were clearly set out in the 2022-2027 Council Plan and are summarised below.

### **➤ Financial Constraints and Uncertainty**

The budget gap between spend and funding received by the council is expected to exceed £40 million over the period of this Plan. Given the scale of the funding pressures, it is increasingly challenging to make the required level of savings without having an impact on local services and doing things differently. These change options will have an impact on the Council’s workforce – its size, shape and deployment.

Since staffing costs account for over 65% of the Council’s revenue budget, any significant reduction in the Council’s budget cannot be met without changes in the level of expenditure on staffing. The pressure to reduce staffing costs to meet any budget gaps over the next few years will come at the same time as pressure to increase staffing in services such as education and care services.

As was highlighted in the Council Plan, the continued uncertainty about the level of Local Government funding and continuing cost pressures the Council will have to continue to control expenditure and review how services are delivered (including

developing digital services and its online customer platform) in order to live within its means. These change options will have an impact on the Council's workforce – its size, shape and deployment.

The Workforce Plan does not include specific proposals to alter the current structure of the Council's services. However, service reviews which will be carried out as a result of budget decisions or the requirement to review services plans may result in some alterations to the Council management, service structure and workforce profile.

### ➤ **Population Growth/ Pressure on Council Services**

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. Therefore the growth in the council budget and workforce in Education and Adult Care services seen over the last few years will continue in coming years.

### ➤ **Climate Emergency**

East Lothian Council has declared a Climate Emergency that requires urgent action to make all Council services net Zero Carbon as soon as possible and in any case by 2045. The Council has also committed to work with its communities and partners towards making East Lothian a carbon neutral county. Sustainability is embedded within the Council's [Climate Change Strategy 2020-2025](#) with the commitment to continue to reduce its carbon footprint and the environmental impact of service provision.

The move to home and hybrid working supported by the Homeworking and Flexible Working policies will reduce the Council's carbon footprint by reducing the number staff of staff commuting to work and contributing to a reduction in the council office estate.

### ➤ **National Care Service**

The Scottish Government is intent on progressing with the creation of a National Care Service. The Scottish Government's proposals as set out in the [National Care Service Bill published - gov.scot \(www.gov.scot\) \(June 2022\)](#) would result in the largest reorganisation of local government services since 1996.

Audit Scotland summarised the concerns around the National Care Service proposal in the Local Government in Scotland Overview 2022: *“Scottish Government proposals for a new National Care Service are still at an early stage but will have a substantial impact on local authorities' responsibilities. Such a significant programme of reform brings challenges and risks.”*<sup>4</sup>

The creation of the National Care Service as envisaged by the Bill will have a direct impact on all social work staff – possibly requiring their transfer to the new national service with all the uncertainties that will hold. However, it would also impact of other council services, in particular support services such as Finance and Human

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<sup>4</sup> [Local Government in Scotland Overview 2022 | Audit Scotland \(audit-scotland.gov.uk\)](#); May 2022



Resources. The potential impact of the National Care Service will need to be carefully monitored and, where possible, action taken to mitigate any risks to the council and its staff.

### ➤ Transformation

As the squeeze on public sector resources intensifies, the Council recognises that a focus on efficiency alone is no longer sufficient or sustainable and that, given the scale of the financial and demographic challenges ahead, more radical and sustainable solutions are required. The Council will need to focus on doing more with less – being more efficient and effective with fewer resources.

The Council has embarked on a Transformation Programme, which includes the following key elements:

- Review of Council accommodation requirements and new ways of working including technology and partnership arrangements
- The redevelopment of the Council's website and provision of on-line services.
- Exploiting opportunities for income generation and reducing expenditure; for example from exploiting renewable energy sources and developing the Council's expertise in 'trading operations'
- A programme of service redesign, including the Transforming Children's Service project, to be more efficient and effective with fewer resources.

The Council Plan commits the Council to becoming a Digital Authority – making services accessible to customers/ service users wherever they choose, whilst delivering operational and cost efficiencies through improved and streamlined business processes. The Digital agenda is enabling service redesign to give staff the capacity to deliver services digitally thereby ensuring efficiencies are realised from changes in processes. Access to digital technology across all service areas and staff groups will also assist in enabling flexible working and generating increased capacity from reduced 'waste' such as travelling to and from office bases.

The transformation in the way the Council operates and delivers its services – streamlining of processes and eradicating unnecessary bureaucracy – will have an impact on the Council workforce. Change is a stressful process for organisations and for individuals who are affected by it. The transformational change programme will require staff training, management development and support in relation to wellbeing and resilience. The Council will need to support managers and staff through the process; empowering staff to promote and embrace change, developing managers' capacity and ability to manage change; and supporting staff in adapting to and being resilient to change.

The Council will need to ensure that its workforce can support the roll out of new technology to provide digital services; for example, ensuring that all council staff have basic digital skills and have access to digital technology.

## Managers' Priorities

A survey of Service Managers carried out in spring 2022 asked for their views on the workforce issues their services will face over the next three years. The most common issues raised were:

- Staff recruitment
- Staff morale and health and wellbeing
- Digital skills
- Challenges for staff and managers arising from new ways of working/ hybrid working
- Succession planning
- Ageing workforce
- Gender imbalance in some services
- Pay inequality/ salary expectations
- Lack of resources/ time / capacity for staff training and development

The results of the survey emphasise the need to make East Lothian Council an attractive place for people to work which will require consideration of pay, terms and conditions, employee benefits, work life balance / agile and flexible working and flexible retirement options.

These issues are all reflected in the Workforce Plan's Action Plan.

## Staff Engagement

The last staff engagement survey was carried out in May 2021. A total of 1,435 employees completed the survey. Although the overall response rate (32.2%) was significantly lower than the response in previous surveys (46.6% in 2019) the survey provides a good indication of the workforce's engagement with the council and on the impact of the COVID pandemic and health and wellbeing of the workforce.

As is shown in Table 1 below the responses to the eight core employee engagement questions asked in every staff survey show employees were more positively engaged in 2021 than in 2019. Six questions show a higher positive engagement level (Strongly Agree and Agree) than in 2019; in particular, Q3: *The council is a great place to work* (+5.5%) and Q.7: *I am aware of the East Lothian Way* (+8.9%).

Only two questions recorded a lower positive engagement than in 2019. Q2: *I am encouraged to offer new ideas for improvement* – was only 0.2% lower. Only one question, Q.8: *I have had a personal/ professional/ performance review on the past 12 months*, had a significantly lower positive response than in 2019.

## Comparison of Strongly Agree and Agree results for core engagement questions, 2019 – 2021

		2019	2021	2021 - 2019
1	I know how my job / individual objectives contribute to the Council's objectives	94.6	96.4	+1.8
2	I am encouraged to offer new ideas for improvement	84.0	83.8	-0.2
3	The council is a great place to work	80.4	85.9	+5.5
4	I have a manageable workload	60.7	62.4	+1.7
5	I am treated fairly	87.4	87.9	+0.5
6	Change is managed well in my school/ business unit/ service	70.2	71.3	+1.1
7	I am aware of the East Lothian Way	83.2	92.1	+8.9
8	I have had a personal/ professional/ performance review on the past 12 months	67	53	-14

The 2021 survey included 15 questions on the impact that the COVID pandemic and lockdown had on employees. The results to this question showed some differences in the experience of employees who have been working from home throughout the pandemic and those who were working as they did before. For example, just over 51% of employees working as before expressed general anxiety about the impact of the virus on their life compared to just 42% of homeworkers. Perhaps not surprisingly, less than 10% of homeworkers said they are spending less time with their family compared to 22% of employees working as before.

Staff were asked several questions about the level of support they receive from their manager and how they feel. Around nine out of ten employees feel they are getting the support they need from their manager; eight out of ten feel connected to their team; and, nine out of ten have clarity around what is expected of them. There was no significant difference between homeworkers and staff who are working as before.

Three questions about health and wellbeing suggest that a large majority of employees feel fairly positively about their health and wellbeing and work-life balance. However, around 20% of employees across the council have concerns. One in four employees said their work-life balance is Poor (20.5%) or Very Poor (4.6%) compared to three quarters who said their work-life balance is Good (61.2%) or Very Good (13.7%). Just over three quarters of employees rated their wellbeing as either Very Good (10.9%) or Good (65.9), whilst 20.8% rated their wellbeing as Poor and 2.3% rates it as Very Poor.

However, 90% of employees said that they are aware of the support the council provides for their health and wellbeing, and over eight out of ten either strongly agreed (32%) or agreed (52.8%) that they feel able to discuss any health and wellbeing issues with their manager.

The results of the staff engagement survey suggest that the council needs to:

- Continue to work to maintain the positive view of working for the council that a majority of council staff have
- Address concerns about social networking and communications with co-workers being more difficult post-COVID, especially among home workers
- Continue providing advice and support for managers to provide the level of support staff require; and for staff to work collaboratively and effectively in their teams
- Continue providing advice and support on health and wellbeing and ensure that this is available to all staff.

The next staff engagement survey in 2023 will focus on staff mental wellbeing.

## Equalities

The 2021-22 employee equalities monitoring information highlights the importance of the work that the Council does to ensure that it meets the duties set out in the Equality Act 2010, and, that it is an employer of choice; provides modern and fair employment opportunities and experiences; and is committed to robust self-evaluation and proactive improvement action. East Lothian Council has continued to encourage employees to feel confident about declaring their disability, sexual orientation or information about other protected characteristics. This is reflected within the equalities monitoring data, with more employees volunteering information about their sexuality and race.

East Lothian Council has a good record on equalities and pay equality and has no live equal pay claims. However, as the workforce profile and equal pay data shows there are still key issues that need to be addressed by the council.

However, the analysis of the latest information highlights a number of areas for the Council to focus on.

For example, the Council's workforce is still traditionally gender defined – care and clerical posts predominantly held by women; crafts, manual and technical posts held by men – and this has meant that the council still has an equal pay gap of over 4%. Further attention needs to continue to be given to 'breaking down' these traditional gender stereotypes in different sections of the workforce, including employee and role profiling in Council recruitment, staff communications through the Inform staff e-zine and public communications.

The Council adopted an Equality Plan in October 2021. The Equality Plan includes the commitment to the council being an Equal Opportunities employer with the aim of ensuring that our workplace feels inclusive to staff with protected characteristics and is a positive workplace for all employees.

Equalities initiatives the council already has in place include:

- Using the 'Integrated Impact Assessment' framework and guidance
- Signed up to use the Disability Confident Symbol

- Signed up to become a Carer Positive Employer
- Taken the See Me campaign pledge
- Taken part in the, now disbanded, Healthy Working Lives National Award Scheme
- Flexible employment policies and practices
- An Equality Training Plan
- Increased the renewal frequency of the mandatory Equality and Diversity training course to annually
- Paying council staff the real living wage and preparing to apply for accreditation as a Living Wage employer.

All East Lothian Employees have access to:

- A comprehensive Employee Assistance programme including counselling, occupational health and physiotherapy provision
- Educational and Personal Development Training Courses – via both face-to-face sessions and remote learning
- Online learning resources via LearnPro
- Free Period Products in Council Buildings
- Sign Language Support
- Online Recite Function – In both English and other additional languages
- Listening Ears Service
- Carers Hub
- A Flexible Family Leave Policy

In May 2022 the Council adopted an Equal Opportunities Statement (Appendix 1) that outlines its commitment to being an Equal Opportunities employer with all aspects of employment and associated policies underpinned by equal opportunities.

Further actions to address the issues arising from equalities monitoring and the equal pay audit and to support the fulfilment of the Equal Opportunities statement are detailed in the Action Plan.

## 4. The Action Plan

The 2023-2027 Workforce Plan aims to support the Council achieving its vision of being an employer of choice where.

*Our staff will:*

- ❖ *have the skills, knowledge, experience and motivation to deliver the highest quality services*
- ❖ *be flexible and adaptable around our changing organisational needs*
- ❖ *take personal responsibility and ownership to be effective in their jobs and take every opportunity to be as productive as possible to deliver their agreed work priorities*
- ❖ *be resilient to change and instigate, as well as adapt to, changes in service delivery*
- ❖ *be satisfied and engaged and feel safe at work*
- ❖ *work in partnership across all services and with the Council's partners and communities to effectively deliver essential services and outcomes*
- ❖ *be customer focused and deliver person centred, trauma informed and inclusive services*
- ❖ *feel valued and recognised for the contribution they make to achieving the Council's vision and objectives*
- ❖ *be supported, empowered and trusted.*

The analysis of the council's workforce profile and what is driving change and future needs set out in the previous chapters and the desire to meet this ambitious vision raise several questions that are addressed in the Action Plan.

- Do we have the right size of workforce to meet the public's need and do we have the right staff in the right places?
- How can we meet the financial challenges and the demand for new services and fulfil the need to 'do things differently – doing more with less'?
- How do we meet the challenges we are facing in staff retention and recruitment?
- How do we meet the challenges of an ageing workforce with a high proportion of staff likely to retire within the next five years?
- How do we ensure we have a workforce with more balanced age and gender profiles?
- How do we support staff to maintain their mental health and wellbeing?
- How do we fulfil our commitment to being an Equal Opportunities employer?
- How do we recognise the contribution of our staff?
- How do we support managers and staff to support, embrace and be innovators and instigators of change?
- How does the Council workforce support the development of the Digital Authority?

The Action Plan to deliver the workforce vision and address the issues identified by the needs analysis includes 32 actions based around three themes:

- Sustain a skilled, flexible resilient and motivated workforce
- Support and initiate transformational change, encouraging and supporting staff to work in a more agile way
- Build and sustain leadership and management capacity

## 1. Sustain a skilled, flexible resilient and motivated workforce

Ref	Action
1.1	Support services to include a Training and Development Plan within their Service Plans – identifying training and development needs of staff and how these will be met and ensuring the Council has a cohesive and coherent approach to planning organisational capacity and skills that support the delivery of council and service objectives
1.2	Review service training and development plans, requirements and budgets
1.3	Keep the <i>East Lothian Way</i> under review to ensure the council staff behaviours reflect the Workforce Plan vision, and in particular the emphasis on delivering customer focused, person centred trauma informed and inclusive services
1.4	Continue to promote the values and behaviours we expect of all staff through the <i>East Lothian Way</i> through embedding them into staff induction, management webinars, and regular communications about good practice.
1.5	Continue to develop an improved, flexible Personal Review and Development (PRD) process and promote the benefits of regular 1-1s and team meetings that meet the needs of all services
1.6	Support the development of a person-centred, trauma informed and responsive workforce, that: <ul style="list-style-type: none"> <li>• is informed by people with lived experience</li> <li>• recognises the importance of employee wellbeing</li> <li>• recognises where staff and service users are affected by trauma and adversity</li> <li>• responds in ways that prevent further harm and supports recovery, and</li> <li>• can address inequalities and improve life chances</li> </ul>
1.7	Continue to explore options to address issues around recruitment market conditions and challenges and the need to retain existing employees
1.8	Keep Council Terms and Conditions under review to respond to current employment market conditions and to ensure they are aligned to achievement of the Council Plan and the Workforce Plan
1.9	Continue to develop measures aimed to meet the Council’s commitment to be an Equal Opportunities employer including:

	<ul style="list-style-type: none"> <li>• Carry out a review of recruitment procedures and practice against the Scottish Government’s Minority Ethnic Recruitment Toolkit and make any necessary changes</li> <li>• Review the Annual Equal Pay Audit in line with Government guidance to assess whether it should include information and actions to address pay gaps faced by employees with protected characteristic groups along with the gender pay gap; for example Ethnicity &amp; race and Disability Pay Gap audits</li> <li>• Carry out a stress and mental health audit of employees correlated against the protected characteristics as part of employee engagement surveys; and use the results to inform the development of mental health and wellbeing training and support services</li> <li>• Become an “Equally Safe at Work” accredited employer and progress the development of a gender based violence policy</li> <li>• Update the Post-employment Equalities Questionnaire to mirror the current ‘myjobscotland’ questionnaire</li> <li>• Promote Stage 3 Data Collection by increasing the frequency of alerts sent to employees reminding them to update their Equalities Information on myHR and the introduction of an additional reminder into the mandatory Equality and Diversity elearning module</li> <li>• Make appropriate adjustments to support neuro divergent employees</li> <li>• Increase the number of targeted recruitment initiatives to promote employment with the Council to people from underrepresented groups and address traditional gender stereotype roles in employment</li> <li>• Further enhance employee engagement in relation to equal opportunities to gain a more qualitative insight into any issues concerning employees – including barriers to disclosing equalities information.</li> </ul>
1.10	Continue to support and encourage our young workforce; attracting, recruiting and retaining young people through creating employment and training opportunities through appropriate training schemes and supporting Modern Apprenticeships in various occupational areas
1.11	Support the improvement of Digital literacy skills in the workforce including conducting Digital Skills audits where required and working with the relevant teams/ Service to build capability in implementing and using new systems and digital tools. Consideration will be given to addressing the specific needs of staff affected by the ‘digital divide’ that may arise from dyslexia or low literacy/ numeracy skills
1.12	Continue carrying out annual employee engagement surveys with a focus on health and wellbeing
1.13	Develop an active approach to succession planning including job shadowing and short term secondments, that enables the Council to manage the loss of skills, experience and knowledge, build experience and new skills and flexibility to respond to business need as well as motivate staff to remain council employees



1.14	Continue to explore strategies and initiatives to improve employee attendance and wellbeing
1.15	Keep the Council's Health and Safety Policy and Management Arrangements under review and continue to embed best practice in health and safety across the Council
1.16	Continue to review staff recognition, rewards and benefits (including the range of non-cash employee benefits in terms of salary sacrifice schemes and discount scheme) to ensure the Council recognises and promotes the success, achievement and commitment of its staff
1.17	Continue to develop and implement an effective staff communications plan, including encouraging and supporting the sharing of ideas and best practice, which will reach all staff, to ensure staff feel engaged with, understand and contribute to the change agenda
1.18	Procure a new Learning Management System for on-line learning that is user friendly and can more effectively engage staff in using e-learning modules and digital learning

## 2. Support and initiate transformational change, encouraging and supporting staff to work in a more agile way

Ref	Action
2.1	Support service re-design through the provision of project support, improvement methodologies and change management training and support
2.2	Reshape the council workforce profile in the light of demographic, financial and other pressures and to align with alternative service models such as the development of digital services and the wider transformation programme
2.3	Review the Council's Human Resources policies and procedures to support the Council's transformation agenda and support effective people management practice at a time of change, including ensuring effective management of issues of grievance, underperformance and capability
2.4	Monitor the proposal to create a National Care Service to understand the implications of the proposal not just on adult and children's social work staff but on staff across all services; and, where possible, take actions to mitigate negative impacts on council staff
2.5	Continue to provide ongoing development ideas/ learning via Manager's monthly on how to support hybrid working and staff health and mental wellbeing
2.6	Provide training, advice and support for staff in adapting to new ways of working such as Hybrid Working

2.7	Continue to grow and develop the Digital Champions network to ensure employees have the required knowledge and skills to use Microsoft 365 and other relevant applications
2.8	Promote flexible approaches to learning and building capability for succession planning and for emergency situations and business continuity - e.g. job shadowing, short term secondments, re-skilling of employees for deployment.

### 3. Build and sustain leadership and management capacity

Ref	Action
3.1	Continue to deliver leadership development programmes for all people managers (CMT/ SMT/ Team Leaders and first line managers) to ensure consistent modelling of leadership behaviours across the council and to further enhance our culture of empowerment and continuous improvement
3.2	Continue to provide a blended programme of learning for managers via webinars, face-to-face sessions and mentoring for new and existing people managers on topics to support them with individual learning needs and core manager skills
3.3	Continue to provide introduction to management learning options e.g. webinars, e-learning and videos to those who are keen to develop into a managerial position in the future to support career progression
3.4	Develop interventions to support managers and staff supervisors in communicating and engaging with staff to support effective team management, team building and team relationships
3.5	Ensure all managers receive training on how to deliver PRD's, give effective feedback, support staff development and tackle staff and team performance issues early on
3.6	Ensure all managers have information and access to learning resources and development and learning opportunities so they can support and advise staff with identified development requirements

## Appendix 1: Equal Opportunities Statement

East Lothian Council is committed to being an Equal Opportunities employer with all aspects of employment and associated policies underpinned by equal opportunities. We aim to ensure that our workplace feels inclusive and is a positive workplace for all employees, where individual differences and the contributions of employees are valued.

The council takes a zero-tolerance approach to discrimination, on any grounds, but in particular, in line with the Equality Act 2010, on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

We endeavour to ensure current and prospective employees are treated with dignity and respect, receive equality of opportunity and do not experience discrimination because of who they are.

We aim to attract and retain a diverse workforce to support us to deliver the best services and achieve our business ambitions. We welcome and encourage applications from all suitably qualified candidates and believe that a more inclusive workplace, where people of different backgrounds and experiences work together, ensures better outcomes for our employees and the people of East Lothian.

We take positive steps to ensure that our employees, colleagues, stakeholders, contractors and service users experience fair, equitable treatment, free from discrimination in their dealings with us.

The Council supports equality in our work and employment practices in a number of ways including those below:

- Flexible working employment policies and practices
- Provision of a comprehensive Employee Assistance Programme including Occupational Health and Physiotherapy services
- Disability Confident Employer accredited
- Committed to the See Me campaign pledge
- Healthy Working Lives accredited
- Equality training and development for all employees
- Carer Positive accredited

To help us achieve our goal of having a diverse and inclusive workplace, we have a range of employment policies promoting and supporting equality along with a range of published strategies, plans and reports:



**REPORT TO:** Cabinet

**MEETING DATE:** 17 January 2023

**BY:** Executive Director for Council Resources

**SUBJECT:** Digital Strategy 2022 - 2027

---

4

## **1 PURPOSE**

- 1.1 To seek approval of the Digital Strategy 2022 - 2027

## **2 RECOMMENDATIONS**

- 2.1 Cabinet is asked to approve the adoption of the Digital Strategy 2022-2027 as attached at Appendix 1.

## **3 BACKGROUND**

- 3.1 The strategy outlines how we will support the digital ambitions of the East Lothian Council Plan 2022 – 2027 and the COVID Recovery and Renewal Plan 2021.
- 3.2 This version builds upon the solid digital foundations established by its predecessor which enabled the council to switch overnight from a predominantly desk and office based organisation to an agile one with a widely dispersed workforce.
- 3.3 It recognises that technology is a key enabler for change and improvement, playing a vital role in transforming the way we work, engage with our citizens and in the operation and strategic delivery of Council Services.
- 3.4 The Strategy provides a framework covering data governance, cyber security, digital principles and overall governance arrangements to ensure the efficient allocation of management and resources to the work programmes and projects that will be delivered in accordance with the Digital Strategy.

#### **4 POLICY IMPLICATIONS**

- 4.1 The new strategy will compliment and assist with the delivery of approved policy commitments made within the Council Plan 2022-27 and the COVID Recovery and Renewal Plan 2021.

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

- 5.1 The subject of this report has been through the Integrated Impact Assessment process and no negative impacts have been identified.

*[Awaiting web link to published IIA.]*

#### **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – None directly associated with the approval of the strategy. However, financial resources will be required by work programmes and projects that will be delivered in accordance with the Digital Strategy.
- 6.2 Personnel - None. However there may be personnel implications arising out of work programmes and projects that will be delivered in accordance with the Digital Strategy.
- 6.3 Other – None.

#### **7 BACKGROUND PAPERS**

- 7.1 None.

Appendix 1 – Digital Strategy

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<b>DATE</b>	4 <sup>th</sup> January 2023

# DIGITAL STRATEGY

2022–27

Transforming the way we work, engage with residents,  
and deliver council services.

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### Executive Summary

This strategy outlines how East Lothian Council will support the digital ambitions of the *East Lothian Council Plan 2022 – 2027* and *COVID Recovery and Renewal Plan 2021*.

It sets out our approach to the provision of citizen centric services for a modern efficient local authority operating in the digital age. Building on the progress from our original Digital Strategy (2017-22), it incorporates the lessons learned and culture change brought about by the council’s response to the COVID pandemic.

Over the course of the strategy, we will continue to transform our services to improve the customer experience, improve efficiency, improve ease of use and reduce operating costs. This will enable East Lothian to take advantage of the opportunities offered by new and transformative ways of working and technologies to deliver online services.



## Introduction

Technology is a key enabler for change and improvement. It plays a vital role in transforming the way we work, engage with our citizens and in the operational and strategic delivery of council services.

The previous Digital Strategy led to the establishment of the solid digital foundations which enabled the council to switch overnight from a predominantly desk based organisation to an agile one with a widely dispersed workforce at the start of the first lockdown period. The subsequent response to the COVID pandemic has significantly changed working practices and rapidly increased the adoption of technology to deliver more efficient customer focused solutions.

As a council we have embraced these changes. With the focus firmly now on recovery and delivery of the ***Overarching and Thematic Objectives of the Council Plan 2022-2027***, set against the backdrop of the most severe financial constraints ever faced by local authorities, the need to embrace the opportunities presented and build on the existing foundations has never been greater.

This strategy sets out how we will embrace innovative technical solutions to meet rapidly evolving and changing business needs, respond to the changing shape of the organisation, provide value for money and enable us to respond to opportunities and demands for joint working with our partners.

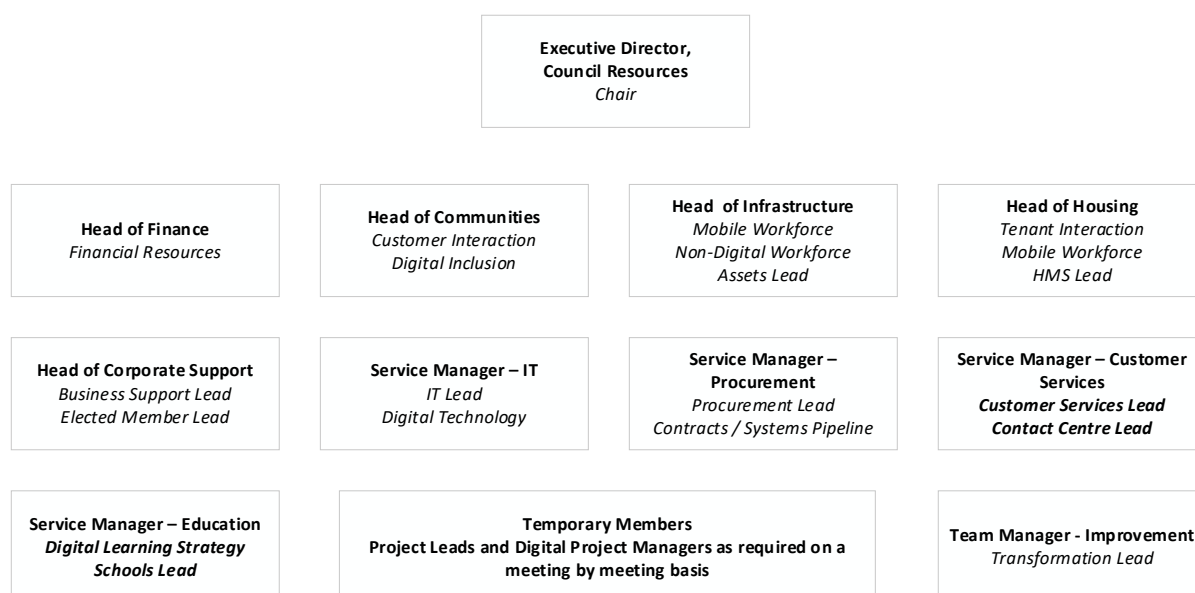
The principles within this Strategy provide a flexible framework that will guide how we develop and deploy Digital Services ensuring a consistency of approach whilst managing data in a safe and secure manner.

## Digital Governance

A new **Digital Transformation Board** will be established which build on the work carried out by the previous **Digital Strategy Executive Group** and will report to the **Executive Team: Transformation**.

The Digital Transformation Board will have responsibility for providing the overall strategic direction and oversight of digital transformation and the prioritisation of digital projects and allocation of resources.

The board will be chaired by the Executive Director for Council Resources, who takes executive responsibility for decisions relating to digital transformation. The membership will be as follows with additional members being added on a temporary bases as required.



**An annual Digital Transformation Work Plan will be prepared in October each year for agreement and monitoring by the Digital Transformation Board.**

## Digital Principles

1. The Digital Strategy is a **business strategy**, not an information technology (IT) strategy.
2. Our Elected Members, Executive Team, Chief Officers and managers will champion the use of digital, data and technology across all services and seek to embed new ways of working that enable us to become more customer-focussed, data driven, open and efficient.
3. We will put our citizens at the heart of everything we do and will redesign our services accordingly, co-designing whenever it is appropriate to do so.

4. When designing new services or transforming existing ones we will design them to be **digital by default**.
5. We will seek to rationalise our building assets and ensure they are properly equipped to support the different ways of working resulting from the COVID Pandemic.
6. We will ensure staff have the correct equipment to allow them to carry out their roles, working effectively from anywhere, enabled by a fast and reliable infrastructure in all council owned buildings and with remote access from other sites in line with service needs.
7. We will work with partners, including the Scottish and UK Governments, Digital Office for Scottish Local Government, Health and Social Care Partnership, Suppliers and community groups to deliver the best possible digital outcomes for East Lothian.
8. We will continue to invest in, and work with the Digital Office for Scottish Local Government to keep abreast of national initiatives and projects and utilise their expertise where appropriate.
9. Wherever possible we will invest in technologies that have a low carbon footprint and seek to enable and support other green and low carbon initiatives, activities and working practices.
10. When procuring new digital capabilities and technologies we will use national frameworks wherever possible. Cost of ownership, adherence to strategy and open standards will be key award criteria.
11. We will strive to rationalise the number of systems providing similar functionality by reusing and consolidating wherever possible.
12. We will continue to use **MyAccount** and **Bisaccount** as our tools for verifying identities of service users and businesses which will enable us to build a single view of our customers and in turn provide them with more services in a safe and secure manner.
13. We will join the **GOVroam** and **EDUroam** services. These are national roaming services which allow 'zero touch' internet access and network connectivity to public and education sector staff across the UK.
14. We will continue to adopt the updated version of the **Web Content Accessibility Guidelines** (WCAG2.1 AA) and any successors for our websites and online portals.
15. We will follow all relevant legislation and good practice relating to Data Governance, and integrate **Privacy by Design and Default** in our systems, policies and procedures.
16. We will continue to develop and enhance our **Master Data Management** capability to enable us to provide a single, trusted view of mission-critical operational data.

## Data Governance

Information is a key resource and it is vital it is managed accordingly both to maintain its integrity and ensure high levels of public trust. Customers expect faster service delivery and high levels of transparency and accountability, while legal requirements for the protection and effective management of information have become ever more stringent.

The council will ensure it maintains transparency, accountability and individual privacy by complying fully with all relevant legislation including but not limited to **Public Records (Scotland) Act 2011**, **Freedom of Information (Scotland) Act**, and **Data Protection Act 2018 / UK GDPR**.

We have undertaken a data maturity assessment to baseline the way the council currently handles information and will deliver recommendations resulting from these activities.

We will develop an **Information Transformation Strategy** with the aim of getting '*the right information to the right person at the right time, and in the right format*'.

## Cyber Security

The security challenges we face are increasing and ever changing. As well as more documented attack routes such as virus or ransom ware, other challenges are emerging. Our increased use of multiple and remote devices coupled with our increased use of systems and who accesses them result in a highly complex environment with many attack surfaces for those wishing to compromise our security.

We will ensure that the council infrastructure is secure and resilient using appropriate technical measures to protect our network and the data we hold in our systems.

We will ensure we follow current National Cyber Security Centre (NCSC) guidelines and ensure compliance with Public Sector Network (PSN) code of connection and its successor.

We will provide regular security awareness training to staff.

We will continue to work with our partners across the public sector through participation in the Cyber Security Information Sharing Partnership (CISP) and the Scottish Local Authority Information Security Group (SLAISG)

## Growing Our Capacity

Demand for services continues to grow and is outstripping our ability to provide them by traditional methods. We will seek to enable as many service users as possible to self-serve by making services available via our **Online Customer Platform** and other digital channels.

*This will enable our customers to access services around the clock and from locations of their choice. This will free up traditional methods to handle the more complex cases or those who are unable to engage digitally.*

Based on experiences over the duration of the previous strategy we have sought to bolster our Transformation and IT teams to establish in-house Project Managers, Business Analysts and additional IT staff rather than employing expensive long term contract staff. This has increased our capacity to work with services to bring about service transformation.

The changes in working practices brought about by the council's response to the COVID Pandemic have greatly accelerated Services reviewing the fitness of purpose of the Management Information Systems. We will seek to develop and maintain a roadmap of core **Management Information System** replacements and other key digital developments to help align priorities and secure resources.

The roadmap will also form the basis of an annual work plan which will be prepared in October of each year to feed into the budget setting process.

The replacement or significant upgrading of the functionality of our core Management Information Systems will be accompanied by an extensive business process redesign exercise to streamline and improve working practices and provide better customer service and ensure we obtain the best possible return on investment.

The council recognises that the world of work is changing and our vision for working differently in the future is evolving rapidly. To enable more flexible, efficient and robust working practices it is essential that we continue to invest in our council wide IT infrastructure and equip our staff with the correct technology to enable them carry out their roles.

We will continue to improve the speed, capacity and reach of our networks utilising improvements in technology whenever relevant and affordable to do so.

We will continue to invest in software solutions which will support the council's **Working Differently** vision and enable a hybrid workforce to work effectively whether working from council premises, from home or remotely on site.

## Growing our People

It is vital we enable our employees to be confident and competent with the technologies and systems we use to deliver services both now and in the future. Digitally skilled employees can exploit technology and change how processes and ways of working can be made more customer focused, of higher quality and efficient.

A large proportion of our employees are now working on a remote/hybrid basis and heavily rely on digital communication and collaboration for productivity and wellbeing. Those employees who don't use a device currently to do their job may do so in the future and still need digital skills to access HR services, e-learning, or webinars. ***During the lifetime of the strategy we will:***

- **Conduct *Digital Skills Audits* where required and work with the teams and services to build capability and to provide training.**
- **Further develop and grow the *Digital Champions* network across East Lothian Council to ensure employees have the required knowledge and skills to use M365 and other relevant applications.**
- **Provide a *Digital Skills Learning Centre* that is easily accessible to all employees through an engaging and intuitive *Learning Management System*.**
- **Ensure all employees have easy access to digital training.**

Our schools have a critical role in ensuring our children are equipped with the digital skills they require to thrive in a Digital World. The council's ***Digital Learning and Teaching Strategy*** encompasses 4 main goals;

- **Digital Literacy of Staff.**
- **Improving Infrastructure.**
- **Digital Learning and Teaching.**
- **Digital Distance Learning.**

Through these goals we aim for our schools to build upon the digital learning and development brought about by the pandemic, ensuring that we use this progress as a catalyst in continuing to develop learning inside and outside the confines of the classroom walls.

In order to futureproof East Lothian classrooms a focus on upskilling staff in Digital Pedagogy and getting the most from the Google Workspace tools we use is of the upmost importance. Ensuring this is a priority across the council will better prepare our learners with the skills required for a successful future career.

We will continue to invest heavily in ICT in our schools to ensure they have the hardware, software and skills required to meet these goals. This will be done within the parameters of Scottish Government funding and policy intent.

In line with Article 12 of the UN Convention on the Rights of the Child, we will ensure the voice of children and young people is at the heart of our work to implement this strategy.

## Growing our Communities

Following the periods of lockdown during COVID pandemic there is now wide recognition of the importance of addressing digital inclusion as a priority to reduce social isolation and help improve people's wellbeing including mental health, connectedness and encourage access to employability opportunities.

*We will seek to make digital skills training more easily available in our communities. We will work with community groups to identify areas of digital poverty and the best methods to tackle them.*

Since the early 2000's we have provided a number of **Public Access Networks** to provide access to the Internet. We will look to overhaul these and seek to provide free **Public Internet Access** in our key community facilities and build a scalable Public Access Network which can be deployed in our community buildings where needs are identified. The main premise of these networks will be that they are free, accessible to all and will be based around the use of **free cloud technologies** wherever possible.

During the lifespan of this strategy the most radical overhaul of the Public Switched Telephone Network (PSTN) will take place. It is currently scheduled to take place by 2025. ***This will see traditional analogue lines and equipment being replaced with digital internet-based infrastructure.*** This has far reaching consequences as all traditional devices that connect to the network such as telephone handsets, ATM machines, traffic light management systems and telecare units, will need reconnecting, with some needing upgrading or replacement. Whilst the PSTN upgrade is an industry-led process the council has a critical role to play to implement the solutions required to support residents and prevent impact on day-to-day life.

Telecare and telehealth are key services that are directly affected by this. The Local Government Digital Office are leading on a national response and the council will continue to work with them to ensure a smooth transition of these essential services.

We will also continue the work already underway to ensure all our telephony systems are ready for the switchover.

Subject to demand and business need we will investigate the potential of **Internet of Things Technologies** to take advantage of advances in sensor technology in service delivery.

## Growing our Economy

Provision of fast, affordable Internet access is vital to a modern thriving economy. During the lifetime of the previous Digital strategy we worked with the **Digital Scotland** team and telecoms providers to achieve a rate of over 95% of postcodes having access to **Superfast Broadband** (at the time defined as speeds of over 24Mbps).

We will continue working with Digital Scotland, telecoms, and infrastructure providers on the follow-up **R100** (Reaching 100%) project, to ensure the East Lothian roll out of access to Superfast Broadband is as smooth and fast as possible.

Since the development of broadband and mobile services the technology and demand for data speeds has moved on greatly. Ultrafast (300Mbps) and Gigabit (over 1000Mbps) broadband is facilitated by *Full Fibre To The Premise* (FTTP) rather than *Fibre To The Cabinet* (FTTC - which delivers superfast broadband) technology. While 5G mobile networks can deliver up to 100x the speed of the current 4G system and are designed to support more than just mobile phones. 5G networks can connect many more devices with smaller batteries e.g. networks of crop monitors in agriculture, are fast enough to remotely control robotics in real-time, and reliable enough for emergency services.

As homes and businesses increasingly rely on data and the ability to connect at speed, whether for streaming services, the use of 'smart home' or telehealth devices, or the home and remote working that has become a new way of operating following the COVID pandemic, continuing to increase our access to new infrastructure will be pivotal.

We will continue to work with the Scottish 5G Centre, the telecoms industry and the Scottish and UK Governments to ensure East Lothian is included in and takes advantage of all plans for investment and roll out of Ultrafast, Gigabit, and 5G technology as these become available.

Connection speeds and access are only one part of the picture, how we use data to improve transport, housing, culture, skills, innovation, and employability is the real goal. Data-Driven Innovation is a major part of the Edinburgh and South East Scotland City Region Deal. With our regional partners, Edinburgh, Midlothian, West Lothian, Fife and the Scottish Borders, plus universities and colleges in the region we will continue the development of projects that support our communities and businesses.

***We will promote East Lothian as a digital destination, showcasing the best of our place to encourage tourism, inward investment, relocation, and growth.***





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:** Cabinet

**MEETING DATE:** 17 January 2023

**BY:** Executive Director for Council Resources

**SUBJECT:** Procurement Strategy 2023-2028

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**5**

## **1 PURPOSE**

- 1.1 To inform, and seek approval from, Cabinet for the East Lothian Council Procurement Strategy 2023-2028

## **2 RECOMMENDATIONS**

- 2.1 To approve the report East Lothian Council Procurement Strategy 2023-2028.

## **3 BACKGROUND**

- 3.1 The Procurement Reform (Scotland) Act 2014 requires contracting authorities:

- to prepare a procurement strategy setting out how they intend to carry out regulated procurements, and
- to review its procurement strategy for the current financial year and make such revisions to it as the authority considers appropriate

- 3.2 Many elements of the current Corporate Procurement Strategy 2017-2022 remain relevant.

- 3.3 ELC Procurement Strategy 2023-2028, aims to build on those ambitions and achievements, while making it applicable to the 2022 operating environment.

- 3.4 The new Procurement Strategy (see appendix to this report) provides details of 5 key strategic objectives:

- Contributing to the Council's Net Zero Climate change targets
- Delivering Best Value and Continuous Improvement
- Ensuring Compliance and Good Governance

- Increasing Sustainability and Community Benefits
  - Supporting Economic Recovery
- 3.5 Delivery against the strategic objectives outlined above should help us to achieve our vision for Procurement: *“To provide excellent services that deliver best value procurements with community benefits that support recovery and renewal, reduce poverty and inequality and respond to the climate emergency”*.
- 3.6 The Procurement Strategy will be reviewed on an annual basis to ensure continued alignment with supporting the delivery of the council’s priorities and outcomes.
- 3.7 This strategy has been developed in consultation with key internal stakeholders and external partners Scotland Excel (the Centre of Procurement Expertise for the local government sector) to gain a national perspective.
- 3.8 Any significant refresh of the Procurement Strategy and the associated Action Plan will be reported to and approved by Cabinet.
- 3.9 The Annual Procurement Report that records the performance against the Procurement Strategy will be detailed in a Members Library report and will include:
- a summary of the regulated procurements completed during the year
  - a summary of community benefits and Fair Work First performance; and
  - a summary of future regulated procurements.
- 3.10 Performance against the Action Plan will be monitored by the Procurement Service Manager and with updates reported regularly to CMT.
- 3.11 The Council’s procurement performance is also subject to external PCIP assessments. Due to the impact of covid-19 PCIP assessments were put on hold, with a view to recommencement in 2023.
- 3.12 The procurement actions detailed within the Strategy and Action Plan are aligned to both the national procurement objectives and the PCIP programme which supports continuity and continuous improvement.

#### **4 POLICY IMPLICATIONS**

- 4.1 The Council requires to use UK and Scottish regulations, policies, guidance and tools concerning public procurement activity, in conjunction with the council’s own regulations, policies, guidance and tools concerning procurement activity. Details of these Regulations, Policies, Guidance and Tools are provided on p17 of the Procurement Strategy.

## **5 INTEGRATED IMPACT ASSESSMENT**

- 5.1 The subject of this report has been through the Integrated Impact Assessment process and no negative impacts have been identified.

## **6 RESOURCE IMPLACATIONS**

- 6.1 Financial - None  
6.2 Personnel - None  
6.3 Other – N/A

## **7 BACKGROUND PAPERS**

- 7.1 East Lothian Council Annual Procurement Report 2021-2022 – Members Library Report 134/22  
7.2 IIA Procurement Strategy 2023-2028

Appendix - East Lothian Council Procurement Strategy 2023-2028

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<b>DATE</b>	29 November 2022





East Lothian  
Council

# PROCUREMENT STRATEGY

2023–28

Promoting economic, environmental and social outcomes which support recovery and growth.



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## Foreword

East Lothian is widely recognised as a fantastic place to live, work and study. However, pressure on public finances means that the council must also make significant savings, and ensuring that the council uses its considerable spending power to maximise value for its communities is key.

The launch of the council's new Procurement Strategy will help promote the economic, environmental and social outcomes that support growth, and address those challenges the council is facing.

Closer working relationships with key stakeholders is central to the successful delivery of the strategy, building on existing networks to improve engagement with communities, businesses, third sector organisations and strategic partners.

The strategy also builds on a strong foundation of achievements delivered in previous years. These achievements will still be important in the coming years, and the principles remain a core element of the strategy, but as the council looks to address key challenges of poverty, citizen well-being and climate change the central priorities for the council's procurements must align and support wider outcomes.

The core focus moving forward will be:

- Contributing to the council's Net Zero Climate change targets
- Delivering Best Value and Continuous Improvement
- Ensuring Compliance and Good Governance
- Increasing Sustainability and Community Benefits
- Supporting Economic Recovery

By delivering in these areas and continuing to seek financial savings and Best Value outcomes, the council can be confident that its procurement activity will benefit our stakeholders.

### **Monica Patterson**

East Lothian Council Chief Executive



## Introduction and procurement vision

East Lothian is one of the fastest growing council areas in Scotland with a population increase between 1998 and 2020 of 22%. The county is widely recognised as a desirable place to live with a beautiful coast and countryside, attractive and distinctive towns, good quality housing, schools and services, and proximity to Edinburgh’s jobs, businesses and attractions. East Lothian is part of the Edinburgh city region and its key economic sectors include tourism, agriculture, food and drink, power generation, manufacturing, and education. Over the next 10 years it is anticipated that East Lothian will undergo further significant change.

Population and housing growth means that the demand for council services is increasing at a time when the pressure on public finances requires us to make significant savings. The procurement service must continue to ensure the council secures Best Value by purchasing only what we need and managing our suppliers effectively through robust contract management.

Following the Covid-19 pandemic and post-Brexit, the Procurement Service is evolving to change its focus from operational to strategic procurement. We will support the transition to a low carbon economy, and manage the impacts and opportunities arising from technological change and a fast-growing local authority area.

This strategy takes account of that wider context, and recent developments in the local and national policy framework, that now more clearly recognise the important role that public sector procurement has in delivering key outcomes.

The procurement service has a strong focus on compliance with the regulatory framework, and the council’s internal controls and this strategy will help ensure the council’s purchasing activity supports sustainable growth and protects our environment, while also confronting the challenges that East Lothian is facing.

### Council Vision

*An even more prosperous, safe and sustainable East Lothian, with a dynamic and thriving economy, that enables our people and communities to flourish. Council Plan 2022-2027*

#### Vision

To provide excellent services that deliver best value procurements with community benefits that support recovery and renewal, reduce poverty and inequality and respond to the climate emergency.

#### Mission

The procurement team will strive to deliver effective, efficient and excellent services to support the council’s strategic vision and aims, by contributing to the council’s net zero climate change targets, delivering best value and continuous improvement, ensuring compliance and good governance, increasing sustainability, community benefits and supporting economic recovery.

### Sarah Fortune

Executive Director of Resources, East Lothian Council

## Strategy rationale and context

Recent changes to procurement regulations and statutory duties are now embedded and public sector procurement has a greater role than ever before in supporting delivery of key social, economic and environmental outcomes. The potential impact of Brexit will not bring immediate change to these regulations and duties but may have a bearing on markets we engage with.

This strategy has been developed to enable us to respond and adapt to changes in our environment. However, during its life changes are expected, for example, development of a National Procurement Strategy for Scotland. In line with the Reform Act and to ensure our Annual Procurement report details our performance against strategy, this strategy will be subject to annual reviews. This will take account of any changes to organisational objectives and Scottish Government policies and strategies.

The council currently spends an average of £140million per annum on goods, services and works. In supporting this programme it is critical that the spending power of the council is utilised to influence and actively promote positive change.

Enabling Good Growth is a key area of our Economy Strategy. Where procurement has potential influence, we will include the council's commitments to Fair Work practices, low carbon economy, supporting benefits through City Region Deal and other capacity building projects.

The previous Corporate Procurement Strategy 2017-2022 was aligned to the Council Plan 2017-2022 and the Procurement Improvement Programme (PIP). Many improvements and benefits were delivered and are detailed in Appendix 2.

Key successful outcomes include:

- Increased engagement with local Small Medium Enterprises (SMEs) and awareness of our tendering opportunities
- Applying prompt payment in the supply chain, as appropriate
- Successful and targeted people and Community Benefits delivered in line with the needs of our communities
- Added value obligations included in contracts to support ELC Climate Change Strategy (2020-2025)
- Increased capacity (resource levels) aligning with strategic procurement priorities, contracted expenditure and business needs
- Contract and Supplier Management (CSM ) training delivered to Service Users across the council
- Annual surveys to capture the views and understand levels of satisfaction of internal customers and suppliers
- New software for contract register and recording and reporting on contract obligations, benefits and performance
- £1.3m cash savings delivered by the Procurement Improvement Programme (PIP)
- Procurement team developed skills in relevant areas e.g. negotiation, project management, Chartered Institute of Procurement & Supply (CIPS) qualifications, Contract and Supplier Management (CSM), Competition and Markets Authority (CMA) e-learning on bid rigging and Climate Literacy Training
- Procurement training included in Elected Member Induction
- Review and update of the council's standing orders and procurement procedures.

Areas for on-going improvement include:

- Optimising systems / identification of gaps in tracking spend
- Utilising the new Contract Register to detail contract obligations
- Implementing contract management into lifecycle of key contracts
- Supporting the P2P (purchase-to-pay) project to deliver consistency and accuracy related to downstream processes
- Collaborating with Service Managers to plan value added procurements
- Digitising procurement processes
- Embedding the sustainable procurement duty - continual improvement of the economic, social and environmental wellbeing of East Lothian people.

## Community Wealth Building

The Centre for Economic Strategies (CLES) states that community wealth building is based on five key principles:

- Plural ownership of the economy
- Making financial power work for local places
- Fair employment and just labour markets
- Socially productive use of land and property
- Progressive procurement of goods and services

Anchor Institutions are central to the concept of community wealth building as a result of the scale of the jobs they provide, the scale of spend through procurement, their land and assets.

The Lothian Strategic Development Framework sets out aspirations for the Lothian Health and Care System (LHCS) to work as an anchor institution. The LHCS includes East Lothian Integration Joint Board; Edinburgh Integration Joint Board; Midlothian Integration Joint Board; NHS Lothian; and West Lothian Integration Joint Board.

The Scottish Model of Procurement (procurement that is business friendly and socially responsible) aligns well with these principles and is already at the core of procurement practices across the Scottish public sector.

In line with the Council Plan 2022-2027, we will support community wealth building through an approach to procurement that prioritises local jobs and promotes diversity.

We will work across the council and with our partners to develop and implement the councils Community Wealth Building approach and action plan and ensure continued alignment with the LHCS anchor institution aspirations set out above.

## East Lothian Health and Social Care Partnership (ELHSCP)

East Lothian Health and Social Care Partnership (ELHSCP) has developed its Commissioning Strategy 2023 – 2025. Their Commissioning Strategy will be future proofed in line with the Independent Review of Adult Social Care which recommends that Integration Joint Boards should continue to develop strategic commissioning plans, and should be given direct responsibility for procurement, holding contracts and contract monitoring.

The council's procurement service, through the work of the Commissioning Board, will be involved in this work to support colleagues to commission and procure services in a way that gives the best chance of achieving the desired outcomes and in line with the principles of the ELHSCP Commissioning Strategy.

ELHSCP procurements will comply with guidance on the Procurement of Care and Support Services 2016 (Best Practice), making use of the provisions of the Light Touch Regime (LTR), where appropriate, under the Public Contract (Scotland) Regulations 2015. The LTR allows consideration of wider factors when sourcing Health, Social Care and Education and legitimises their influence in decision making. ELHSCP procurements will be in line with and be sensitive to the expected national direction from the Scottish Government and the National Care Service.

## Children and Young People

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 commodity strategies.

This will include, where relevant, that the voice of children and young people is reflected in our commodity strategies (requirements gathering) and / or Community Benefits that support Corporate Parenting are included in our wish list.

## Procurement equality duties

All public bodies are legally required in the exercise of their functions, to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct
- advance equality of opportunity between people who share a relevant protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not

These duties are set out in The Equality Act 2010 and The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

## Specific duties on procurement

Specific duties apply when a public authority awards a contract or framework agreement which is covered by the Public Contracts (Scotland) Regulations 2015. These are:

- when a public authority awards a contract or framework agreement on the basis of the most economically advantageous offer, it must have due regard to whether the award criteria should include considerations to enable it to better perform the equality duty
- when a public authority proposes to stipulate performance conditions in a contract or framework agreement, it must have due regard to whether the conditions should include considerations to enable it to better perform the equality duty

The Fairer Scotland Duty, Part 1 of the Equality Act 2010, came into force in Scotland in April 2018. This requires public authorities, in the exercise of their functions, to have due regard to how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions.

## Scottish Government's National Outcomes

The strategy will also support delivery of the Scottish Government's National Outcomes. In particular, using the Scottish Government's National Performance Framework, this strategy will help drive the National Outcomes.



Note: The sections that follow show the specific links from the National Outcomes to this strategy (highlighted by the icons).

## Communities, Fair Work and Business, Human Rights and Poverty



- Considering sustainability and procurement equality duties and equality impact in commodity strategy development
- Embedding Sustainable Procurement tools
- Improving awareness of Fair Work First
- Continuing to include Fair Work First and Community Benefits Criteria within tenders, where proportionate and relevant
- Continuing to provide online information on community benefits for communities and suppliers
- Using new procurement software to capture, monitor and report on fair work first and community benefits obligations and their delivery as part of CSM
- Engaging with suppliers to meet the requirements of becoming an accredited Living Wage Employer

## Children and Young People, Economy and Education



- Embedding sustainable procurement tools
- Considering children and young people in commodity strategy development
- Actively participating in collaborative opportunities that support delivery of a sustainable economic recovery
- Increasing engagement and working with suppliers and the Supplier Development Programme to support 'meet the buyer' events raising awareness of contract opportunities and access to national frameworks
- Increasing % spend with local suppliers
- Using supplier feedback to improve access to our tendering opportunities
- Applying community wealth building principles to develop and maximise spend with local businesses
- Continuing to include Fair Work First and community benefits criteria, where proportionate and relevant, including employability opportunities for young people and adults

## Environment



- Sharing knowledge with service users from climate literacy training
- Working with the council's Sustainability and Climate Change Officer to:
  - deliver ELC climate emergency e-learning for service users
  - Embed Sustainable Prioritisation tool for social care, construction, ICT, waste and transport.
- Considering climate and circular economy in commodity strategy development
- Continuing to include Net Zero and circular economy criteria within tenders, where proportionate and relevant, i.e. reducing waste, etc. to meet the obligations of our council's Climate Change Strategy (2020-2025).

This new strategy builds on what was achieved under the previous version, reflecting the evolving nature of public sector procurement and the council's current priorities.



## Supporting Council Objectives

The 2022-27 Council Plan outlines how East Lothian council will strive to meet our 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.***

This high level statement of objectives, priorities and strategic goals aims to meet the challenges the council, East Lothian and its residents and communities face. It sets out the values, principles and behaviours that guide how the council and its staff operate.

The 2022-2027 Council Plan is based around three overarching objectives that have been set in response to three fundamental challenges we face.

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

Beyond these three fundamental challenges we continue to face systemic, long-term challenges. In response to these challenges the previous Council Plan set out four thematic objectives which remain relevant.

- ***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

The council has a well-established set of behaviours that help to drive continuous improvement towards the achievement of the Council Plan. These are known as The East Lothian Way:

- ***Focus on service*** – putting the customer first; providing excellent customer service; and, contributing to improvements in service.
- ***Explore the bigger picture*** – working together for a better East Lothian; understanding how our daily activities are linked to the council’s vision and priorities.
- ***Initiate solutions*** – striving for excellence; taking personal responsibility and ownership to be effective in our jobs.
- ***Share knowledge*** – demonstrating regular and effective team working; being open and honest.
- ***Deliver outstanding results*** – taking responsibility and seeing tasks through to successful completion.

### Procurement’s Role in Delivering These

Procurement will support services across the council by ensuring the requirements for goods, services and works are procured in a way that supports the council objectives and delivers the solutions that work best for East Lothian and deliver Best Value.

## Key strategic objectives

This strategy sets out the council's key strategic procurement objectives:

1. Contributing to the council's Net Zero and climate change targets
2. Delivering Best Value and Continuous Improvement
3. Ensuring Compliance and Good Governance
4. Increasing Sustainability and Community Benefits
5. Supporting Economic Recovery

The strategic objectives identified align with council aims to tackle poverty and inequality. Procurement will do this by including contractual obligations relating to employability opportunities, Fair Work and the Real Living Wage. To progress Community Wealth Building and focus on local economy development initiatives that grow opportunities and capacity in the region and deliver community benefits that support disadvantaged communities and contribute to mitigation and adaptation of climate change.

### 1. Contributing to the Council's Net Zero and climate change targets

#### Net Zero Climate change targets

##### Aim:

- Support the council targets by delivering opportunities that help tackle climate change, progress towards Net Zero and the circular economy agenda

##### We will do this by:

- Using learning from climate literacy training to transfer knowledge to and support service users when progressing procurement projects
- Working with the council's Sustainability and Climate Change Officer to deliver ELC climate emergency e-learning to service users
- Collaborating with the council's Sustainability and Climate Change Officer and service users to implement and embed Sustainable Prioritisation tool for social care, construction, ICT, waste and transport.
- Considering climate change mitigation and adaptation, and circular economy at an early stage as part of commodity strategy development
- Supporting the council to deliver opportunities that help tackle the climate emergency, progress towards Net Zero and the circular economy agenda, e.g. by including obligations in relation to the environment and sustainability, i.e. reducing waste, etc. to meet the obligations of our council's Climate Change Strategy (2020-2025).

##### What success looks like:

- Annual reporting of procurements influence and contribution that supports Net Zero, mitigation and adaptation of climate change and the circular economy agenda

## 2. Delivering Best Value and Continuous Improvement

### Best value

#### Aim:

- Support the council to deliver best value

#### We will do this by:

- Strategic Sourcing: market analysis and scoping to identify critical supply routes that support the council and procurement strategy
- Ensuring market engagement & understanding
  - monitoring supply markets and trends
  - market testing of/for commodity strategy
  - share market intelligence with finance colleagues to help with budget development & monitoring
- Continuing to deliver collaborative procurements and achieve best value

#### What success looks like:

- Ensuring spend is within council budgets
- Increasing participation in collaborative opportunities (National Frameworks, sector-based Collaboration Frameworks and working with other councils with a similar requirements)

### Continuous Improvement

#### Aim:

- Support the council to deliver budget savings and key corporate and transformation projects (that procurement can influence)
- Participate in the Procurement and Commercial Improvement Programme (PCIP)

#### We will do this by:

- Implementing new Procurement Software to support and document contract and supplier management
- Implementing contract management into the lifecycle of key contracts across the council
- Embedding Contract and Supplier Management: Ongoing analysis and feedback to / from suppliers to enhance the working relationships
- Transitioning towards digital procurement forms, process and procedures
- Develop procurement performance reports for Heads of Service and Service Managers
- Supporting P2P (purchase-to-pay) project and the wider council in delivering consistency and accuracy related to downstream processes
- Sharing and using post-project and lessons learned to implement required improvements to our forms, processes and procedures
- Maximize opportunities for innovation and collaboration to enable delivery of the council's key corporate projects, e.g. Transformation, Digital and Asset Review
- Implementing and reporting on improvements plans that flow from Procurement Commercial Improvement Programme (PCIP)

#### What success looks like:

- Embedded contract and supplier management approach;
- Report on performance and value delivered by our contract and supplier management approach
- Report on procurements contribution to identifying, securing and delivering savings / efficiencies
- Improvement against Procurement Commercial Improvement Programme (PCIP)

### 3. Ensuring Compliance and Good Governance

#### Spend Analysis and Compliance

##### Aim:

- Spend analysis undertaken across spend categories
- Spend data is understood and opportunities to improve are prioritised and progressed
- Ensure emerging Scottish Government policy is embedded in Procurement policies, objectives and actions

##### We will do this by:

- Driving efficiencies and best value to support the financial sustainability of the council
- Understanding and challenging the need to buy
- Continuing to identify / reduce spend which doesn't follow the defined purchasing policies and manage demand
- Using a category management approach to monitor, manage and report to senior leaders on spend for dedicated areas / commodities
- Optimising current systems
  - evaluating needs to track on / off contract spend
  - implementation related recommendations
- Develop, improve and automate procedure for creation of Annual Procurement Report; Publish Annual procurement Report
- Horizon scanning: on-going analysis of the public procurement environment to identify important developments, e.g. emerging Scottish Government policy and ensure the council is prepared for potential opportunities and threats and where relevant developments are embedded in Procurement policies, objectives and actions
- Annually reviewing and updating council standing orders and procurement procedures to ensure appropriate internal controls and awareness of the procurement and financial rules
- Annually reviewing and updating (as required) our forms, processes and procedures, including checking for accessibility
- Developing and implementing e-learning module to provide council staff with an introduction to procurement, policies and procedures

##### What success looks like:

- Spend is compliant with regulations and internal governance
- Regular and timely publication of Contract Award Notices
- Forms, processes and procedures take account of any changes to our objectives and Scottish Government policies and strategies

## Good Governance

### Aim:

- Engage and influence leaders to achieve outcomes
- Raise the profile of procurement and improve stakeholder engagement
- To assess, monitor and manage risks within procurement activity in line with the council's Risk Management Monitoring and Reporting Process

### We will do this by:

- Improving representation of Procurement at senior leadership level with increased influence over procurement activity
- Annually reviewing and updating Procurement Service Plan (Action and Improvement Plan), reporting progress to CMT
- Working with communications team to raise the profile and ensure key procurement messages and updates are communicated
- Ensuring that all leaders understand their role in driving and enabling impactful procurement
- Undertaking annual surveys to capture feedback and satisfaction levels from internal customers and suppliers
- Continuing to use national procurement competency framework to assess team skills, identify training needs & support career planning as part of annual Performance Review and Development (PRDs) process
- Ensuring capacity (resource levels) align with strategic procurement priorities, contracted expenditure and business needs.
- Ensuring workload (contract requirements) are managed using a consolidated work plan and prioritisation tool ensure work addresses business needs and meets demand across the council
- Providing guidance and support to stakeholders to identify, assess and manage risks within procurement activity
- Considering procurement risks early during commodity strategy development, as part of market condition analysis
- Learning from the Competition and Markets Authority (CMA) e-learning on bid rigging in public procurement is used to flag any specific risks arising from the supply chain
- Capturing, procurement risks in the Procurement Service risk register and feeding into the corporate risk register, where relevant
- Monitoring, managing and reporting on corporate risks using the councils new risk management software

### What success looks like:

- Leaders and stakeholders are more engaged with procurement
- Successful delivery of annual Action Plans
- Risks are monitored, managed and reported on procurement activity
- Risks and impacts to the council are mitigated

## 4. Increasing Sustainability and Community Benefits

### Sustainability

#### Aim:

- Implement and embed Sustainable Procurement tools that maximise the impact and delivery of the sustainable outcomes for the economic, social and environmental wellbeing of East Lothian
- Ensure Fair Work First outcomes are promoted and procurement is used to influence and increase positive fair work and socially responsible outcomes which reduce poverty and inequality

#### We will do this by:

- Considering children, young people, procurement equality duties, equality impact and sustainability at an early stage as part of commodity strategy development
- Using the tools detailed below to support the delivery of prioritised sustainable outcomes
  - Flexible Framework assessment tool
  - Prioritisation Tool
  - Sustainability Test
  - Capturing, monitoring and reporting on key sustainable priorities
- Improving awareness for council staff and suppliers of Fair Work First
- Continuing to include Fair Work First Criteria within tenders where proportionate and relevant
- Using the new Procurement software to capture, monitor and report on fair work first obligations and their delivery
- Engaging with suppliers to meet requirements of becoming an accredited Living Wage Employer

#### What success looks like:

- Sustainability test embedded and used in all relevant and proportionate contracts and Frameworks
- Supporting delivery of the Fair Work and the Real Living Wage obligations of our East Lothian Poverty Plan 2021-2023: Fair Work First Criteria included within tenders where proportionate and relevant.
- Completion of procurement actions associated with our aim to become an accredited Living Wage Employer

### Community Benefits

#### Aim:

- Refresh the council's approach to Community Benefits and build on what has been delivered to date

#### We will do this by:

- Enhancing the council's approach to community benefits to build on what has been delivered to date: continuing to contribute to outcomes relating to employability, skills and tackling inequalities by focusing on under-represented groups.
- Including commitments to Article 12 of the UN convention on the Rights of the Child and the Children and Young People (Scotland) Act 2014 Corporate Parenting responsibilities in wish list
- Continuing to improve information on our Community Benefits approach to share with communities and suppliers on our website showing where the benefits go/who receives them
- Using new procurement software to increase and improve monitoring and reporting of community benefits obligations and their delivery as part of CSM
- Increasing awareness of community benefits through tender opportunities

#### What success looks like:

- Refreshed approach to community benefits adopted, implemented and embedded
- Increasing the number of community benefits secured and delivered through contracts

## 5. Supporting Economic Recovery

### Economic Recovery

#### Aim:

- Implement and embed sustainable procurement tools that support a sustainable economic recovery
- Ensure local economy considerations are factored in to market options at commodity strategy stage
- Support suppliers & communities
- Support to Local SMEs to access public sector opportunities

#### We will do this by:

- Implementing and embed sustainable procurement tools that support a sustainable economic recovery
- Considering sustainability and circular economy at an early stage as part of commodity strategy development
- Actively participating in collaborative working opportunities that supports the delivery of a sustainable economic recovery
- Increasing engagement, working suppliers and the Supplier Development Programme to support 'meet the buyer' and 'meet the supplier' events and in raising awareness of contract and sub-opportunities, including access to national frameworks
- Increasing % of spend with local suppliers
- Using supplier feedback from annual surveys to continually improve access to our tendering opportunities
- Applying community wealth building principles to develop and maximise spend with local businesses

#### What success looks like:

- Sustainability test is embedded and used in all relevant and proportionate contracts and Frameworks
- Increase the number of and spend with local Small and Medium Enterprises (SMEs) and third sector businesses being awarded council contracts

## Regulations, Policies, Guidance and Tools

The council requires to use UK and Scottish regulations, policies, guidance and tools concerning public procurement activity, in conjunction with the council's own regulations, policies, guidance and tools concerning procurement activity including but not limited to:

UK and Scottish regulations, policies, guidance and tools	Scottish Government's tools	Council's regulations, policies, guidance and tools
<ul style="list-style-type: none"> <li>• Procurement Reform (Scotland) Act 2014</li> <li>• Public Contracts (Scotland) Regulations 2015</li> <li>• Procurement (Scotland) Regulations 2016</li> <li>• Utilities Contracts (Scotland) Regulations 2016</li> <li>• Concessions Contracts (Scotland) Regulations 2016</li> <li>• Case law</li> <li>• Scottish Procurement Policy Notes (SPPN's) and Construction Policy Notes</li> <li>• Sustainable procurement duty</li> <li>• Fair Work First</li> <li>• Procurement equality duties set out in The Equality Act 2010 and The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012</li> </ul>	<ul style="list-style-type: none"> <li>• Public Contracts Scotland</li> <li>• Public Contract Scotland - Tender Portal</li> <li>• Procurement Journey</li> <li>• Supplier Journey</li> <li>• Sustainable Procurement Tools</li> <li>• Climate Literacy For Procurers</li> </ul>	<ul style="list-style-type: none"> <li>• Scheme of Delegation</li> <li>• Standing Orders</li> <li>• Financial Regulations</li> <li>• Risk Management, Monitoring and Reporting Process</li> <li>• East Lothian Council Plan 2022-2027</li> <li>• ELC_Recovery__Renewal_Plan_2021</li> <li>• East Lothian Council Poverty Plan 2021-2023</li> <li>• East Lothian Council Equality Plan 2021-2025</li> <li>• Climate Change Strategy 2020-2025</li> <li>• Sustainable Procurement Charter and Policy</li> <li>• Financial and Capital Strategy 2022/23-2026/27</li> <li>• East Lothian Economic Development Strategy 2012-2022</li> <li>• East Lothian Health and Social Care Partnership Commissioning Strategy 2023 – 2025</li> <li>• East Lothian Council Digital Strategy 2022-2027</li> <li>• East Lothian Way</li> <li>• Lothian Strategic Development Framework</li> </ul>

Procurement is governed by many legal sources, principally derived from the EU Treaty principles. The “Fundamental Principles” (Proportionality, Mutual Recognition, Non-discrimination, Equal treatment and Transparency) apply to all procurement activity regardless of the value. All contracts let by or on behalf of the Council must be done so in a proportionate manner that demonstrates compliance with the above principles to all parties having an interest in that procedure. All contracts let by or on behalf of the Council must also follow the council's Procurement Procedures (Standing Orders) and internal Working Instructions.



## Procurement and Commercial Improvement Programme (PCIP)

The council's procurement service is subject to regular assessment by Scotland Excel on behalf of Scottish Government and endorsed by Audit Scotland. The PCIP assessment reviews the strength of policies and procedures driving procurement performance in:

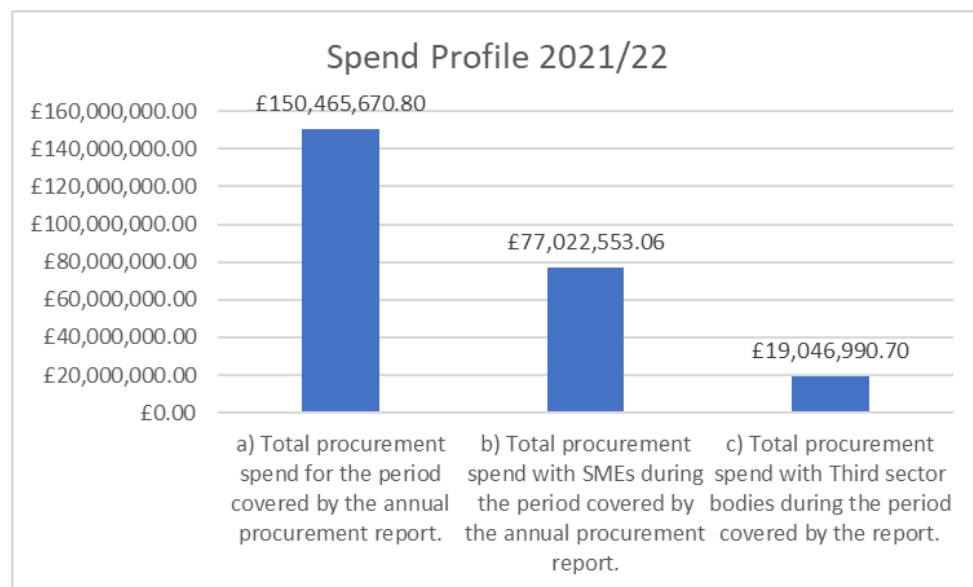
- Leadership and governance;
- Development and tender;
- Contract; and
- Key purchasing processes.

East Lothian Council is always striving to improve and develop its procurement procedures and practice.

PCIP is a helpful tool used to promote best practice within public sector procurement. At the last assessment in 2019, East Lothian Council scored 62%. East Lothian Council shall continue to work towards improving and embedding good procurement practice throughout the organisation and will continue to engage with the PCIP programme.

## Council spend profile

The information below details the council's overall spend profile for 2021-2022. The highest areas of spend are social care and construction.



\*\* Figures taken from Spend Analysis Hub

East Lothian Council Procurement Spend Profile 2021-2022	
<b>Total Procurement Spend</b>	<b>£150,465,670.80**</b>
SME Spend	£77,022,553.06 (217 suppliers)**
Third Sector Spend	£19,046,990.70 (32 suppliers)**
Total Local Spend	£30,111,584.08 (99 suppliers)**

\*\* Figures taken from Spend Analysis Hub

## Savings, Benefits and Added Value

Delivering value through procurement is a key element and driver of continual Service Improvement. Savings and benefits definitions are defined as follows:

### Savings

- Cashable Savings
- Cost Avoidance
- Commercial and Operational Efficiencies

### Benefits and Added Value

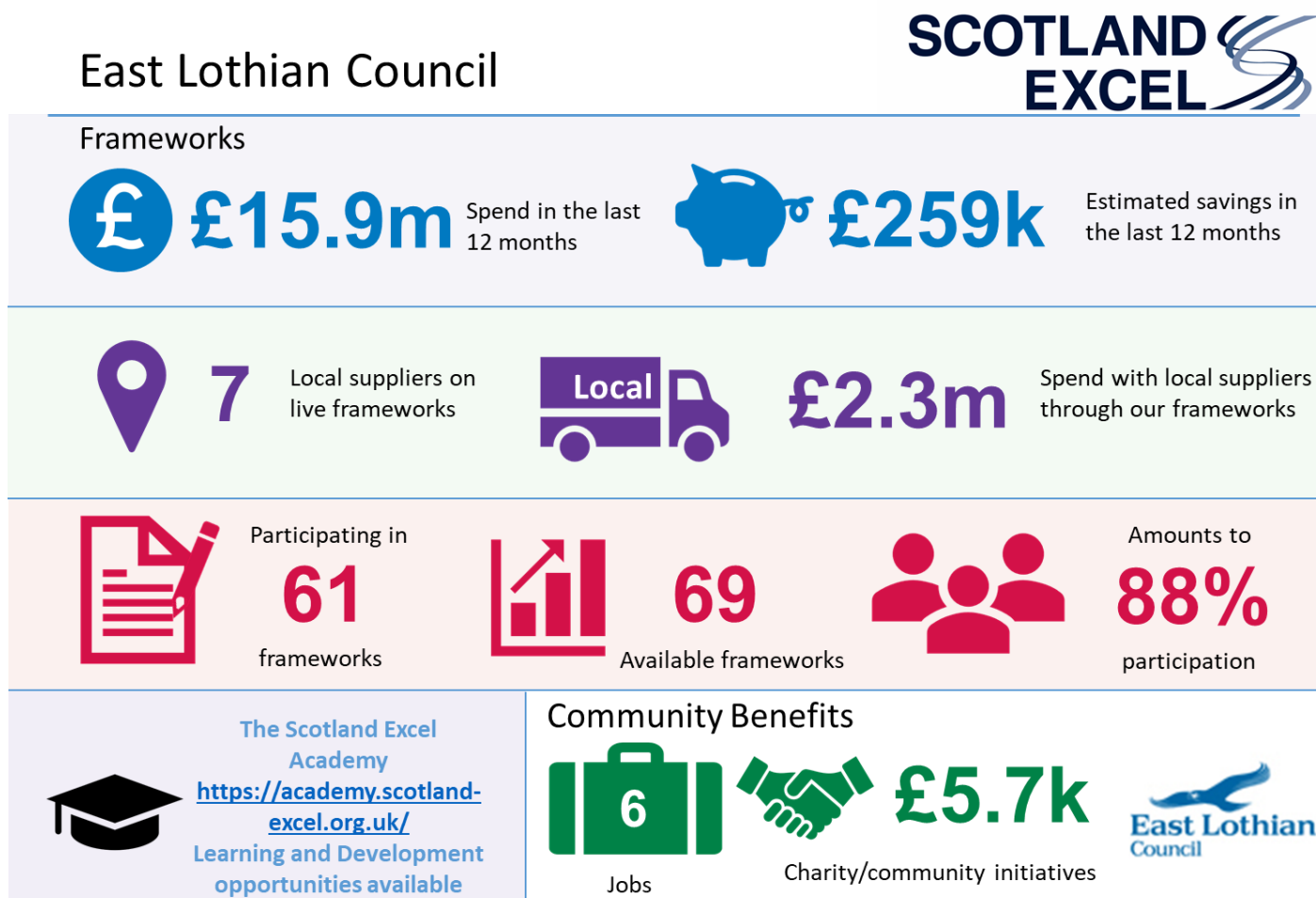
- Community Benefits
- Sustainability
- Innovation

A more formal approach to tracking cost savings has been introduced. Our new procurement software will be used to enhance our ability to capture, monitor and report on contract obligations, performance, savings and benefits (added value) delivered by procurement from April 2023.

Total delivered cash savings for the period covered by the Annual Procurement Report (2021/2022)	£2,105,888.00
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## Collaboration and strategic partnerships

50.49% of all contracts during the reporting period utilised a collaborative Framework. 11% of all contracts are through a collaborative Scotland Excel Framework. The council is participating 61 of the 69 available Scotland Excel Frameworks, resulting in the following achievements:



Framework information at Q4 2021/22; savings figure does not include social care service frameworks; rebates for 20/21. L&D refers to accredited courses. Community benefits Total= Apr 13 to March 2021. Living Wage is reflective of the status at point of SXL 21-22 Annual Procurement Report.

## Monitoring, reviewing, transparency and reporting

We are committed to being transparent about how we spend public money and improving accountability, by publishing information about our procurement activity.

This is in line this commitment, we:

- have developed this strategy in consultation with key internal stakeholders (staff, service users, senior management and elected members) and external partners Scotland Excel (the Centre of Procurement Expertise for the local government sector) to gain a national perspective
- will monitor the strategic aims, objectives, priorities and targeted outcomes using the Action Plan in Appendix 1.
- Performance against the Action Plan will be monitored by the Procurement Service Manager and reported to CMT. Reporting will include Performance Indicators' linked to the Action Plan and the Performance Indicators will monitor, track and measure continuous improvement.
- will publish this procurement strategy
- will review and update the strategy on an annual basis, to ensure continued alignment with supporting the delivery of the council's priorities and outcomes
- will refresh the Procurement Strategy and the associated Action Plan and these will be reported to and approved by Cabinet
- will produce an annual procurement report that records the performance against the Procurement Strategy. This will be reported to Cabinet and will include:
  - a summary of the regulated procurements completed during the year
  - a summary of community benefits and Fair Work First performance; and
  - a summary of future regulated procurements
- will publish annual procurement reports
- use the Public Contracts Scotland website to advertise regulated contracts and publish award notices
- promote transparency and greater openness through, for example, the use of procurement strategies

The council's procurement performance is also subject to PCIP assessments.

Please note that due to the impact of covid-19 PCIP assessments were put on hold, with a view to recommencement in 2023.

The procurement actions detailed within this strategy and Appendix 1 are aligned to both the national procurement objectives and the PCIP programme which supports continuity and continuous improvement.

## Supporting Suppliers, Third Sector and Communities

Information is provided on the council's website <https://www.eastlothian.gov.uk/info/210594/procurement> and in related downloads to support those interested in doing business with the council. The website contains key information including:

- Information on how to do business with the council;
- Links to Public Contracts Scotland, the main portal used to advertise contract opportunities;
- Details of contract authorities for collaborative framework agreements and dynamic purchasing systems;
- The council contract register
- Community Benefits in Procurement
- Sustainable Procurement
- The Supplier Development Programme (SDP)
- Details about the standard terms and conditions of contract

Procurement

Contract opportunities	Community benefits	Useful information for suppliers
Our contract register	Who does the buying?	Best value

<b>Business opportunities</b> <ul style="list-style-type: none"><li>• Finding contract opportunities</li><li>• Supplier Development Programme</li></ul> <a href="#">More on business opportunities</a>	<b>Quotations and tenders</b> <ul style="list-style-type: none"><li>• The tendering process</li><li>• Responding to a contract opportunity</li><li>• Submitting your quotation or tender</li></ul> <a href="#">More on quotations and tenders</a>	<b>Procurement procedures</b> <ul style="list-style-type: none"><li>• Procurement procedures</li><li>• Terms and conditions</li><li>• Current and future developments</li></ul> <a href="#">More on procurement procedures</a>
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External organisations support for those looking to do business with the council can be sought from:

- Business Gateway;
- Supplier Development Programme (SDP);
- The Scottish Government's Supplier Journey; and
- Access to other business support organisations.

In addition to the above external organisations that support those looking to do business with the council, the council's Procurement team will continue to attend future Scotland Excel and SDP Meet the Buyer events; as well as identifying more local events which target support aligned to the delivery of the council's priorities.



Supplier Journey

## Capacity and skills

To support the delivery of the procurement strategy and to ensure best practice is being achieved through the council's procurement activity, the capacity and skills of procurement professionals and delegated procurement officers will be supported and managed by:

- Providing opportunities to develop the skills of our service users
- Providing graduate opportunities where possible
- Supporting continuing professional development of professionals to ensure expertise is relevant and current
- Continuing to maximise collaboration opportunities with other organisations when they are shown to add value and/or make commercial sense
- Continuing to develop and implement training and guidance to support compliance and excellence in procurement
- Continuing to participate in the PCIP to support continuous improvement and identification of areas for improvement;
- Continuing to use the national procurement competency framework and associated online tool to assess team skills, identify training needs and support career planning. This will be carried out annually as part of the Performance Review and Development (PRD) process
- Developing processes and templates to support compliance and best practice

## Stakeholder Engagement

The procurement service engages with service users under a business partnering approach where we aim to build long-term relationships. We understand the influence we have and aim to identify opportunities, target efforts, and drive best value. Going forward we aim to increase the use of category management, where relevant.

## Scottish Public Sector Procurement Blueprint Benchmarking 2022

The council participated in the Scottish Public Sector benchmarking exercise which was conducted by the Scottish Government between January and September 2022. It focussed on three key areas of organisational design:

- People
- Operating Models, and
- Organisation Models

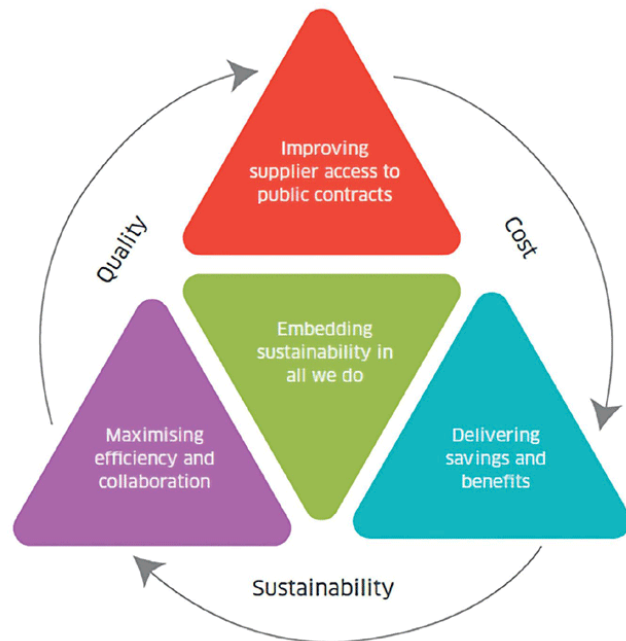
The results enable the council to understand how we compare to our peers within their sectors, and across the Scottish public sector.

For East Lothian Council, this highlighted that:

- We have an above average number of staff studying towards Membership of a Professional Body
- There is an opportunity for us to move towards a fully Distributed operating model where service staff have Delegated Purchasing Authority (DPA) for procurements above the current agreed threshold of £15k and are supported by training and enhanced internal control systems. Currently, for procurements above the £15k threshold, service staff mainly have responsibility for Contract and Supplier Management (CSM)
- The cost of our service per FTE and the cost of our service as a Percentage of Third Party Spend is below average

## Ownership and contact details

This Corporate Procurement Strategy has been approved by the Corporate Management Team (CMT) and full council. It reflects the Council Plan, Scottish Model of Procurement, Local Economic Agenda and National Outcomes. An initial Action Plan is included in Appendix 1 and will be managed and updated annually. Progress reports will be provided to CMT quarterly with priorities agreed with Heads of Service/CMT, as required.



All staff within the council have a role in ensuring compliance with the Procurement Strategy's objectives. Key internal stakeholders in East Lothian Council are:

- **Council Management Team (CMT):** This group will oversee implementation and delivery of the Procurement Strategy.
- **Service Managers:** The central Procurement Team cannot fulfil the critical roles of savings identification /contract management/CBIP opportunities without the support and co-operation of staff in service areas. Service Managers are essential to the successful implementation of the Procurement Strategy and for providing relevant and timely information regarding their future procurement requirements. After contract award, both Contract and Supplier Management are critical activities that rely heavily upon effective Service Manager Engagement.
- **Service Users:** A well-informed and adequately skilled user base is another vital component for successful delivery of the Procurement Strategy.

### Michelle Coyle

Service Manager Procurement, East Lothian Council

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[www.eastlothian.gov.uk](http://www.eastlothian.gov.uk)

## Appendix 1 – Procurement Strategy Action Plan 1 April 2023 until 31 March 2024

Strategic Objective		Procurement Aims	Priorities	Target Date	Status (On Target, Delayed, Off Target, Closed)	
1	Contributing to the council's Net Zero and climate change targets	Net Zero and climate change targets	Support the council's targets by delivering opportunities that help tackle climate change, progress Net Zero and the circular economy agenda	Using learning from climate literacy training to transfer knowledge to, and support service users when progressing procurement projects	March 2024	On Target
				Working with the council's Sustainability and Climate Change Officer to deliver ELC climate emergency e-learning to service users	March 2024	On Target
				Collaborating with the council's Sustainability and Climate Change Officer and service users to implement and embed Sustainable Prioritisation tool for social care, construction, ICT, waste and transport.	Dec 2022	On Target
				Considering climate change mitigation and adaptation, and circular economy at an early stage as part of commodity strategy development	March 2024	On Target
				Supporting the council to deliver opportunities that help tackle the climate emergency, progress towards Net Zero and the circular economy agenda, e.g. by including obligations in relation to the environment and sustainability, i.e. reducing waste, etc. to meet the obligations of our council's Climate Change Strategy (2020-2025).	March 2024	On Target
2	Delivering Best value and Continuous Improvement	Best value	Support the council to deliver best value	Strategic Sourcing: Market analysis and scoping to identify critical supply routes that support the council and procurement strategy	March 2024	Not Started
				Ensuring market engagement and understanding <ul style="list-style-type: none"> <li>monitoring supply markets and trends</li> </ul>	March 2024	Not Started



			<ul style="list-style-type: none"> <li>market testing of/for commodity strategy</li> <li>share market intelligence with finance colleagues to help with budget development and monitoring</li> </ul>			
			Continuing to participate in collaborative procurements and achieve best value	March 2024	On Target	
	Continuous Improvement	Support the council to deliver budget savings and transformation projects (that procurement can influence)	Implementing new procurement software to support and document contract and supplier management	Dec 2022	On Target	
			Implementing contract management into the lifecycle of key contracts across the council	March 2024	On Target	
			Embedding Contract and Supplier Management: Ongoing analysis and feedback to / from suppliers to enhance the working relationships	March 2024	On Target	
			Transitioning towards digital procurement forms, process and procedures	March 2024	On Target	
			Develop procurement performance reports for Heads of Service and Service Managers	March 2024	On Target	
			Maximise opportunities for innovation and collaboration to enable delivery of the council's key corporate projects, e.g. Transformation, Digital and Asset Review	March 2024	On Target	
			Supporting P2P (purchase-to-pay) project and the wider council in delivering consistency and accuracy related to downstream processes	March 2024	On Target	
			Sharing and using post-project and lessons learned to implement required improvements to our forms, processes and procedures	March 2024	On Target	
			Participate in the Procurement and Commercial Improvement Programme (PCIP)	Implementing and reporting on improvements plans that flow from PCIP	March 2024	On Target
3			Spend analysis undertaken across spend categories	Driving efficiencies and best value to support financial sustainability of the council	March 2024	On Target

Ensuring Compliance and Good Governance	Spend Analysis and Compliance		Understanding and challenging the need to buy	March 2024	On Target
			Continuing to identify and reduce maverick spend as well as manage demand	March 2024	On Target
			Using category management to monitor, manage and report to senior leaders on spend for dedicated areas / commodities	March 2024	Not Started
		Spend data is understood and opportunities to improve are prioritised and progressed	Optimising current systems	March 2024	On Target
			<ul style="list-style-type: none"> <li>evaluating needs to track on / off contract spend</li> <li>implementation related recommendations</li> </ul>		Not Started
		Ensure emerging Scottish Government policy is embedded in procurement policies, objectives and actions	Develop, improve and automate procedure for creation of Annual Procurement Report; Publish Annual procurement Report	Sept 2023	On Target
	Horizon scanning: on-going analysis of the public procurement environment to identify important developments, e.g. emerging Scottish Government policy and ensure the council is prepared for potential opportunities and threats and where relevant developments are embedded in Procurement policies, objectives and actions		March 2024	On Target	
	Annually reviewing and updating council standing orders and procurement procedures to ensure appropriate internal controls and awareness of the procurement and financial rules		Sept 2023	On Target	
	Annually reviewing and updating procurement forms, processes and procedures		Aug 2023	On Target	
		Developing and implementing e-learning module to provide council staff with an introduction to procurement, policies and procedures	Jan 2023	On Target	
Good Governance	Engage and influence leaders to achieve outcomes	Improving representation of procurement at senior leadership level with increased influence over procurement activity	March 2024	On Target	

			Ensuring that all leaders understand their role in driving and enabling impactful procurement	March 2024	On Target
			Continuing to use national procurement competency framework to assess team skills, identify training needs and support career planning as part of annual Performance Review and Development (PRDs) process	March 2024	On Target
			Ensuring capacity (resource levels) align with strategic procurement priorities, contracted expenditure and business needs.	March 2024	On Target
		Raise the profile of procurement and improve stakeholder engagement	Annually reviewing and updating Procurement Service Plan (Action and Improvement Plan), reporting progress to CMT	May 2023	On Target
			Working with communications team to raise the profile and ensure key procurement messages and updates are communicated	March 2024	On Target
			Undertaking annual surveys to capture feedback and satisfaction levels from internal customers and suppliers	Nov 2023	On Target
		To assess, monitor and manage risks within procurement activity in line with the council's Risk Management Monitoring and Reporting Process	Providing guidance and support to stakeholders to identify, assess and manage risks within procurement activity	March 2024	On Target
			Considering procurement risks early during commodity strategy development, as part of market condition analysis	March 2024	On Target
			Learning from the Competition and Markets Authority (CMA) e-learning on bid rigging in public procurement is used to flag any specific risks arising from the supply chain	March 2024	On Target
			Capturing, procurement risks in the Procurement Service risk register and feeding into the corporate risk register, where relevant	March 2024	On Target

				Monitoring, managing and reporting on corporate risks using the council's new risk management software	March 2024	On Target	
4	Increasing Sustainability and Community Benefits	Sustainability	Implement and embed sustainable procurement tools that maximise the impact and delivery of the sustainable outcomes for the economic, social and environmental wellbeing of East Lothian	Considering children, young people and sustainability at an early stage as part of commodity strategy development	March 2024	On Target	
				Using the tools detailed below to support the delivery of prioritised sustainable outcomes <ul style="list-style-type: none"> <li>• Flexible Framework assessment tool</li> <li>• Prioritisation Tool</li> <li>• Sustainability Test</li> <li>• Capturing, monitoring and reporting on key sustainable priorities</li> </ul>	March 2024	On Target	
				Ensure Fair Work First outcomes are promoted and procurement is used to influence and increase positive fair work and socially responsible outcomes which reduce poverty and inequality	Improving awareness for council staff and suppliers of Fair Work First agenda	March 2024	On Target
					Continuing to include Fair Work First Criteria within tenders where proportionate and relevant	March 2024	On Target
					Using the new procurement software to capture, monitor and report on fair work first obligations and their delivery	March 2024	On Target
		Community Benefits	Refresh the council's approach to community benefits and build on what has been delivered to date	Engaging with suppliers to meet the requirements of becoming an accredited Living Wage Employer	April 2023	Not Started	
				Enhancing the councils approach to community benefits to build on what has been delivered to date	April 2023	On Target	
				Including commitments to the Children and Young People (Scotland) Act 2014 Corporate Parenting responsibilities in our wish list	April 2023	Not Started	
				Continuing to improve information on our community benefits approach shared with communities and suppliers on our website	March 2024	On Target	
				Using new procurement software to increase and improve monitoring and reporting of community	March 2024	On Target	

				benefits obligations and their delivery as part of CSM		
				Increasing awareness of community benefits through tender opportunities	March 2024	On Target
5	Supporting Economic Recovery	Economic Recovery	Implement and embed sustainable procurement tools that support a sustainable economic recovery	Implementing and embed Sustainable Procurement tools that support a sustainable economic recovery	March 2024	On Target
			Ensure local economy considerations are factored in to market options at commodity strategy stage	Considering sustainability and circular economy at an early stage as part of commodity strategy development	March 2024	On Target
			Support suppliers and communities	Applying community wealth building principles to develop and maximise spend with local businesses	March 2024	Not Started
			Support to local SMEs to access public sector opportunities	Increasing engagement, working suppliers and the Supplier Development Programme to support 'meet the buyer' and 'meet the supplier' events and in raising awareness of contract and sub-opportunities, including access to national frameworks	March 2024	On Target
				Increasing % of spend with local suppliers	March 2024	On Target
				Using supplier feedback from annual surveys to continually improve access to our tendering opportunities	March 2024	On Target

## Appendix 2 – East Lothian Council Corporate Procurement Strategy 2017-2022: Successful Outcomes Delivered

<b>Growing Our Economy</b>	<b>Successful Outcome</b>
Improve ability of local businesses to access East Lothian Council contracts.	<ul style="list-style-type: none"> <li>• Increased engagement with local SMEs, and awareness of our tendering opportunities</li> <li>• Participated in full-day virtual national meet the buyer event</li> <li>• Improvement of payment terms within supply chains</li> <li>• Use of lots to enable SME and local contractor engagement.</li> <li>• Local suppliers contracting with ELC</li> <li>• ELC contract register and contracting opportunities are published</li> <li>• Enhanced guidance to buyers to increase the number local suppliers participating in our tendering opportunities</li> <li>• Supplier Development Programme promoted as resource for suppliers</li> </ul>
Assisting the supply chain	<ul style="list-style-type: none"> <li>• Mapping the supply chain using Government's 'Grow Local platform' to see which local companies are available to provide services / products in demand by the council.</li> <li>• Applying prompt payment in the supply chain public procurement policy as appropriate (SPPN 2/2022)</li> </ul>
<b>Growing our Communities</b>	<b>Successful Outcome</b>
Consult with the communities concerning our procurement activity	<ul style="list-style-type: none"> <li>• Community benefit wish list developed for proportionate use in contracts over £50k. Wish list populated by community councils to reflect needs of the local community and widens the scope of assistance contracted suppliers can offer. This forms part of tender requirements for potential bidders used on a proportionate basis.</li> <li>• Successful and targeted community benefits are delivered in line with the need of communities in East Lothian.</li> </ul>
Enhance recording of community benefits	<ul style="list-style-type: none"> <li>• Improved management information, e.g. where CBIP has taken place and where gaps in provision lie</li> </ul>
<b>Growing our People</b>	<b>Successful Outcome</b>
Ensure Best Value in contracts let for our Adult and Children's wellbeing directorate	<ul style="list-style-type: none"> <li>• Commodity strategies signed off identifying spend and potential savings.</li> </ul>
<b>Growing the Capacity of our Council</b>	<b>Successful Outcome</b>
Ensure all contract requirements are known for the next 3 years	<ul style="list-style-type: none"> <li>• Majority of contract requirements known and are captured in a team work plan</li> <li>• Ability to highlight Risk of Overdue Procurements and to resource appropriately</li> <li>• Recognition of collaborative opportunities and allowing identification of savings</li> <li>• ELC Public Contracts Register on Public Contracts Scotland is available and updated</li> </ul>

	<ul style="list-style-type: none"> <li>• Added value obligations in contracts in relation to the environment and sustainability, e.g. reducing waste to support delivery against ELC Climate Change Strategy (2020-2025).</li> <li>• Increased capacity (resource levels) aligning with strategic procurement priorities, contracted expenditure and business needs.</li> <li>• Clarity on roles and responsibilities, career pathways and succession planning</li> </ul>
Initiate improved Contract and Supplier Management	<ul style="list-style-type: none"> <li>• Contract and Supplier Management (CSM ) training delivered to Service Users across the council to enable: <ul style="list-style-type: none"> <li>○ Early identification of risks to contract provision, and ability to react to those.</li> <li>○ Achieve better value from contracts by proper management.</li> <li>○ Enhanced relationships with suppliers and stakeholders.</li> </ul> </li> <li>• Annual surveys to capture the views and understand levels of satisfaction of internal customers and suppliers</li> <li>• New software for contract register and recording and reporting on contract obligations, benefits and performance</li> </ul>
Introduce benefits tracking into contracts	<ul style="list-style-type: none"> <li>• The contribution procurement has made to services and their budgets are quantified and recorded</li> </ul>
Review and improve on the current systems to allow better tracking of no/off contract spend throughout the council.	<ul style="list-style-type: none"> <li>• Greater representation of procurement at senior leadership level with increased influence over procurement activity.</li> <li>• Improved knowledge of on/off contract spend allowing the Contracts Register to be more up to date.</li> <li>• More opportunities for local suppliers to compete for.</li> <li>• Improved controls on spend allowing for more targetted savings objectives to be set.</li> <li>• £1.3m cash savings were delivered by the Procurement Improvement Programme (PIP).</li> <li>• Contract coverage is above 80% and we continue to identify and reduce maverick spend as well as manage demand</li> <li>• Calling off from National Frameworks, utilising Sector based Collaboration Frameworks, working with other councils with similar requirements and procuring as a single organisation. In 2021/22 ELC participating 61 of 69 Scotland Excel Frameworks</li> </ul>
Training delivered across all service departments, Elected Members and new employees	<ul style="list-style-type: none"> <li>• Procurement awareness and compliance for all departments.</li> <li>• Education of risks of non-compliance, highlighting procurement requirements from service users.</li> <li>• Using national procurement competency framework to assess team skills, identify training needs and support career planning as part of the annual Performance Review and Development (PRD) process</li> <li>• Procurement team continue to access training resources to maintain and develop skills in relevant areas e.g. negotiation, project management, CIPS qualifications, Contract and Supplier Management (CSM), Competition and Markets Authority (CMA) e-learning on bid rigging and Climate Literacy Training</li> </ul>

- Procurement training delivered as part of Elected Member Induction
- CSM and general ad-hoc procurement training delivered to Service Users across the council.
- Review and update of the council's standing orders and procurement procedures
- Knowledge transfer to service users:
  - Risks considered in commodity strategies, as part of market condition analysis and, where relevant, captured in the Procurement Service risk register / corporate risk register, as required
  - Development of a Sustainable Prioritisation tool for social care, construction, ICT, waste and transport.
- Post-project review: lessons shared with team, documented in central log and shared wider (with service users) where appropriate. As well as implementing any required improvements/simplifications to forms, processes and procedures.
- Commodity strategies align with good practice, legislative requirements and ensure consideration of market intelligence, previous lessons learned, exit strategies, evaluation criteria and the sustainable procurement duty.
- Facilitating tender evaluation (moderation/consensus) panels, as required and for high-value, high-risk procurements evaluator guidance is supported by a facilitated training session



## Appendix 3 – Glossary

Term	Definition
<b>Award</b>	A decision to accept a tenderer's offer to supply / provide specified goods/services/works according to agree terms & conditions thereby creating a legally binding contract
<b>Best Value</b>	The duty under the Local Government Act in Scotland 2003 to secure continuous improvement in the economy, efficiency and effectiveness with which they exercise their functions.
<b>Bid</b>	Another word for a tender submission. Can also mean an in-house tender.
<b>Call-off contracts</b>	Agreements, sometimes called framework contracts, without full commitment. The undertaking is that all requirements of the specified nature which are required during the duration of the agreement, will order from these contracts / agreements. Also known as preferred supplier list.
<b>Category Management</b>	Category management involves applying the end-to-end procurement process to a specific range of goods or services. This involves pre-award processes such as category analysis and demand management, sourcing and contract negotiation, and the post-award processes such as performance management.
<b>Circular economy</b>	A circular economy is an alternative to a traditional linear economy (make, use, dispose) in which we keep resources in use for as long as possible, extract the maximum value from them whilst in use, then recover and regenerate products and materials at the end of each service life.
<b>Climate change mitigation</b>	Reducing the amount of greenhouse gases in the atmosphere that leads to global warming and climate change
<b>Climate change adaptation</b>	Adjusting and building resilience to the current and expected impacts of climate change
<b>Collaboration</b>	When two or more groups of people or organisations engage in procurement work together for mutual benefit
<b>Commodity</b>	Taxonomy (classification) for the entire council, to give the council the ability to accurately describe the primary business activities of its suppliers
<b>Commodity [or Service] Strategy</b>	A document that shows the preparatory thinking that is done about a procurement process, including sustainability considerations, stakeholders to be involved, risks etc.
<b>Community Benefits</b>	Requirements which deliver wider benefits in addition to the core purpose of a contract. These can relate to jobs, training and other social-economic and/or environmental benefits
<b>Continuous Improvement</b>	Continuous improvement is encouraging all employees to look for ways to enhance the business's operations. This includes suggesting ideas to improve efficiencies, evaluating current processes, and finding opportunities to cut unproductive work

Term	Definition
<b>Contract</b>	An agreement concluded between the council and the supplier that is legally binding, containing terms of the agreement, any schedules and appendices, the Tender Specification and any other specifications, drawings, official purchase order(s) and other documents which are relevant to the Contract
<b>Contract Management</b>	The process of monitoring the performance of a supplier to contract
<b>Fair Work First</b>	Working with employers and partners to deliver investment in skills and training, no inappropriate use of zero hours contracts, action on gender pay, genuine workforce engagement, including with trade unions, and payment of the Real Living Wage
<b>Framework agreements</b>	Arrangements (sometimes referred to as standing offers) in which terms & conditions are agreed, and the client may or may not subsequently place orders (no commitment). Also a consortium can agree terms & conditions and the members may subsequently place orders.
<b>Framework contracts</b>	Agreements (sometimes called call-off contracts) in which clients accept some commitment without immediately placing orders, e.g. by undertaking to order, later, all jobs of a specified type from that contract.
<b>Horizon scanning</b>	The systematic analysis of potential threats and opportunities and likely future developments
<b>Local SMEs</b>	Local means East Lothian first, expanding to the Lothians, which includes Edinburgh, Midlothian and West Lothian and finally expanding to the Edinburgh and South-East Scotland City Region, which includes Fife and Scottish Borders local authorities.
<b>National Outcomes</b>	Describe what the Government wants to achieve over the next ten years, articulating more fully this Government's purpose. They help to sharpen the focus of government, enable our priorities to be clearly understood and provide a clear structure for delivery. <a href="#">National Outcomes   National Performance Framework</a>
<b>Net Zero</b>	The term net zero means achieving a balance between the carbon emitted into the atmosphere, and the carbon removed from it. This balance – or net zero – will happen when the amount of carbon we add to the atmosphere is no more than the amount removed.
<b>Public Contracts Scotland (PCS)</b>	The advertising portal provided by the Scottish Government for the advertising of public contract opportunities using a Contract Notice, and for the award of contracts via a Contract Award Notice.
<b>Procurement Legislation</b>	<a href="#">The Procurement (Scotland) Regulations 2016</a> , <a href="#">The Public Contracts (Scotland) Regulations 2015</a> and the <a href="#">Procurement Reform (Scotland) Act 2014 (“The Act”)</a> .
<b>Procurement Strategy</b>	A document required as part of Scottish Procurement Regulations that sets out how the council intends to carry out its regulated procurements i.e. procurements with an estimated value equal to or greater than £50,000 (excluding VAT) for supplies for supplies & services (or £2,000,000 excluding VAT for a public works contract).
<b>Real Living Wage</b>	A wage rate per hour that is based on the cost of living and is currently voluntarily paid by UK organisations. The rates are reviewed and updated annually, each April. Organisations can gain accreditation of this with the Living Wage Foundation

Term	Definition
<b>Regulated Procurements</b>	Contracts above the GPA contract threshold values where the relevant GPA regulations apply (greater than £50,000 (excluding VAT) for supplies for supplies & services, or £2,000,000 excluding VAT for a public works contract).
<b>Regulated Spend</b>	Spend above the GPA contract threshold values where the relevant GPA regulations apply (above £50,000 for supplies and services contracts and above £2,000,000 for works contracts).
<b>Small Medium Enterprise (SME)</b>	Enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding 50 million euro and/or an annual balance sheet total not exceeding 43 million euro.
<b>Social Enterprise</b>	A revenue-generating business with primarily social objectives whose surpluses are reinvested for that purpose in the business or in the community, rather than being driven by the need to deliver profit to shareholders and owners.
<b>Stakeholder</b>	Any person or group who has a vested interest in the success of the procurement activity, i.e. either provides services to it, or receives services from it.
<b>Supplier /Contractor</b>	An entity who supplies goods or provides services or execution of works.
<b>Supported Business</b>	Either the organisation's main aim should be the social and professional integration of disabled or disadvantaged persons, or the contract should be performed within a sheltered employment programme.
<b>Sustainability</b>	Supporting economic, social and environmental health to meet the present needs without compromising the ability of future generations to meet their needs
<b>Sustainable procurement</b>	A process whereby organisations meet their needs for supplies, services, works and utilities in a way that achieves value for money on a whole life basis and generates benefits, not only for the organisation but also to society, the economy and the environment.
<b>Tender</b>	An offer, or bid, by a tenderer in response to an invitation to tender (ITT) or a mini-tender in a framework agreement
<b>Third Sector</b>	Part of an economy or society comprising non-governmental and non-profit-making organisations or associations.
<b>Work plan</b>	List of upcoming procurement activity including re-tenders, extensions, and new activity
<b>Works</b>	The term used in the Procurement Legislation for a building or civil engineering project or piece of work and as defined by CPV codes in Schedule 1 of <a href="#">The Public Contracts (Scotland) Regulations 2015</a>

## Appendix 4 – Procurement Strategy Map

Vision				
To provide excellent services that deliver best value procurements with community benefits that support recovery and renewal, reduce poverty and Inequality and respond to the climate emergency				
Mission				
The procurement team will strive to deliver effective, efficient and excellent services to support the council’s strategic vision and aims, by contributing to the councils net zero climate change targets, delivering best value and continuous improvement, ensuring compliance and good governance, increasing sustainability, community benefits and supporting economic recovery.				
East Lothian Way (Behaviours)				
Focus on service	Explore the bigger picture	Initiate solutions	Share knowledge	Deliver outstanding results
Key Strategic Objectives				
Contributing to the council’s Net Zero and climate change targets	Delivering Best Value and Continuous Improvement	Ensuring Compliance and Good Governance	Increasing Sustainability and Community Benefits	Supporting Economic Recovery



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**REPORT TO:** Cabinet

**MEETING DATE:** 17 January 2023

**BY:** Executive Director for Council Resources

**SUBJECT:** Procurement Procedures

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## 1 PURPOSE

- 1.1 To inform, and seek approval from, Cabinet for the revised East Lothian Council Procurement Procedures (attached as an appendix to this report).

## 2 RECOMMENDATIONS

- 2.1 To approve the revised procurement procedures.

## 3 BACKGROUND

- 3.1 The current Procurement Procedures have been in place for a number of years.
- 3.2 Many elements of the current procurement procedures remain relevant.
- 3.3 The revised ELC Procurement Procedures, aim to build on those, while making them applicable to the 2022 operating environment.
- 3.4 The revised procedures provide high-level details on:
- Scope and Context
  - Roles and Responsibilities
  - Procurement Process Governance
  - Delegated Quotation Process for Low Value (and Low Risk) Purchases, and
  - Definitions
- 3.5 The procedures cover all expenditure by the Council with third parties i.e. the supply of goods, provision of services and delivery of works projects.
- 3.6 Delivery of procurement activities in accordance with these revised procurement procedures will ensure compliance with procurement Legislation, good governance, alignment with the principles of

procurement and the duty of Best Value in public service as well as contributing to and support for the council's sustainability and economic recovery objectives.

- 3.7 The ELC Procurement Procedures, will be supplemented by more detail provided in Procurement Working Instructions for use by council officers when procuring goods, works and services.
- 3.8 The Procurement Working Instructions will not be published externally but will be available to staff on the council's intranet.
- 3.9 Support for Council officers when procuring goods, works and services will also be provided by the Procurement Service.

#### **4 POLICY IMPLICATIONS**

- 4.1 The Council requires to use UK and Scottish regulations, policies, guidance and tools concerning public procurement activity, in conjunction with the council's own regulations, policies, guidance and tools concerning procurement activity. Details of these Regulations, Policies, Guidance and Tools are provided on p17 of the council's Procurement Strategy 2023-28.

#### **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 IMPLACATIONS**

- 6.1 Financial - None
- 6.2 Personnel - None
- 6.3 Other – N/A

#### **7 BACKGROUND PAPERS**

- 7.1 East Lothian Council Procurement Strategy 2023-2028

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<b>DATE</b>	29 November 2022





# East Lothian Council

## Procurement Procedures

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*Note: All titles of posts referenced in these procedures are correct at time of issue and will be updated to reflect any future restructuring without the requirement for further approval of these procedures.*

## Section 1 – Scope and Context

### 1.1. Scope

These procedures cover all expenditure by the Council with third parties i.e. the supply of goods, provision of services and delivery of works projects.

### 1.2. Legal Context

Procurement is governed by many legal sources, principally derived from the EU Treaty principles. The following principles (referred to as the “Fundamental Principles” in this document) apply to all procurement activity regardless of the value:

- Proportionality
- Mutual Recognition
- Non-discrimination
- Equal treatment
- Transparency

All contracts let by or on behalf of the Council must be done so in a proportionate manner that demonstrates compliance with the above principles to all parties having an interest in that procedure.

The **Public Contracts (Scotland) Regulations 2015** dictate rules for procurements\contracts above a threshold, set by the World Trade Association's Agreement on Government Procurement (GPA). These are referred to in these Procedures as GPA Procurements\Contracts. These rules cover many aspects including where to advertise, specifications, selection, timescales and awarding contracts.

The Scottish Government introduced the **Procurement Reform (Scotland) Act** in 2014 and the **Public Contracts (Scotland) Regulations 2016** which provide specific rules for procurements\contracts below the GPA threshold. These are referred to in these Procedures as Regulated Procurements\Contracts.

**Table 1 – Procurement Legislation**

Procurement \ Contract tier	Legislation	Advertising	Threshold
Regulated Procurements\Contracts	Procurement Reform (Scotland) Act 2014	PCS	Equal to or greater than £50k for goods\services and £2m for works up to the GPA threshold.
GPA Procurements\Contracts	The Public Contracts (Scotland) Regulations 2015.	PCS and FTS	GPA threshold

Other relevant Scottish & UK legislation includes:

- demonstrating Best Value through the Local Government in Scotland Act 2003 s2 (1) a and TUPE Regulations 2006.
- Scottish Procurement Policy Notes (SPPNs) – although these do not have legal status and are for guidance only, these also influence how we do procurement.
- Case law from both UK courts and, prior to EU exit, the European Court of Justice (ECJ) applies. UK courts may still have regard for ECJ rulings in this area.
- Legal action, or less formal challenges for example by unsuccessful bidders, could cost the Council money.

The Council should also have due regard to the statutory guidance produced under the Procurement Reform (Scotland) Act 2014 ('the Act') and the Procurement of Care and Support Services: best practice guidance.

### **1.3. Principles of Procurement**

It is mandatory that all procurements undertaken by the Council shall take account of the following principles which shall be applied in a proportionate manner having due regard to the value, complexity and importance of each contract:

- 1.3.1. All contracts let by or on behalf of the Council, shall be subject to an obligation to seek Best Value for the Council;
- 1.3.2. All contracts let by or on behalf of the Council must be done so in a proportionate manner that demonstrates compliance with the Fundamental Principles to all parties having an interest in that procedure;
- 1.3.3. Any overriding requirements of the Procurement Legislation and any other UK or Scottish Legislation or Statutory Guidance on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts;
- 1.3.4. The remainder of the council's governance scheme, in particular the Scheme of Delegation and the Financial Regulations;
- 1.3.5. The Council's Procurement Working Instructions;
- 1.3.6. All procurements will comply with these Procurement Procedures.

### **1.4. Value Guidance**

To determine the value of a Contract officers shall look at the total value of the requirement (if a one-off). Where there is an ongoing requirement then the 4-year cost should be considered (regardless of the duration of the proposed contract).

- Contract requirements must not be split, nor the estimated value set unjustifiably low, to avoid the provisions of the Public Contracts (Scotland) Regulations 2015. It is not legal to disaggregate a requirement specifically to avoid the intended procurement procedure i.e. you must not break a requirement up into smaller values or shorter duration contracts just to avoid advertising, or undertaking a tender process.
- When estimating the value of a Contract the Procurement Officer must consider the total aggregate value across The Council of all similar requirements for the works/ goods/ supplies/ services. If the aggregate value for all similar requirements over the Contract term equals or exceeds the relevant Regulated or GPA Threshold, then the appropriate Procurement Legislation applies to the award of each Contract;
- Even if the procurement of any such requirement is split among a number of Contracts which, taken individually, are below the Regulated and /or GPA Threshold values, each of these Contracts is subject to the Procurement Legislation in the same way as if the requirement were procured through a single large Contract;
- Breaking down or disaggregating requirements in order to avoid the necessity of exposing them to competition is prohibited as being contrary to Procurement Legislation and must not be carried out under any circumstances.
- If a proposed contract includes one or more optional extensions, the total aggregated value is the highest possible amount that could be paid under the contract should all options to extend be exercised.
- Thresholds for Works contracts only apply to specific activities constituting Works as defined by the Procurement Legislation CPV codes. Please refer to the Procurement Service to check whether a proposed procurement or contract can be defined as Works for the purposes of a procurement exercise.

### **1.5. Duty of Best Value in Public Services**

The Council's procurements shall include the consideration of Best Value characteristics that public service organisations are expected to demonstrate, which may include the following:

- Purchase Demand Management
  - Reduce consumption
  - Consolidate spend
  - Improve specification
- Supply Base Management
  - Restructure relationships
  - Increase competition
  - Restructure supply base
- Total Cost Management
  - Optimise total supply chain costs
  - Reduce total life cycle / ownership costs

- Reduce / eliminate transactions
- Sustainable Procurement
  - Maximise sustainable opportunities
  - The requirements of the of the Climate Change Act where appropriate
  - Consider Fair Work Practices where appropriate

## **1.6. Climate Emergency**

Public procurement in Scotland is expected to contribute to Scotland’s climate change targets. The Council has declared a Climate Emergency in 2020 and has its own Climate Change Strategy.

How the Council procures goods, services and works is a key way to achieve net zero carbon emissions and respond to the Climate Emergency.

When developing strategies for procurements Council officers are expected to consider climate change in:

- whether to buy at all
- what to buy
- how to buy
- how much to buy
- end of life/recycle/reuse options

Council procurements are increasingly expected to ask bidders and suppliers to provide low carbon goods, services and works, and deliver circular solutions.

Please refer to further guidance in the Procurement Working Instructions for more information.

The Service Manager Procurement will ensure that the Council’s Procurement Strategy and Service reporting align with Scottish Government requirements with regard to Climate Change as well as requirements of the Council’s Climate Change Strategy.

## Section 2 – Roles & Responsibilities

### 2.1 Scheme of Delegation

The Council has Standing Orders, including a scheme of delegation, and Financial Regulations. These set out who has authority to do what in the Council and there is specific reference to the initiation of tender processes, the acceptance of tenders and the signing of contracts above and below certain values.

The Council's Scheme of Delegation states that:

*Officers shall have delegated authority to incur expenditure on behalf of the Council, including the signing of contracts and agreements to this effect, in accordance with Council policy, procurement procedures and other relevant financial procedures, as approved within the Council's Financial Regulations. All such expenditure must be within the authorised estimates of the expenditure of the Council as a whole. Only members of the Procurement Service have the authority to issue contract award/tender acceptance letters on behalf of the Council.*

Officers are required to obtain authority to initiate a procurement process, in accordance with the Council's Scheme of Delegation and up to the following limits:

**Table 2 – Scheme of Delegation**

Value of Goods & Services	Value of Works	Authorisation Required to initiate procurement	Form Required
Up to £15k	Up to £15k	Any officer with relevant FAS	Under £15k form
£15k to £50k	£15k to £500k	Budget Holder	PID QQ
Above £50k	Above £500k	Where there is specific revenue or capital budget approval - Head of Service	PID
		Where there is no specific revenue or capital budget approval – report to Council*.	PID

*\*New, higher value requirements, those that are not within the scope of a current budget, and which have a potential duration (excluding options to extend) in excess of the Council's financial planning timeframe (usually 3 years or 5 years) approval will also be required from Council by means of a private paper which must be submitted prior to tender publication.*

#### **Procurement Initiation for Call-Off Contracts**

Call-offs from frameworks should have the appropriate PID authorisation for each Call-Off contract awarded unless the specific budget for all anticipated call-offs has been approved in advance in one PID e.g. ELC establish a bathroom adaptations framework which has a



specific budget approved at start for 50 bathrooms, in which case a shorter 'call-off' PID form can be used.

In summary, officers have authority to initiate a procurement process, without recourse to members, so long as the expenditure is below the tender threshold and/or it has been approved in the revenue or capital budget.

Officers must adhere to the Council's **Financial Authorisation Signatory Policy** and the officer authorising a procurement must have the appropriate FAS limit for the proposed spend.

## 2.2 Award of Contracts subsequent to PID

Once the procurement process is complete, the Service Manager Procurement has authority to enter into a contract, by approving the issue of the contract Award letter by the Procurement Service, without further recourse to members so long as the tender value is generally in line with the original estimate and/or budgeted cost (no more than 10% discretion on the budgeted cost is permitted).

If the tender value is significantly greater than the budgeted cost, outwith the discretionary 10%) then an Award cannot proceed until approval is obtained as follows:

- Where the Service area has available revenue\capital budget:  
the budget holder with the appropriate FAS limit may approve the additional budget by submitting a revised PID for the requirement prior to Award of the contract.
- Where there is no revenue\capital budget available:  
approval is required by report to Council or the relevant committee prior to the contract being awarded.

In the event that budget approval is not granted the procurement process shall be cancelled.

## 2.3 Reporting

The Procurement Service will provide a quarterly summary of contracts awarded (below the Regulated thresholds) to the Members Library. Regulated and GPA contracts will be published in the Council's publicly available contract register in accordance with the Procurement Regulations.

## 2.4 Roles and Responsibilities

The Service Manager Procurement shall be responsible for ensuring that roles and responsibilities for Procurement activity equal to or greater than £15k i.e. quotation and tender processes are documented in the Procurement Working Instructions and that such are regularly reviewed and updated.

## **2.5 Procurement Competency Levels**

The Service Manager Procurement will have due regard for the Scottish Government's Procurement Competency Framework or equivalent for the levels of competency for roles within the Council with responsibility for Procurement activity.

## **2.6 Authorised Procurement Officers**

The Council can create an extended procurement team consisting of officers throughout the Council who have responsibility for significant areas of expenditure and/or conduct procurement activities as laid out in these procurement procedures. There will still be appropriate support provided by the Procurement Service.

Some of the extended procurement team will also be authorised to conduct procurement activities (Authorised Procurement Officers). An APO will have had training on how to conduct procurement exercises up to a certain value, and can do so competently with minimal support from the Procurement Service.

The Council Management Team will grant authority to procure to APOs nominated by the Service Manager Procurement.

## Section 3 - Procurement Process Governance

### 3.1 Exemptions from Scope of These Procedures

Contracts shall be exempted from the Procurement Procedures, for procurements with a value above the GPA Thresholds, where the relevant Head of Service and the Procurement Service has satisfied the Service Manager Governance that circumstances as set out in Regulations 7 to 18 inclusive of the Public Contracts (Scotland) Regulations 2015, apply to the procurement.

### 3.2 Procurement Processes (by Value\Threshold)

3.2.1 Table 3 and Table 4 set out the processes that must be followed when undertaking procurements. The process to be followed depends on the aggregate value of the Contract (as per Clause 1.4);

3.2.2 Pre-existing Contracts and Frameworks:

3.2.2.1 It is incumbent on the officer undertaking the procurement to check if there is a suitable pre-existing Contract / framework (these may include East Lothian Council, Scotland Excel, Scottish Government, Crown Commercial Services etc.) that could be used to fulfil the requirement. Where such a Contract / framework exists, it should be used unless advice and guidance from the Procurement Service indicates that an alternative procurement route represents Best Value and is compliant with the Procurement Legislation.

3.2.2.2 Information about existing Contracts / frameworks can be found in the Council's Procurement Intranet pages.

3.2.2.3 When using a pre-existing Contract/ framework the procedures set out for use of the particular Contract / framework must be followed;

3.2.2.4 Any identified or known omissions of Contracts\Frameworks must be notified to the Procurement Service for inclusion where appropriate on the Contract development pipeline or current Contracts Register;

**Table 3 - Goods/ Supplies/ Services Thresholds**

Value Threshold <sup>1</sup>	Process
Up to £15,000 (N.B. section 3.4 and refer to Section 4)	Make decision on basis of Best Value if no Contract/ framework exists for same/similar (good practice to obtain three quotations/evidence of firm/ fixed prices).
£15,000 to £49,999 (Refer also to clause 3.4 below)	Below Regulated Procurements Threshold procedure - obtain at least three quotations using PCS Quick Quote portal
£50,000 to current GPA Threshold value	Follow the procurement process for a Regulated Procurement
Current GPA goods/ supplies/ services threshold value	Follow the procurement process for a GPA Procurement

3.2.3 See Clause 3.3 for Health & Social Care Thresholds and Processes

**Table 4 - Works Thresholds**

Value Threshold <sup>1</sup>	Process
Up to £15,000	Make decision on basis of Best Value if no Contract/ framework exists for same/ similar (good practice to obtain three quotations/ evidence of firm/ fixed prices).
£15,000 to £499,999	Obtain at least three quotations via PCS Quick Quote. Documentary evidence must be retained by the Procurement Service.
£500,000 to £1,999,999	Advertise on Public Contracts Scotland – Contract Notice (i.e. Open Procedure or Restricted Procedure). See also 3.2.6 below.
£2,000,000 to current GPA Works threshold value	Follow the procurement process for a Regulated Procurement
Current GPA Works threshold value	Follow the procurement process for a GPA Procurement

*1 Consider the potential total value (expenditure) of the contract over the maximum duration of the contract. Where the contract duration is not known, the value for the purposes of applying the thresholds must be based on a 4 year duration for an ongoing requirement. Refer to section 1.4 for further guidance.*

- 3.2.4 It is mandatory that processes stated in Tables 3 and 4 are followed for the applicable financial thresholds. However stated processes within the applicable financial thresholds may be adjusted to suit individual Service needs if they believe it is proportionate and appropriate to their business needs to have more stringent procedures in place;
- 3.2.5 Where a requirement is likely to be close to any threshold, advice should be sought from Procurement as to which process it is most appropriate to apply, see also the Procurement Working Instructions and SPPN 8/21 for the rules with regard to inclusion of VAT for the purposes of checking whether the GPA Procurement Threshold will apply;
- 3.2.6 In exceptional circumstances, a Quick Quote can be published for Works greater than £500k but less than £1M. The relevant exemption form, provided by the Procurement Service, must be completed and submitted to the Service Manager Procurement for approval.
- 3.2.7 Direct Purchasing (Single Source Application).

The relevant Procurement Service forms shall be completed for requests for direct purchasing (single sourcing) where these are in accordance with the following:

- 3.2.7.1 For requirements below the Regulated Contracts Threshold values direct purchasing above £15,000 without seeking quotations may be acceptable where the Service Manager Procurement is satisfied the Award meets Best Value and:
- a. the requirement is not readily obtainable from more than one supplier, service provider, or Contractor, and it can be demonstrated that no equivalent is available; or
  - b. there is an immediate need caused by real and demonstrable emergency which creates a real risk to life, property or Council systems; or
  - c. an assessment of risk, the market place and competition has been deemed to be low; or
  - d. the prices of the goods/ supplies, services or works are wholly controlled by trade organisations or government order and it can be demonstrated that no equivalent is available; or that
  - e. the requirements are subject to intellectual property rights and it can be shown that either no suitable alternative is available, or that exposure to competition of an item covered by copyright, patent, or trademark would breach such rights. Note that where an item is described by a reference to a trade name, it must be followed by the phrase “or equivalent”;

- 3.2.7.2 Evidence justifying such direct purchasing must be provided to and agreed by the Service Manager Procurement;
- 3.2.7.3 For requirements above the Regulated Contracts Threshold value for goods/supplies/services or works, direct purchasing may be acceptable where the Procuring Officer has satisfied the Service Manager Procurement that the circumstances as set out in Regulation 6 of The Procurement (Scotland) Regulations 2016, circumstances in which a contract can be awarded without competition, apply to the procurement;
- 3.2.7.4 For requirements above the GPA Contracts Threshold value for goods/supplies/services or works, direct purchasing may be acceptable where the Procuring Officer has satisfied the Service Manager Procurement that the circumstances as set out in Regulation 33 of The Procurement (Scotland) Regulations 2015, circumstances in which a contract can be awarded without competition, apply to the procurement;
- 3.2.8 The Procurement Service may carry out procurement activity for other relevant organisations and for Services which have devolved procurement authority and where this activity occurs, out with business as usual processes for undertaking delegated procurement, the Procurement Service may charge a fee for professional services where appropriate;
- 3.2.9 If there are any queries or concerns about the processes to be followed then contact the Procurement Service for advice and/ or guidance.

### **3.3 Health and Social Care Services**

- 3.3.1 This section shall apply to the procurement of Health and Social Care Services.
- 3.3.2 Contracts for Health and Social Care Services must be procured having due regard to:
  - a. The Procurement Legislation;
  - b. The statutory “Guidance under the Procurement Reform (Scotland) Act 2014” issued by the Scottish Government;
  - c. The statutory “Guidance on the Procurement of Care and Support Services 2016 (Best-Practice)” issued by the Scottish Government.
  - d. The different rules which apply to health and social care Contracts at different thresholds.

- 3.3.3 Where a requirement is likely to be close to a threshold, advice should be sought from Procurement as to which process it is most appropriate to apply;
- 3.3.4 Any competitive process must be carried out in line with the requirements of these Procurement Procedures and the Procurement Working Instructions.

### **3.4 Information Communications Technology (ICT) Related Requirements & Requirements Affecting Council Assets and Infrastructure**

#### 3.4.1 ICT

- 3.4.1.1 Where a proposed purchase or Tender of any value involves the use, adoption or purchase of information communication technologies (ICT), such as a digital service, software or hardware, the advice of the Council's IT service must be sought in addition to that of the Procurement Service;
- 3.4.1.2 The Council's ICT Contract(s) should be used for any Council requirements unless it can be demonstrated that it will not provide Best Value;
- 3.4.1.3 All requirements for ICT goods, services and solutions must follow the Council IT service's procedures for IT Requirements and Information Governance prior to being procured.

#### 3.4.2 Council Assets and Infrastructure

Where a proposed purchase or Tender of any value involves the installation of goods that may have an impact on Council **buildings/sites** or infrastructure, or have health and safety implications or maintenance obligations, the advice of the relevant team within the Council's Infrastructure Division must be sought before any such goods are procured, in addition to that of the Procurement Service;

- 3.4.3 Advice, as required by sections 3.4.1 and 3.4.2, must be obtained where the expenditure of third-party funds will result in the purchase of IT equipment, alterations to Council land or buildings or require equipment to be fixed to Council land or buildings, have health or safety implications or maintenance obligations.

### **3.5 Consultancy Requirements**

- 3.5.1 Any requirements for Consultancy with the potential to exceed £15,000 in value should be directed to the Procurement Service;
- 3.5.2 When the procurement of Consultancy is undertaken the Scottish Government's Guidance for the public sector on Use of Consultants shall be followed by the officer initiating the procurement and the Procurement Service.

### **3.6 Grants**

- 3.6.1 Where the procurement is made using monies received in the form of a grant to the Council not only must the procurement comply with these Procurement Procedures but also any additional requirements imposed by the body awarding the grant;
- 3.6.2 Any request not to comply with this must follow the process stated at 3.3.7 (Direct Purchasing).

### **3.7 Procurement Working Instructions**

- 3.7.1 The Procurement Working Instructions shall be maintained by the Service Manager Procurement in consultation with the Head of Finance and Head of Corporate Support;
- 3.7.2 The Procurement Working Instructions shall provide all officers with instructions and guidance on best practice for conducting procurement exercises, including appropriate templates;
- 3.7.3 The Procurement Working Instructions shall be deemed to form part of these Procurement Procedures for the purpose of determining whether any action is a breach of these Procurement Procedures.

### **3.8 Tender Documents**

- 3.8.1 Only the latest version of templates issued by the Procurement Service should be employed. Any other template should only be used if agreed by the Service Manager Procurement;
- 3.8.2 Terms and Conditions of Contract



- 3.8.2.1 All Contracts/ frameworks entered into by the Council should be on the basis of the appropriate East Lothian Council Terms and Conditions. No amendment to Council conditions should be adopted without the agreement of the Head of Finance and Head of Corporate Support. Where the Service Manager Governance considers that the Council's standard terms and conditions are not appropriate for a particular Contract, due to the significance or complexity, alternative terms and conditions can be used subject to the approval of the Service Manager Governance;
- 3.8.2.2 For works Contracts recognised industry terms and conditions of Contract e.g. I.C.E, J.C.T, NEC3 and SBCC may be used.
- 3.8.2.3 For call-off contracts from third party frameworks the relevant framework terms and conditions, subject to checks and approval by the Procurement Service, may be used.

### **3.9 Late Tenders**

Tenders and quotations received after the closing date and time stipulated for return of Tenders, or Tenders which are incomplete or in an incorrect format must not be opened or considered except with the express approval of both the Service Manager Procurement and Service Manager Governance (for the avoidance of doubt two approvals are required therefore in the case of a Service Manager not being available, approval should be sought from the Head of Finance or Head of Corporate Support instead).

### **3.10 Evaluation of Tenders and Quotations**

- 3.10.1 Tenders and quotations for procurements with values above the Regulated and GPA Procurements Thresholds shall be evaluated on the basis of Most Economically Advantageous Tender (MEAT);
- 3.10.2 Lowest cost will only be permitted for Contracts below Regulated Contracts Thresholds and Contracts placed under frameworks where the Procurement Officer can demonstrate that Best Value has already been established and the Procurement Working Instructions allow for lowest cost;
- 3.10.3 The evaluation process must be fully and appropriately documented, and a record retained in all cases.

### **3.11 Form, Acceptance, Award and Termination of Contracts**

- 3.11.1 Except in circumstances where the Head of Corporate Support and the Head of Finance agree otherwise, every Contract shall be:
  - a. In the name of East Lothian Council; and
  - b. Awarded by Procurement Officer (or APO); and
  - c. Entered on the Council Contracts Register
  - d. Subject to the law of Scotland and the exclusive jurisdiction of the Scottish Courts. In the case of a call-off contract, from a Framework which is not subject Scots Law and does not permit a change in the applicable law or legal

jurisdiction then such call-off contract shall be subject to the law of England and the exclusive jurisdiction of the English Courts.

- 3.11.2 The Procurement Officer shall retain a copy of the Contract, keep proper records of all Contracts and Tenders and record where they are stored, and ensure the Council's Contracts Register is updated;
- 3.11.3 The Service Manager Procurement in consultation with Service Manager Governance may terminate or suspend a Contract, in accordance with the express or implied terms of the Contract, and may also take such further action with regard to any Contract as the Council is legally entitled to take. For Regulated or GPA Contracts, approval shall be sought from the relevant Head of Service.

### **3.12 Contract Variation/Extension**

- 3.12.1 The relevant Head of Service may authorise an extension to a Contract, or any other variation, including a consequent change in price, provided such extension or variation has been provided for in the initial Procurement Documents including the PID and contract documentation, and is not contrary to the Procurement Legislation;
- 3.12.2 A Contract shall not be extended, modified or amended if such extension or variation is not expressly permitted by the Contract, without seeking advice from the Service Manager Procurement or Service Manager Governance;
- 3.12.3 Where a Contract, subject to the Procurement Legislation, does not include provision for an extension or variation then the relevant Procurement Extension or Variation Form (or equivalent) shall be completed by the Procurement Service and the officer initiating the procurement, and agreed by the relevant Head of Service and the Service Manager Procurement.

### **3.13 Contract Novation and Assignment**

- 3.13.1 In every Contract, there shall be included a provision whereby the Contractor shall be prohibited from transferring, novating or assigning to any person or persons whatever, any portion of the Contract without the prior written consent of the Council;
- 3.13.2 The Service Manager Procurement and/or Service Manager Governance shall have the power to consent on behalf of the Council to the assignment of a Contract;
- 3.13.3 The assignment, novation or sub-contracting of any part of a Contract except to the extent permitted in writing by the Service Manager Procurement or Service Manager Governance, shall be prohibited.

### **3.14 Contracts Register**

The Service Manager Procurement shall maintain a register of all Contracts awarded by East Lothian Council as required by the Procurement Reform (Scotland) Act 2014.

### **3.15 Strategic Review of Service Provision**

Where a Service plans to undertake a strategic review of their service provision, the Service Manager Procurement should be contacted at the outset of any such review to ensure that any relevant procurement issues are identified and addressed.

### **3.16 Community Benefits Requirement**

The Procurement Service and the officer initiating the procurement shall include of Community Benefits requirements within the procurement process for all procurements over £50k in total value except where the Service Manager Procurement agrees that such requirements would not be proportionate or otherwise practical to include within the procurement process.

### **3.17 Procurement Strategy and Annual Report**

The Service Manager Procurement shall prepare a Procurement Strategy, in consultation with Council management and relevant stakeholders, in accordance with the current Scottish Government guidance and ensure that data is captured by the Procurement Service to facilitate reporting to the Scottish Government.

### **3.18 Compliance with Procurement Strategy**

The appropriate Executive Director shall carry out all Regulated and GPA Procurements, so far as reasonably practicable, in accordance with the Procurement Strategy applicable to the financial year during which the procurement exercise commenced.

## Section 4 – Delegated Quotation Process for Low Value (And Low Risk) Purchases

### 4.1 Conducting Low Value\Low Risk Quotation Process (Under £15k form)

Officers may have delegated authority to conduct their own procurement activity for purchases below £15k where the Under £15k form is completed and the following criteria are met:

- The officer completes the Under £15k form prior to any purchase being made or order being placed with a supplier.
- The officer can make a decision on basis of Best Value. If no Contract\Framework exists for the same\similar goods it is good practice to obtain three quotations with evidence of firm\fixed prices.
  - Before proceeding, the officer should check SupplierFinder on ELNET and\or contact the Procurement Service to check if there is an existing contract that could be used for the requirement.
- The officer retains evidence of how the purchase\supplier decision was made along with the completed Under £15k form for audit purposes.
- The form is authorised by an officer with the correct level of financial authorisation in accordance with the Council Standing Orders.
- The officer follows the guidance included within the Under £15k form.
- Where the selected supplier is not already on the Council's finance system, the officer completes the New Supplier Request Form process **prior to raising any purchases or orders.**

The officer does not proceed with any purchases or orders if:

- Market analysis indicates that the price is likely to be greater than £15k
- Completing the Under £15k form Confirmation and Screening sections indicates that there are additional risk factors in the purchase – in which case the officer must contact the Procurement Service in the first instance.
- Purchases are to be made via a Framework Agreement that the Council is permitted to utilise.

Where a requirement is likely to be close to the low value\low risk procurement threshold or a recurring requirement, advice should be sought from Procurement.

Officers must refer to the Financial Authorisation Signatory Policy (available on ELNET) which stipulates that at least 2 people must be involved in all financial transactions, i.e., one to prepare (requisitioner) and one to authorise (approver) – please refer to the Finance section on ELNET for further guidance on ordering procedures.

## Appendix A – Glossary

Term	Definition
<b>Authorised Procurement Officer (APO)</b>	A member of the extended Council procurement team trained and authorised to conduct procurement activities.
<b>Award</b>	A decision to accept a tenderer's offer to supply / provide specified goods/services/works according to agree terms & conditions thereby creating a legally binding contract
<b>Best Value</b>	The duty under the Local Government Act in Scotland 2003 to secure continuous improvement in the economy, efficiency and effectiveness with which they exercise their functions.
<b>Call-off contracts</b>	Agreements, sometimes called framework contracts, without full commitment. The undertaking is that all requirements of the specified nature which are required during the duration of the agreement, will order from these contracts / agreements. Also known as preferred supplier list.
<b>Community Benefits</b>	Requirements which deliver wider benefits in addition to the core purpose of a contract. These can relate to jobs, training and other social-economic and/or environmental benefits
<b>Contract</b>	An agreement concluded between the council and the supplier that is legally binding, containing terms of the agreement, any schedules and appendices, the Tender Specification and any other specifications, drawings, official purchase order(s) and other documents which are relevant to the Contract
<b>Contract Notice</b>	Advert to invite applicants to express interest & apply to tender, or to be pre-qualified.
<b>Contractor\Supplier</b>	An entity who supplies goods or provides services or execution of works.
<b>CPV</b>	Common Procurement Vocabulary. A set of standard definitions of services, suppliers or works for notices (adverts) in the FTS or PCS.
<b>Framework agreements</b>	Arrangements (sometimes referred to as standing offers) in which terms & conditions are agreed, and the client may or may not subsequently place orders (no commitment). Also a consortium can agree terms & conditions and the members may subsequently place orders.
<b>Find a Tender Service (FTS)</b>	UK e-notification system called Find a Tender Service (FTS)
<b>Fundamental Principles</b>	<ul style="list-style-type: none"> <li>• Transparency - contract procedures must be transparent and contract opportunities should generally be publicised;</li> <li>• Equal treatment and non-discrimination - potential suppliers must be treated equally;</li> <li>• Proportionality - procurement procedures and decisions must be proportionate;</li> </ul>

	<ul style="list-style-type: none"> <li>• Mutual recognition – giving equal validity to qualifications and standards from other States where appropriate.</li> </ul>
<b>GPA</b>	Agreement on Government Procurement
<b>GPA Thresholds</b>	The Threshold amounts are reviewed every two years. The GPA Thresholds in accordance with Regulations 5 and 5A of The Public Contracts (Scotland) Regulations 2015 are published by the Scottish Government.
<b>MEAT</b>	Most economically advantageous tender. Common phrase used to indicate that the tender will not be only based on lowest price.
<b>Net Zero</b>	The term net zero means achieving a balance between the carbon emitted into the atmosphere, and the carbon removed from it. This balance – or net zero – will happen when the amount of carbon we add to the atmosphere is no more than the amount removed.
<b>Notice</b>	Advert
<b>Open Procedure</b>	A procedure whereby anyone can tender. A one-step process
<b>Public Contracts Scotland (PCS)</b>	The advertising portal provided by the Scottish Government for the advertising of public contract opportunities using a Contract Notice, and for the award of contracts via a Contract Award Notice.
<b>Procurement Legislation</b>	The Procurement (Scotland) Regulations 2016, The Public Contracts (Scotland) Regulations 2015 and the Procurement Reform (Scotland) Act 2014 (“The Act”).
<b>Procurement Service</b>	The Council’s Corporate Procurement Team
<b>Procurement Strategy</b>	A document required as part of Scottish Procurement Regulations that sets out how the council intends to carry out its regulated procurements i.e. procurements with an estimated value equal to or greater than £50,000 (excluding VAT) for supplies for supplies & services (or £2,000,000 excluding VAT for a public works contract).
<b>PID</b>	Procurement Initiation Document
<b>Quick Quote (QQ)</b>	Quick Quote is a part of Public Contracts Scotland which allows Buyers to obtain competitive quotes for low value or low risk procurements. QQs are created through the Notice creation wizard and distributed to a select list of suppliers. Buyers can filter and select the suppliers to invite to quote. QQs are only distributed to the suppliers the Buyer selects and are not made public on the portal. The selected suppliers can provide the requested details and submit a quotation using the electronic postbox feature on PCS.
<b>Restricted procedure</b>	A procurement procedure whereby there are 2 steps: selection of suitable candidates, and then evaluation of tenders from the short-listed tenderers.
<b>Specification</b>	The part of the invitation to quote or invitation to tender which details the nature and quality of the goods, services or works

<b>Sustainable procurement</b>	A process whereby organisations meet their needs for supplies, services, works and utilities in a way that achieves value for money on a whole life basis and generates benefits, not only for the organisation but also to society, the economy and the environment.
<b>Tender</b>	An offer, or bid, by a tenderer in response to an invitation to tender (ITT) or a mini-tender in a framework agreement
<b>Variation [to contract]</b>	The contract terms should allow for the client or contractor to request a variation, post -award. This could be a variation to the specification, core list, price etc. It is good practice to have a "Variation to Contract Form" which is the only means by which the contract can be varied.
<b>Works</b>	The term used in the Procurement Legislation for a building or civil engineering project or piece of work and as defined by CPV codes in Schedule 1 of The Public Contracts (Scotland) Regulations 2015



**REPORT TO:** Cabinet  
**MEETING DATE:** 17 January 2023  
**BY:** Executive Director for Place  
**SUBJECT:** Sustainable Fleet Management Strategy

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7

## **1 PURPOSE**

- 1.1 The report seeks approval of East Lothian Council's Sustainable Fleet Management Strategy 2022-2027.
- 1.2 Underpinning this strategy is the requirement for a sustainable (legally, financially, and environmentally) Fleet Asset Replacement Programme. Consideration will need to be given to financing options for the replacement of core vehicles, plant and equipment as they come to the end of their economic life over the next 5 year period, with reference to the current pressures on revenue and capital budgets.
- 1.3 If approved, this will form the basis of an ambitious council wide Fleet Management De-Carbonising Strategy and Replacement Programme for the next 5 years, 2022 – 2027, that proposes to balance investment in the necessary alternative fuel technology to support a significant increase of Ultra Low Emissions Vehicles (ULEV) purchased and operated by the council. This also supports the council's climate change strategy.

## **2 RECOMMENDATIONS**

- 2.1 The developed Sustainable Fleet Management Strategy provides a pathway approach that will help to ensure ELC Council has safe, reliable, cost effective and sustainable vehicles, plant and associated equipment, at the right time and at the right cost to support the strategic, corporate and service objectives of the Council and to support service delivery.
- 2.2 Cabinet is asked to approve East Lothian Council's Sustainable Fleet Management Strategy 2022-2027.

## **3 BACKGROUND**

- 3.1 Internal Audit carried out a Fleet Audit report in Feb 21; part of the recommendations proposed required a Fleet Strategy document to be created.

3.2 The Government objectives towards alternative fuel solutions and zero tail pipe emissions require the council to adopt and transform the fleet to meet these key milestone dates up to 2035 where all vehicles produced must have zero tail pipe emission status.

3.3 The Council approved a climate change strategy in January 2020, for which fleet carbon reduction are part of the action plan towards a “Net Zero Council”

## **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** – The budget for vehicle replacement sits within the council’s wider capital programme. However it should be noted that this is based on estimated replacement costs and this sector along with others, faces significant challenges from inflationary increases in vehicle acquisition prices and delays in procurement/delivery from supply chains. Wider pressure on the council’s capital programme arises from rising interest costs which are having a significant impact on revenue budgets, prompting the need for a fundamental review of the scope of the capital programme. Implementation of this strategy will therefore need to take account of these factors and funding decisions will need to be taken with reference to affordability constraints and available resources. In line with the principles of the financial strategy, investment which will deliver ongoing cost savings will be prioritised.

..

6.2 **Personnel** – None

6.3 **Legal** - ELC is required to adhere with Transport legislation which is intrinsically connected to providing a safe and compliant fleet:

- The Road Traffic Act 1998 Section 74
- The Goods Vehicle Licence of Operators 1995
- Traffic Act 1968

Proactive investment in the Fleet Replacement Programme reduces the risk of failure to comply with the requirements of the Operator’s Licence and associated legislation.

6.4 **Sustainability** - The purchase of new vehicles has an environmental impact in terms of the use of materials used to make the vehicles and embodied emissions from the manufacturing process. However, the replacement of aged Euro 4 and 5 diesel assets with electric, hybrid (where no practical alternative exists) Euro 6 diesel will result in a significant reduction in the emissions of all types of pollutants from the Councils' fleet, which will contribute positively to improving air quality across the county.

## 7 BACKGROUND PAPERS

7.1 None.

Appendix - Sustainable Fleet Management Strategy

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<b>DATE</b>	06/01/2022





**East Lothian**  
Council

# Sustainable Fleet Management Strategy

**Transport Services**  
**Revision 1 – August 2022**

## Introduction

East Lothian Council declared a climate emergency in August 2019 following the Scottish Government's declaration in April 2019. Transport Services support this commitment with its first sustainable fleet strategy designed to complement a range of existing strategies and policies in order to meet the climate challenges. Its aim is to ensure services have compliant assets in the right place at the right time and that offer value for money. Very importantly through the adoption of a measured evidenced based approach Transport Services will make ambitious strides to support the Council's commitment to become carbon neutral by 2035.

In addition to East Lothian Council's planned capital investment Transport Scotland are providing ongoing support for ELC with ULEV vehicle replacement and infrastructure funding. The Energy Saving Trust have completed the evaluation of the current carbon fleet status, with recommendations in the Fleet decarbonisation report 23<sup>rd</sup> March 2021 being taken into consideration for this Fleet Strategy.

The high-profile brand of East Lothian Council vehicles amongst our communities has implications for the Council's reputation. A well maintained and efficient fleet contributes to public confidence in the Council. All vehicles and equipment must be fit for purpose and be managed effectively to support our services and ensure the health and safety of staff, customers and the wider community.

This strategy supports the Council's overarching vision to create an even more prosperous, safe and sustainable East Lothian with a dynamic and thriving economy, that enables our people and communities to flourish.

This strategy also provides the framework for the procurement, management and maintenance of all the vehicles, plant and mechanical equipment operated and required by the Council. It also helps the Council to deliver its services and meet its regulatory obligations as a Department of Transport Operator Licence holder.

Its success will be dependent on securing long term financial commitment and the support and co-operation of all employees to ensure our asset portfolio is always operated efficiently, responsibly, and sustainably.

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## Vision and Objectives

Effective management of fleet related assets is critical to the delivery and performance of Council services. This 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 government's timeline of key deliverables.***

The objectives of the Sustainable Fleet Management Strategy are:

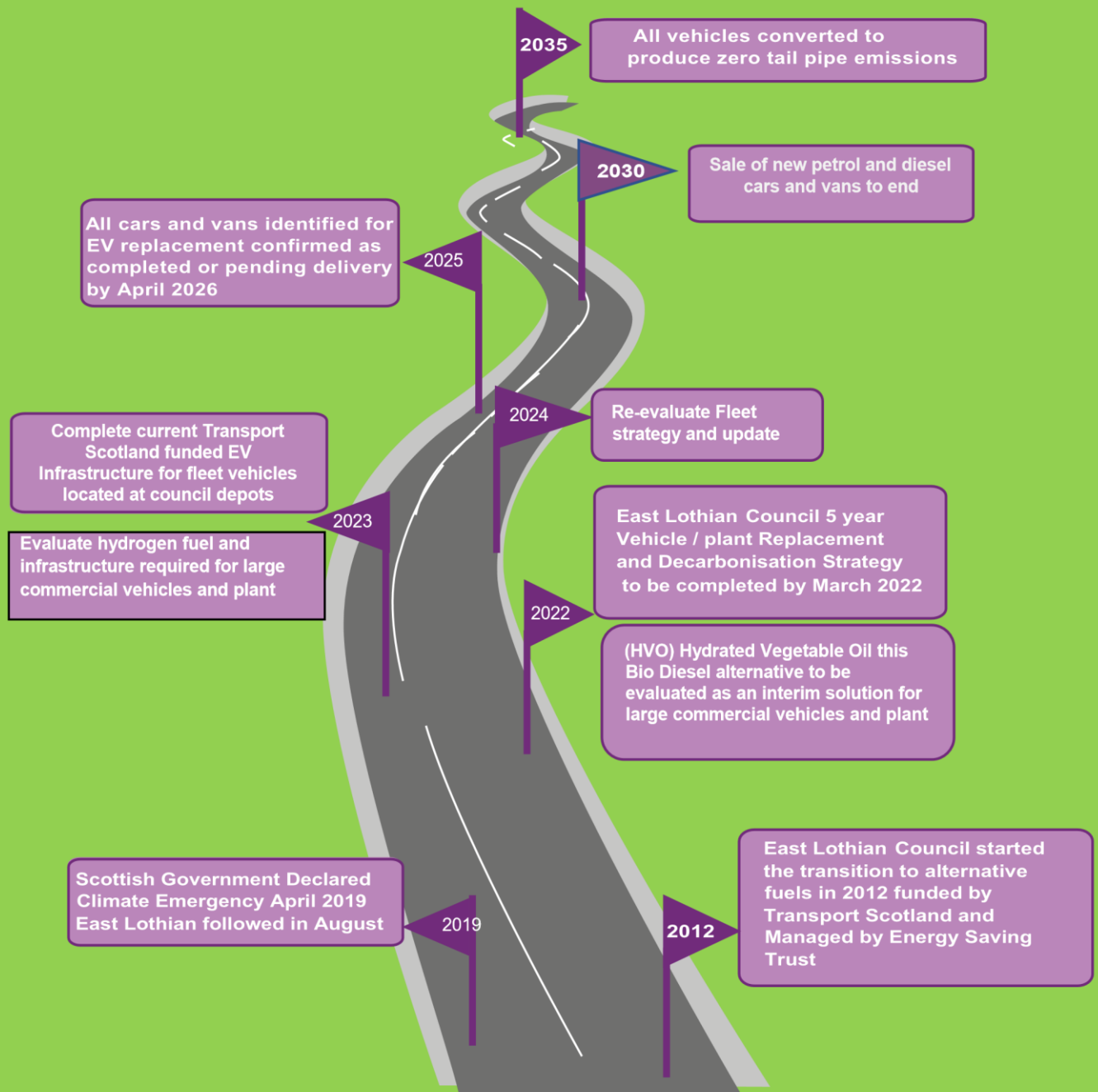
1. Assets fit for purpose - All vehicles/plant and equipment will be 'fit for purpose' in terms of condition and suitability for the intended use.
2. Safety - The vehicle/plant or equipment must secure the minimum health and safety risk to our staff and members of the public.
3. Assets used effectively – Assets will be treated as a corporate resource, and the need to own/maintain the vehicles/equipment will be regularly challenged with users and the performance of assets will be monitored and reported with the aim of eliminating unnecessary expenditure.
4. Sustainability - Assets, which run efficiently, maximise value for money, are environmentally and energy efficient contributing directly to delivering reductions in carbon emissions inclusive of the environmental life cycle of the vehicle and component parts (including fuel).
5. A vehicle and plant replacement programme that identifies vehicles that have to be replaced with zero carbon alternatives to achieve the UK and Scottish governments zero carbon time line road map.
6. Centralised financial management - All asset expenditure will be managed by Transport Services via an agreed sustainable replacement/maintenance plan, appropriately funded from dedicated service revenue 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.



# ELC Fleet Strategy Key Milestones

## Pathway to Achieve Zero Tailpipe Emissions

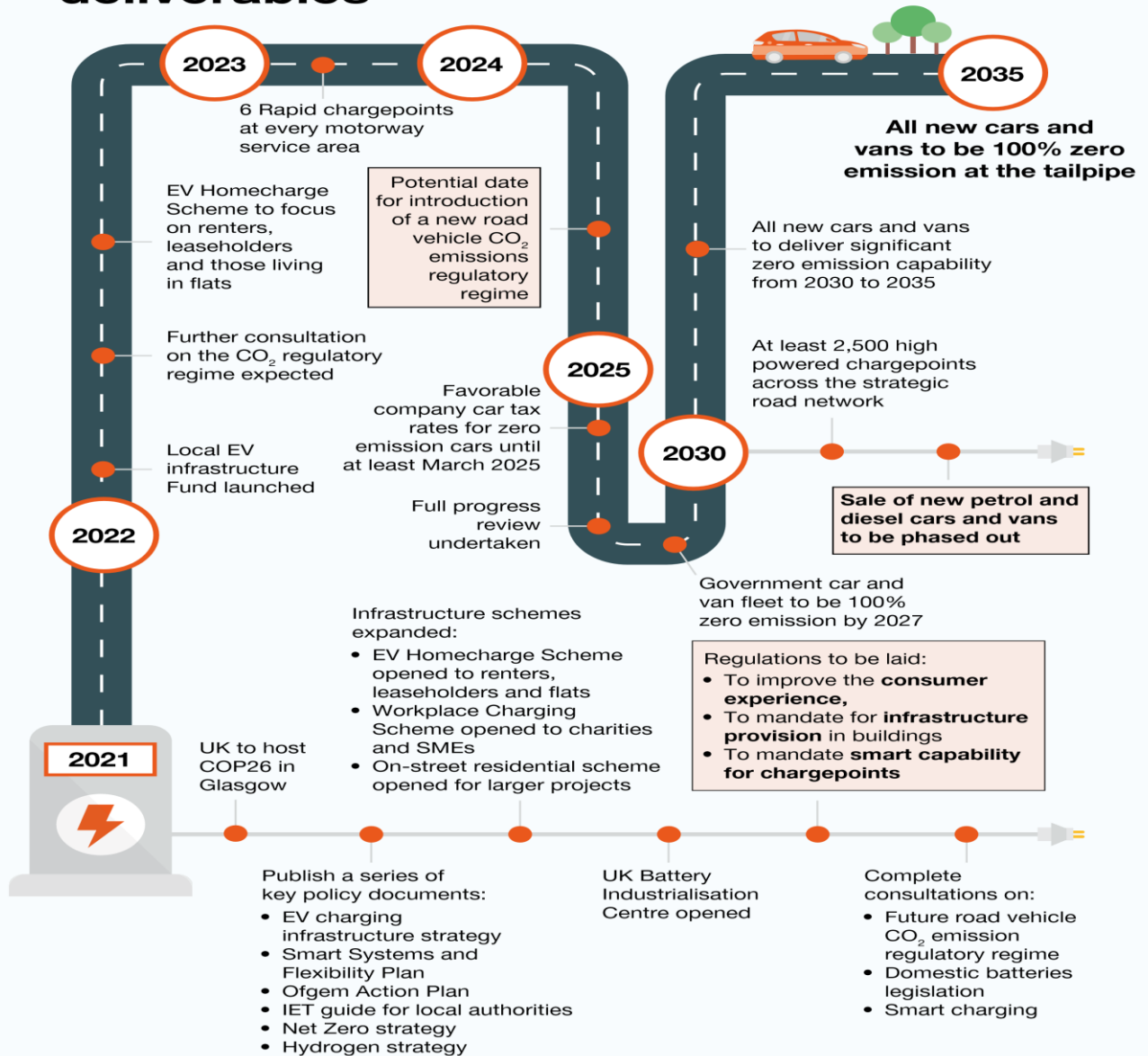
East Lothian Council have committed to the climate emergency and phasing out of petrol / diesel cars and small vans by 2025 in line with Scottish Governments commitments and zero tail pipe emissions by 2035



- Target dates maybe affected by manufacturers ability to deliver due to product shortages or limited production capacity.
- Financial pressure may also limit zero carbon replacement numbers due to increased product and build costs running at 40% higher than current models

# UK Government Road Map

## Road to 2035: Timeline of key deliverables



## **Transport Services Profile**

The current assets as of August 2022 comprise of 320 vehicles.

This is made up of a diverse range of vehicles from cars, small vans, pick-up tippers, minibuses, street lighting towers, large goods vehicles tippers, refuse collection, gritting and road construction vehicles.

These assets are critical for delivering statutory frontline and income generating services which include

- Collection of waste and cleansing services including commercial
- Maintenance of roads, cycle-ways/footpaths and winter operations
- Passenger transport provision
- Maintenance of open spaces including beaches
- Maintenance of public buildings and the Council's housing stock.

In addition, there are a further 113 items of plant and equipment necessary to deliver our core services.

### **Corporate Fleet Assets Roles and Responsibilities Transport Services**

Overarching responsibility for the compliance of all requirements associated with the Council's Vehicle Operators Licence and for the delivery of strategic fleet procurement, maintenance, and management.

Transport Services will provide advice and guidance for all departments within the Council on all aspects related to vehicle, plant and equipment assets operations, including provision of driver training where required.

### **Directorates/Service Units**

Timely identification and clear communication of requirements to deliver services including the pursuit of alternative environmentally suitable modes of travel. Production of evidence based business cases including financial commitment to seek amendments to fleet portfolio.

Managing staff to ensure they comply with ELC policies and procedures, Transport and Road Traffic laws. Suitably manage drivers to ensure adherence to regulations and that there is no damage to the assets in their control and that the safety of themselves and others is not compromised in any way.

### **Drivers/Operators**

Compliance with all elements of ELC driving at work policies, Transport and Road Traffic laws. Use the assets in accordance with operating instructions and return them in good condition. Provide feedback via their service unit on the suitability of vehicles currently in service and any demo vehicles they are asked to trial.

ELC will ensure vehicle usage by all user departments is reviewed periodically to maintain its integrity and effectiveness. The Driving at Work Policy clearly sets out standards of driving conduct for staff to ensure their own and others safety. The Drivers Handbook provided to all

permit holding drivers within ELC includes guidance on the aspects of drivers' hours, driver licences, and fitness to drive, vehicle use and accident reporting. Council vehicles include Council owned, leased or hired vehicles.

## **Procurement**

Provide specialist advice and support to Transport Services assisting with the procurement process ensuring compliance with Council and public procurement regulations. **Finance**

Work with Transport Services and service units to produce, maintain and monitor a sustainable financial plan to support the strategy to ensure approved budgets are not exceeded. Provide appropriate financial analysis on business cases, work with Transport Services and service units to identify appropriate funding for additional assets outside of the approved plan and challenge to ensure maximum efficiency and sustainability.

## **Key Functions of the Transport Services Team**

### **Act as holder of Operator's Licence ('O' Licence) on behalf of the Council maintaining safe and compliant assets.**

Our operations are highly regulated and must adhere to the 'O' Licence terms and conditions, European Directives, health and safety legislation, Driver & Vehicle Standards Agency (DVSA) and Driver & Vehicle Licencing Agency (DVLA) rules and regulations as well as Council policies and guidelines covering vehicles and driver usage. Running a modern fleet is a safety critical operation that must ensure employee and public safety. This is achieved through best practice in vehicle inspection, maintenance, operation and procurement.

The general requirements of the 'O' Licence cover:

- Laws relating to driving and vehicle operation are observed
- Vehicle maintenance arrangements
- Drivers' hours and records management
- Vehicle overloading
- Maintaining our operating centres
- Provision of sufficient financial resource
- Professional competence
- Good repute.

### **Maintenance of in-house fleet and plant assets via in house workshops and external providers that support the enabling of front-line services to deliver their service requirements**

Our workshops and support team employ 10 full time employees (FTEs) and 2 Modern Apprentice Mechanics. The service operates across the East Lothian region. Accident damage repairs will be arranged in liaison with the Council's insurers. External vehicle body shop repair facilities will be used for accident damage repair and the work inspected by Transport Services for compliance with standards.

Warranty repairs will be undertaken both internally and externally wherever most effective in the circumstances to minimise downtime.

The frequency of servicing can vary depending on the type of vehicle, this is governed by the terms of the Council's Operators Licence, manufacturers' recommendation and safety related compliance in general terms the frequencies are:

- Annual service for all types
- Annual MOT for all Large Goods Vehicles (LGV) and small vehicles + three years
- Eight weekly inspections / for O licence (LGV & Public Service Vehicles PSV)
- Six monthly inspections for light commercials
- Yearly services for small plant

### **Professional advice to users on vehicle specification and operation**

We will work in partnership with service users to identify suitable replacement types, combining the expert knowledge and experience of service users to that of the fleet team's technical staff to ensure we secure the right product correctly specified to meet current and anticipated future needs. Transport Services will arrange and manage suitable vehicle and technology demonstrators that will enable services to sample the current market, providing access to the latest technical advances in vehicles and fleet management technology.

We will ensure vehicles are supplied with training, certification, support packages and warranties to ensure operators utilise vehicles and equipment safely, and managers are equipped to maximise any potential efficiencies and savings, through the use of auxiliary systems, such as equipment telemetry and CCTV.

### **Manage vehicle procurement and branding for service users**

Procurement of approved replacement vehicles will be subject to Council procurement rules/financial regulations and Scotland's public sector procurement regulations.

There are several framework agreements available providing the service with a range of potential suppliers and options. The options for procurement will be regularly reviewed with Procurement and Finance to ensure the most appropriate and cost-effective methods are used.

The evaluation and award criteria of the most appropriate vehicles/plant or equipment to select will include purchase costs, whole life running costs, spare parts, warranty provision and environmental credentials including full life cycle.

### **Storage and supply of fuel**

Fuel is supplied from bunkered sites and fuel card provision. The procurement and distribution of this fuel is managed by Transport Services.

Fuel management is key to monitoring vehicle use and detailed reporting is required to report on and manage CO2 emissions. Work is underway to consolidate fuel system telemetry and establish a direct link into Fleets fuel management system which will provide detailed reporting on fuel use by type, class and service area.

Combined fuel use for the Council's vehicle fleet excluding small plant equipment pre pandemic 2018-19 was at 1.15 million litres which equates to approximately 2848 tonnes of CO2 based on a diesel blend of 7%.

Fuel consumption for 2020-21 has reduced to 718,800 Litres which equates to 1775 tonnes of CO2 due to the COVID 19 pandemic restrictions on non-essential service delivery.

### **Provision of a corporate vehicle hire facility**

All hired vehicles are arranged centrally by Transport Services, including commercial vehicles, to ensure compliance with insurance and Operators Licence requirements. All large commercial vehicles over 3500kgs have a safety inspection prior to service unit operation.

### **Provision of core driver/operator training**

Our driver / operator training is undertaken by our in-house training team. This training has been developed to fulfil our health and safety responsibilities, statutory duty and to provide staff with the skills they need to undertake their roles.

We are a Joint Approvals Unit for Periodic Training (JAUPT) accredited training centre this enables us to deliver Driver Certificate of Professional Competence training straight to our teams and in a way that ensures as little disruption to services as possible. Where services require additional support approved training providers are utilised to deliver this training also.

### **Disposal**

Prior to disposal of vehicles at the end of their useful lives with the Council, we will remove Council equipment and livery. Once de-commissioned, vehicles will be sold at auction using approved providers.

Proceeds from any sales of vehicles will be credited to the centrally held Capital Receipts fund. Vehicles which are deemed to be beyond any use and have reached the end of life will be disposed of through Authorised Treatment Facilities.

### **Fleet Asset Replacement and Management Process**

We must invest in such assets to enable the delivery of our core functions and responsibilities. For additional new vehicles or vehicle modifications/enhancements service units must provide an approved business case clearly demonstrating the necessary ongoing funding is in place or which other parts of their fleet profile are to be reduced to accommodate any increased funding costs.

The financial investment required to support such a large and diverse asset replacement programme must not be underestimated and poses a very real challenge, with only minimal capital allocations secured significant additional funding is necessary to keep services operational. With demands exceeding available financial resources the need for a robust replacement plan is essential to prioritise replacements based on necessity.

The asset register/fleet management system will identify assets coming to end of operating life and/or when an asset is coming to the end of its funding arrangement or when cost of replacement has risen. Transport Services will engage with service units to determine if there is an ongoing future need and if so, explore marketplace advances to inform replacement options including Ultra Low Emission Vehicles (ULEV).

Replacement factor considerations:

- Condition of vehicle
- Mileage of vehicle
- Age of vehicle
- Service unit's requirement needs
- Whole life costs incurred to date
- Projected future maintenance costs if retention a consideration
- Existing fuel type and carbon impact
- Alternative marketplace fuelling options available and viability
- Carbon footprint of repair versus new.

### **Replacement Financing Strategy and Operating Budget**

The Council has limited options to finance the procurement of vehicles and plant. These are limited to the following:-

- Funding from prudential borrowing. This has the benefit of spreading the financial impact of fleet acquisition over the useful life of the asset and ensures the financial sustainability of the fleet. This is because recurring central revenue budgets are established for borrowing repayments. The Prudential Code for Capital Finance stipulates that a council can undertake prudential borrowing: (from which future vehicle replacements are funded when vehicle lives expire).
- Leasing of assets through procurement process. May require multiple providers to match the existing fleet specification and limit the adapted or specialised vehicle options currently on fleet. Costs are fixed with the option of maintenance provided by third party – or partnership agreement for in house workshop maintenance. Non contractual works would be chargeable by the provider and end of lease conditions are evaluated with financial risk of recharge costs for damage or non-fair wear and tear repairs.
- Long term hire – very similar to leasing, however only set vehicle specification to hire in. Fixed monthly or annual costs through framework providers. Maintenance normally through external provider, however some opportunities to partner and use in-house workshop maintenance. Only agree rates and times would be supported by hire provider for maintenance and require authorisation prior to commencing repair.

The funding required to operate and maintain the approved fleet will be through an approved revenue budget allocation held by each service area with support from Finance and will take

account of the known requirements. Any additional/exceptional requirements will need to be funded from other sources and will be agreed with services prior to any purchases/works taking place. Increasing costs affecting many assets e.g. fuel prices will be dealt with through the Council's annual budget setting process.

### Capital / Revenue Pressure

Transport Scotland have provided significant funding for EV's to replace existing petrol/diesel equivalent and install EV charging infrastructure. The annual funding is variable and has not been guaranteed beyond 2022. These vehicles have been leased with no impact to departmental operational revenue budget or capital spend other than ongoing maintenance.

#### Transport Scotland Funding 2016 – 22

Annual Funding	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
EV Vehicles Lease or Purchase	£34,695	£27,597	£192,573	£167,225	£110,626	£0
EV charging Infrastructure	£0	£0	£0	£0	£60,000	£90,000

These vehicles will impact on the capital and revenue budgets when replacements are due at end of life or lease. Ongoing petrol/diesel replacements with zero carbon will cost more partly offset by significant operating savings.

Future budgets will need to take account of additional fleet requirements as service delivery pressure increases with additional housing and the inevitable increased demand for services.

### Decarbonising Our Vehicle Fleet 2022 – 2027

August 2019 saw the Council declare a Climate Emergency making a formal commitment to doing all it can to achieve the target of becoming carbon neutral by 2035.

The way in which Council vehicles are operated and renewed is seen as a vital part of our response to the climate emergency and the expectation is that the Council becomes a leader in the fight to reduce carbon emissions. The UK Government's "Transition to zero emission cars and vans 2035 delivery plan" presents us all with a challenge to drastically reduce our carbon emissions by 2030. Scottish Government expects all public bodies to phase out petrol/diesel cars and light vans by 2025. For our fleet management, that means taking a 6-step approach to sustainability:

- Collecting accurate data around vehicle use through the utilisation of telematics software
  - Managing increased demand
- Planned phasing out of all petrol/diesel car and van replacement under 3tonne GVW to (ULEVs) by 2025



- Continue investing in Ultra Low Emission Vehicles (ULEVs), review alternatives for vehicles above 3tonne and infrastructure required that's already proven in the marketplace, evaluate hydrogen as alternative for large diesel goods vehicles and plant.
- Expansion of EV infrastructure for ELC fleet and identify solution home to work EV vehicle charging.
- Identify developing technological options to decarbonise all vehicles above 3 tonne including large plant. To ensure a financially sustainable carbon neutral alternative to achieve the transition by 2035.

Our initial 5 year strategy sets out an exciting beginning of our pathway towards greening our fleet of vehicles to minimise the environmental and health impacts they cause, without compromising on the quality and efficient services we deliver daily to our residents.

Green vehicle technology is developing rapidly all the time and the purpose of this strategy is not to second guess what future technology will emerge within the marketplace. At the heart of this strategy is a bold aim to significantly reduce our current carbon emissions and transition as many of our vehicles to be a ULEV fleet over the forthcoming 5 years where these are marketplace available and proven effective, as well as promoting healthier forms of travel such as walking and cycling.

### **Marketplace overview**

Industry acknowledges that the ULEV marketplace is yet to mature particularly in terms of the large goods vehicle fleet with some types of vehicles not widely available. Whilst over the past year development of the larger type of vehicle has expanded onto the market, these new market entrants' longevity and fitness for purpose remains in part unproven, however rapid progress is now being made

As part of the Government's Transition to zero emission cars and vans, and following extensive consultation with car manufacturers and sellers, the Prime Minister has confirmed that the UK will end the sale of new petrol and diesel cars and vans by 2030, ten years earlier than planned. However, it will allow the sale of hybrid cars and vans that can drive a significant distance with zero tailpipe emissions until 2035. Government is also committed to launch a consultation on the phase out of new diesel Heavy Goods Vehicles (HGVs) to put the UK in the vanguard of zero emission freight with a potential focus on hydrogen. No date has been set yet.

### **Challenging our approach**

The Council's corporate vehicle fleet assets comprise of 320 vehicles excluding plant with currently only 13% of the overall fleet being ULEV.

Profile includes:

- 41 Cars of which 24 are EVs 58% of this group
- 68 small vans of which 15 are EVs 22% of this group
- 126 light goods vehicles none are zero emission
- 60 Heavy Goods Vehicles none are zero emission
- 25 Minibuses none are zero emission

- 113 Plant none are zero emission

Our vehicles are currently fuelled by Diesel or Petrol with an increasing number of cars and small vans being replaced with electric as standard. The vehicle fleet has been assessed as emitting 2311 tonnes of carbon on average over the last 2 years based on the (Scope 1) CO<sub>2</sub> emissions.

As an organisation we have already undertaken numerous initiatives to develop more sustainable forms of fleet management including; adoption of fully electric small vans, implementation of grant funded fleet vehicle electric charge points, adoption of bio diesel fuel stocks, driver behaviour monitoring and training, the broader use of telematics and route optimisation software, adoption of electric waste collection vehicle bin lifts, as well as reducing overall fleet numbers through identification of duplicate resources or via service redesign.

The introduction of 39 electric cars and vans into the fleet since 2011 has saved on average 7.2 tonnes per vehicle now contributing to annual savings of 280 tonnes

We have secured grant funding from Transport Scotland for FY2021-22 to expand the Fleet charging infrastructure to provide 1 socket/outlet for every 5 “in scope” vehicles.

This has required an increase in the number of sockets/outlets from 29 (20 for ELC Fleet Only, 9 for ELC Fleet & Workplace (Staff/Visitor) use) by 30 to 59.

This is separate to our Public estate of over 100 charging devices (~200 socket/outlets).

### **Estimated infrastructure costs**

Our considerable experience delivering Transport Scotland grant funded Fleet charging infrastructure gives us a good insight into the cost of installing further infrastructure.

A ratio of 1 socket/outlet for every 2 “in scope” vehicles is considered sufficient. This would require a further 21 sockets/outlets, bringing our total up to 80 sockets/outlets at a Capital cost in the region of £57k.

### **Pathway to Achieve a Zero Tailpipe Emissions Fleet**

Our pathway details a series of steps to be fully considered before procurement is pursued.

- a. Where possible, in the first instance the fleet will continue to be rationalised as transformation programmes develop, ensuring that vehicle utilisation is maximised whilst balancing a growing conurbation and the operational needs of service units.
- b. When a vehicle is due to be replaced, it will be replaced with an ultra-low emission vehicle (ULEV) as the vehicle of preference e.g. small van fleet. Essentially, and with consideration to existing Council infrastructure and current availability, these are likely to be full electric vehicles or a petrol hybrid configuration at the present time.
- c. Infrastructure to date has been grant funded and requires mainstream budget consideration in conjunction with vehicle and plant replacement. Insufficient

infrastructure or poorly located will impact on service delivery and optimum vehicle and plant utilisation.

## **Ultra-Low Emission Vehicle Procurement Programme**

Whilst ambitious, this strategy takes a measured approach in investing our limited funds in the rapidly evolving area of electric or other ultra-low emissions vehicle (ULEV) technology and recognises that the Council is not best placed to stay on the cutting edge of technology development.

Electric vehicle infrastructure requirements are scalable, and our relatively small geography mitigates some of the concerns about electric vehicle range for being a suitable ULEV technology pathway for the Council to pursue at this time.

To realise this 5 year strategy including the replacing of 44 small car and diesel vans with ULEV to achieve the Scottish Governments target date of 2025 and significantly bolstering the 39 vehicles already forming part of the ULEV fleet and requires infrastructure to be in place to prior delivery of any additional vehicles

Investment in enabling infrastructure is key and will necessitate funding to upgrade existing substations required at depots where the current incoming main capacity limitations of 100kw may be require to achieve 500kw for a large capacity network, a standard EV charger is rated at 7.2 kw and larger chargers at 40kw / 50kw.

Investigation have shown that axillary sites can generally accommodate between 2 – 3 chargers without the need for infrastructure upgrades although each proposed location will need to be surveyed for confirmation.

## **How Electric Vehicles Stack Up – Investing in our Future**

Electric vehicles are only one of several ULEV technologies within the transport marketplace but are one of the most advanced and readily available. Replacing existing petrol or diesel vehicles with electric vehicles (EVs) brings the environmental benefits of lowering carbon emissions and reducing local air pollution.

Small electric vehicles now achieve cost parity with conventional vehicles in the UK. Cost is no longer a barrier to purchase with councils achieving savings in vehicle running costs, with some research showing a typical electric vehicle saving its operator roughly £100 in fuel for every 1,000 miles driven, when compared to petrol or diesel.

Development continues throughout the motor industry with new market entrants emerging in increasing numbers now including the Large Goods Vehicle market.

## **Pilot Employee Home Charging Scheme**

To enable the future adoption of more electric vehicles across the Council fleet and provide solutions to current Council owned site charging limitations, a home charging scheme pilot could be considered. Employees who have off-road parking at their home and require a Council vehicle to fulfil their employment will be sought to volunteer for the pilot. The Council will fit the charge units and pay a reimbursement to the employee aligned to the electricity rate to charge the vehicle. If the employee leaves the authority, the Council will remove the unit.

The pilot if implemented and successful will be used to inform the development of the Council's policy and processes, with appropriate consideration of the legal, financial, environmental, and safety related factors such as on charge point payment mechanisms, paving the way for a wider rollout.

Home charging if proved successful could enable the Council to increase its electric vehicle fleet by up to a further 116 home-based vehicles.

## **Hydrotreated Vegetable Oil (alternative fuel for diesel vehicles and plant)**

The future remains uncertain, in that technology is developing all the time and the purpose of the fleet strategy is not to second guess the future technology; switching to renewable, paraffinic fuels offers a potential solution. It will also support a circular economy, as the HVO fuel is produced from sustainable feedstock, including waste cooking oil.

Our aim is for our vehicles to be ultra-low emission vehicles (ULEVs) by 2030. Ideally this will be achieved by using electric or hydrogen or other emerging technologies which have zero tailpipe emissions. However, vehicle technology and local supporting infrastructure does not currently widely support this vision, particularly for heavy goods vehicles.

HVO requires no additional maintenance or changes to operational procedure as it is used as a direct replacement for conventional diesel. A trial was undertaken in July 2022 on 4 heavy goods vehicles with no operational or performance impacts and suitable as a direct replacement for diesel with no vehicle modification costs. Other authority test data indicates no real world change to vehicle emissions from the tailpipe with the carbon saving of up to 90% coming from the production process of the fuel. The fuel costs more per litre than mineral diesel so there is no whole life cost saving however, it represents a lower cost option for reducing net CO2 greenhouse emissions.

Carbon (CO2) emissions from the combined Councils' fleet of vehicles represents 1,779 tonnes annually. HVO is a paraffinic fuel that is chemically similar to conventional fossil fuel diesel and complies with European Standard EN1590 it can reduce greenhouse emissions by up to 90% depending on the blend.

The Council does not intend to switch to HVO at present as the cost of change is not viable under current market conditions, however as the market grows for HVO the production cost most likely will become comparable to diesel.

The Council uses approximately 505000lt of Diesel per annum from bunkered fuel supplies - the cost gap to transition to HVO is currently £126,250 per annum.

As of now, there is no definitive list of Scope 3 emissions (e.g. supply chain production emissions, construction)\* that must be included in the Public Bodies Climate Change Duty Annual Reporting. However, moving forward Public Bodies should identify hotspots and prioritise actions reducing Scope 3 emissions through the procurement process. One such hotspot and prioritisation could be the fuel we use for the Council fleet. These requirements are very likely to become standard as tools for measuring Scope 3 emissions are improving. \*but as a bare minimum waste, water supply, water treatment and business travel should be included.

A procurement process can be specified as required to be an accredited fuel under the Scotland Excel framework provision when the transition may be required.

In the event of any disruption to supply of HVO the vehicles could revert to using fossil diesel so there is no risk to operational services.

### **Learning from others**

Throughout our journey we will proactively work with local authorities, public and external organisations to continue to help shape our future direction, learning with and from others responding to this challenging global issue.

### **Working with Government Agencies**

Continue to work with Transport Scotland to secure ongoing EV and infrastructure funding.

Seek assistance through the Energy Saving Trust, assisting with evaluation of alternative ultralow emission vehicles (ULEV), management of grant funding and the provision of carbon fleet reports to further inform the direction of the ELC fleet strategy.

### **Key Targets and Measures Regulatory Compliance:**

- Operator Licence Compliance
- Ensure fleet strategy key milestones are achieved by set target dates
- Achieve DVSA Earned Recognition Accredited Operator by 2025

### **Environmental Measures:**

- Report on number and percentage of alternative fuelled vehicles procured
- Report on emission impact by vehicle
- Overall reported reduction in reliance of fossil fuels.

### **Infrastructure Reviews:**

- Undertake transformation depot accommodation review, fuelling infrastructure improvements to support pathway to sustainable fleet
- Deliver fleet replacement plan incorporating the sustainability, ethical & environment considerations decision impact assessment
- Develop Telematics management and operating agreement to maximise efficiency of use and environmental benefits
- Develop Driver User Policy in conjunction with Human Resources

- Develop Drugs & Alcohol Policy in conjunction with Human Resources

**Staff Development:**

- Reintroduction of workshop apprentices
- Upskilling workforce to support emerging fleet technology advances
- Council Driver Certificate of Professional Competence compliance.

This strategy will be reviewed annually by Officers to ensure it remains fit for purpose and update Key Milestones bi-annually.

# **Supporting Good Decisions**

Promoting Equality & Human Rights, Reducing Inequality and Protecting the Environment

## **Integrated Impact Assessment Form**

**Integrated Impact Assessment Form**  
Promoting Equality, Human Rights and Sustainability

<b>Title of Policy/ Proposal</b>	Sustainable Fleet Management Strategy
<b>Timescale for Implementation</b>	5 year program
<b>IIA Completion Date</b>	02/12/2022
<b>Completed by</b>	Bruce Moffat
<b>Lead officer</b>	Bruce Moffat

## Section 1: Screening

### 1.1 Briefly describe the policy/proposal/activity you are assessing.

Set out a clear understanding of the purpose of the policy/ proposal/ activity being developed or reviewed (e.g. objectives, aims) including the context within which it will operate.

The Sustainable Fleet Management Policy sets out a five to ten year plan on the decarbonisation for the council fleet. This requires the adoption of alternative fuelled vehicles and plant to meet the objectives set by UK and Scottish Government. Infrastructure development forms a key part of this and the requirement on manufacturers to produce vehicle/plant solutions to allow services to adapt and provide their front line services.

### 1.2 What will change as a result of this policy?

The policy presents a recommended route to full adoption of alternative fuels. Resulting in a “zero tailpipe emission” position by 2035. The environmental impact is a positive change, eliminating the pollutant tailpipe emissions produced by current fossil fuelled engine solutions at present. The policy feeds into the councils overarching climate change strategy.

### 1.3 Deciding if a full Impact Assessment is needed.

Please answer the following questions:

	Yes	No
1. The policy/ proposal has consequences for or affects people e.g. how they can access a service?		*
2. The policy/proposal has potential to make a significant impact on equality?		*



3. The policy/proposal is likely to have a significant environmental impact?	*	
4. The policy/ proposal has implications for the storage/ collection of personal data?		*

- If you have answered yes to questions 1 and 2 above, please proceed to complete the Integrated Impact Assessment. If you have answered No then an IIA does not need to be completed. Please keep a copy of the screening paperwork.
- If you have identified that your project will have a significant environmental impact, please proceed to complete the Integrated Impact Assessment. You will also need to consider whether you need to complete a Strategic Environmental Assessment. Please contact
- If you have answered yes to question 4, please seek further advice from the Data Protection Officer.

**Section 2: Integrated Impact Assessment**

**2.1 Have those who are affected by the policy had the opportunity to comment on new proposals?**

There has not been any public consultation as the policy improves air quality and forms part of the national climate objectives set out by government.

**2.2 What information/data have you used to inform the development of the policy to date?**

Market research, manufacturer technical information and product development, independent assessment through Energy Saving Trust, Officer technical expertise. Legislation and statutory drivers.

**2.3 What does the evidence/ research suggest about the policy’s actual or likely impact on equality groups and those vulnerable/ or experiencing socio-economic disadvantage?**

Evidence	Comment
Which groups are in in particular need of this service?	The policy change only brings a positive impact through reduction or elimination of tailpipe emissions
What level of service uptake/ access is there from protected and vulnerable groups?	
Can you identify positive outcomes for service users	
What is the service user experience of those from protected or vulnerable groups?	
What opportunity have those from protected groups had to co-produce or comment on the service/ plans?	

#### 2.4 How does the policy meet the different needs of groups in the community?

<p><b>Equality Groups</b></p> <ul style="list-style-type: none"> <li>• Older people, people in the middle years</li> <li>• Children and young people children</li> <li>• Women, men and transgender people (includes issues relating to pregnancy and maternity)</li> <li>• Disabled people (includes physical disability, learning disability, sensory impairment, long-term medical conditions, mental health problems)</li> <li>• Minority ethnic people (includes Gypsy/Travellers, migrant workers)</li> <li>• Refugees and asylum seekers</li> </ul>	Improving air quality for all groups
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<ul style="list-style-type: none"> <li>• People with different religions or beliefs (includes people with no religion or belief)</li> <li>• Lesbian, gay, bisexual and heterosexual people</li> <li>• People who are unmarried, married or in a civil partnership</li> </ul>	
<p><b>Those vulnerable to falling into poverty</b></p> <ul style="list-style-type: none"> <li>• Unemployed</li> <li>• People on benefits</li> <li>• Lone Parents</li> <li>• Care experienced children and young people</li> <li>• Carers (including young carers)</li> <li>• Homeless people</li> <li>• Those involved in the community justice system</li> <li>• People with low literacy/numeracy</li> <li>• Families with 3 or more children</li> <li>• Those with a child/ children under 1</li> </ul>	<p>No negative impact – improvement in air quality</p>
<p><b>Geographical communities</b></p> <ul style="list-style-type: none"> <li>• Rural/ semi-rural communities</li> <li>• Urban Communities</li> <li>• Coastal communities</li> <li>• Those living in the most deprived communities (bottom 20% SIMD areas)</li> </ul>	<p>Improvement in air quality</p>
<p><b>Communication Needs:</b></p> <ul style="list-style-type: none"> <li>• Gaelic Language Speakers</li> <li>• BSL users</li> <li>• English as a Second Language</li> <li>• Other e.g. Deaf Blind, Plain English, Large Print</li> </ul>	<p>No impact No impact No impact No impact</p>

**2.5 Are there any other factors which will affect the way this policy impacts on the community or staff groups?**

No

**2.6 Is any part of this policy/ service to be carried out wholly or partly by contractors?**

If yes, how have you included equality and human rights considerations into the contract?

No

**2.7 Have you considered how you will communicate information about this policy or policy change to those affected e.g. to those with hearing loss, speech impairment or English as a second language?**

Alternative communication available on request

**2.8 Please consider how your policy will impact on each of the following?**

**Equality and Human rights**

- Promotes / advances equality of opportunity e.g. improves access to and quality of services
- Promotes good relations within and between people with protected characteristics and tackles harassment
- Promotes participation, is inclusive and gives people control over decisions which affect them
- Preserves dignity and self-respect of individuals (does not lead to degrading treatment or stigma)
- Builds support networks, resilience, community capacity

Comments: no impact

**Reduces Poverty**

- Maximises income and/or reduces income inequality
- Helps young people into positive destinations
- Aids those returning to and those progressing within the labour market
- Improves employability skills, including literacy and numeracy
- Reduces the costs of taking part in activities and opportunities
- Reduces the cost of living

Comments : no impact

<p><b>Protecting the Environment and Improving Sustainability:</b></p> <ul style="list-style-type: none"> <li>• Reduces the need to travel or increases access to sustainable forms of transport</li> <li>• Minimises waste / encourages resource efficiency / contributes to the circular economy</li> <li>• Ensures goods / services are from ethical, responsible and sustainable sources</li> <li>• Improves energy efficiency / uses low carbon energy sources</li> <li>• Protects and/or enhances natural environments / habitats / biodiversity</li> <li>• Promotes the transition to a low carbon economy</li> <li>• Prepares and/or adapts communities for climate change impacts</li> </ul>
<p>Comments: improves transport impact through green technology, transitions energy supply to sustainable platforms of delivery – solar, wind turbine, green hydrogen etc.</p>

**Section 3.Action Plan**

What, if any changes will be made to the proposal/ policy as a result of the assessment?

Changes to be made	Expected outcome of the change	Resources Required	Timeline	Responsible person

**For consideration of the Head of Service**

Can you identify any cumulative impacts on equality groups or vulnerable people arising from this policy, when considered alongside other changes across other services?

**Sign off by Head of Service**

Name

Date

**REPORT TO:** Cabinet

**MEETING DATE:** 17 January 2023

**BY:** Executive Director for Place

**SUBJECT:** East Lothian Water Safety Policy

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**8**

**1 PURPOSE**

- 1.1 To advise Cabinet of East Lothian Water Safety Group and to seek Cabinet approval for East Lothian Water Safety Policy.

**2 RECOMMENDATIONS**

- 2.1 Cabinet notes the content of the Report and approves the East Lothian Water Safety Policy.

**3 BACKGROUND**

- 3.1 East Lothian Water Safety Group was planned through discussion in late 2020 and initiated in January 2021 following discussions through the council's multi-agency group for coast and countryside with key partners particularly Police Scotland and Water Safety Scotland.
- 3.2 The East Lothian Water Safety Group was formed through key stakeholders to develop a partnership and collaborative approach to water safety across East Lothian. These included but are not limited to: ELC, Police Scotland, Scottish Fire & Rescue, Her Majesty Coast Guard, Royal National Lifeboat Institute, Water Safety Scotland, Scottish Water, EDF Energy Torness, Dunbar Surf Life Saving Club, Coast 2 Coast Surf School, Ocean Vertical, Enjoy, Wave Project, Scottish Land and Estates and Royal Society for the Prevention of Accidents.
- 3.3 The focus for the partnership group through 2021 was a specific location in East Lothian which was experiencing a significant increase in water based activity – Belhaven Bay, Dunbar. The RLNI undertook and produced a risk assessment for Belhaven Bay which the Water Safety Group considered, discussed and focussed initial efforts in this area. This

allowed the Water Safety Group to develop a wider Water Safety Policy for East Lothian for both coastal and in land water courses.

- 3.4 Scottish Government through its Ministers have been supporting Water Safety Scotland and encouraging Local Authorities to develop water safety partnerships and policies .This has been encouraged through direct communication to Local Authority Chief Executives.
- 3.5 Following the initial focus for the Water Safety Group here in East Lothian through 2021 on Belhaven Bay the intent was always to look county wide and to the development of a Water Safety Policy for East Lothian. This work developed from the Autumn of 2021 and through 2022. The Water Safety Policy for East Lothian developed by the collaborative and partnership approach of the East Lothian Water Safety Group is presented in Appendix 1 of this Report.
- 3.6 It is really important to note that the Water Safety Policy for East Lothian intent is focussed on improving prevention, enhancing water safety awareness and providing water safety education when and where appropriate. It is not a policy on water safety incident response and actions.

#### **4 POLICY IMPLICATIONS**

- 4.1 This Report supports Community Safety in East Lothian and displays the Council's values highlighted in the Council Plan of Enabling, Leading and Caring. Whilst ensuring the Council's Principles & Behaviours of the Council Plan are evident through – Working Together, Being customer focused, person-centred and prioritising prevention early intervention and equality, making things happen and being outcome focussed.

#### **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 – There are no direct financial implications contained within this report.
- 6.2 Personnel - There are no personnel implications contained within this report.
- 6.3 Other – None



## 7 BACKGROUND PAPERS

7.1 None.

Appendix 1 - East Lothian Water Safety Policy

<b>AUTHOR'S NAME</b>	Eamon John
<b>DESIGNATION</b>	Service Manager - Sport, Countryside & Leisure
<b>CONTACT INFO</b>	<a href="mailto:ejohn@eastlothian.gov.uk">ejohn@eastlothian.gov.uk</a>
<b>DATE</b>	16/12/2022



# East Lothian Water Safety Policy



*An even more prosperous, safe and sustainable East Lothian, with a dynamic and thriving economy, that enables our people and communities to flourish*

*East Lothian Council Plan 2022-2027*

## **East Lothian Water Safety Group**

East Lothian Water Safety Group (ELWSG) was formed in December 2020 following on from the successful Belhaven Water Safety Group (BWSG).

The lessons learnt from BWSG and the partnerships that were formed have continued into the new group. ELWSG is committed to enhancing water safety in East Lothian through a collective forum.

### **Members**

- East Lothian Council
  - Countryside Team
  - Education
  - Outdoor Learning
- Enjoyleisure
- Police Scotland
- Royal National Lifeboat Institute
- Her Majesty's Coast Guard
- Royal Society for the Prevention of Accidents
- Water Safety Scotland
- Wave Project
- Dunbar Surf Life Saving Club
- Coast to Coast Surf School
- Ocean Vertical
- Sky Monster
- Venturing Out
- EDF- Torness
- Scottish Land and Estates
- Scottish Water

## Foreword

East Lothian has been delighted to be able to 'play its part' along with Water Safety Scotland to build and strengthen a local partnership for Water Safety within the County, from the initial focus of Belhaven Water Safety Group to the now established East Lothian Water Safety Group.

The Partnership Group is focussed on water safety awareness, education and prevention, and supporting Scotland's National Drowning Prevention Strategy.

We hope this Water Safety Policy will provide a framework for our ongoing commitment to water safety within East Lothian through a partnership and collaborative approach.

We have all witnessed the significant increase in footfall to our coastline and waters, along with the increase in open water activity, which is welcomed, but we want everyone to be aware of the dangers and stay safe in the water.

As a coastal area the need for a Water Safety Policy becomes even more important and aligns with the desire of Water Safety Scotland for all Local Authorities and partners to have a Water Safety Policy which is endorsed and supported by the Minister for Communities at Scottish Government.

Finally I would like to thank all of the organisations and their respective representatives who have contributed to the development of East Lothian's Water Safety Policy and thank them in advance for their ongoing commitment and support to water safety within East Lothian through the East Lothian Water Safety Group.

Thank you

Propose signature and photo of Council Leader and Chief Executive if approved .

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- Appendix 1- Water Safety- East Lothian Users and Activities
- Appendix 2- Open Water Rescue Provision

## References

## 1. Introduction

East Lothian is Scotland's most intense coast; 3 million visits per year is the norm and virtually all of the coast has international, European and national designation for its natural heritage features.

In addition to the coastal waters which includes harbours the county also has inland waters such as rivers, ponds and reservoirs which are mostly in private ownership.

In 2020 and 2021 East Lothian's coast observed a huge increase in visits due to the Covid travel restrictions that were in place thereby placing an increased likelihood of water related incidents. Due to the proximity of Edinburgh and the central belt it is anticipated that those who have taken up water sports will now continue to visit.

According to Maritime and Coastguard Agency (2019):

*It is accepted that those who undertake risky activities do so at their own risk. However, at present, the legal responsibility for safety at the foreshore is unclear with many competing duties. It also appears that there may be a lacuna in legal responsibility which leaves those with land or Councils adjacent to the foreshore acting out of largely moral and social responsibility rather than legal obligation.*  
*Legal responsibility for Beach Safety 2019*

East Lothian Council's (ELC) vision is for a prosperous, safe and sustainable East Lothian, with a dynamic and thriving economy that enables our people and communities to flourish. The following document sets out to understand where we are with water safety and how we can progress in partnership for the benefit of the environment, its visitors and locals.

There are many key factors involved in the development of this policy:

Partnership working:	Building on existing good practice and collaborative work undertaken at Belhaven Bay and continued engagement with respective organisations
Data Gathering and sharing:	Knowing what activities are taking place and where and to what level
Awareness raising:	Linking with respective organisations to have an increased reach to the public in promoting water safety
Skills and educational:	Delivering programmes to improve knowledge and awareness of water safety through schools and groups
Incident response:	Reviewing our sites and looking at ways to deliver improved emergency response access

This policy confirms that the Council and partners through the Water Safety Group will provide appropriate arrangements for the management of areas of open water aligned to areas of operation and management. These arrangements should ensure that, 'so far as reasonably practicable', all open water areas and other water based facilities for which the Council and partners are responsible for, are maintained in a safe condition for the benefit of the users and the safety of staff.

## 2. Context

### 2.1 Council and partner responsibilities in relation to water safety

There are many different categories of duty holders that may owe duties on the beach. These include:

- (a) Landowners and occupiers;
- (b) Employers and those at work;
- (c) Statutory duty holders, including emergency services, local authorities and similar groups;
- (d) Central Government; and
- (e) Others, such as charities like the RNLI.

However, with so many duty holders and the overlapping responsibilities it has been identified by the Maritime and Coastguard Agency that there is no one legal person or organisation responsible for water safety and therefore a collaborative approach to water safety is recommended and welcomed by East Lothian Council and as such the East Lothian Water Safety Group is the vehicle for water safety within and across East Lothian.

### 2.2 Legislation and Guidance

There is a variety of legislation and guidance that might apply but this depends on the circumstances. These include:

- (a) Health and Safety at Work etc Act 1974 ('HSWA');
- (b) Occupiers' Liability Acts;
- (c) Common law duty of care in negligence;
- (d) Statutory duties; and
- (e) Bye-laws.
- (f) Public Health Act 1936
- (g) The Adventure Activities Licencing Regulations 2004

Specific legislation and guidance includes, but not limited to:

- Occupiers Liability Act 1960 - As an owner of land, the Council has a duty of care under the Act to ensure that reasonable steps are taken to reduce the level of risk, and advises that liability is reduced when the danger is brought to the attention of visitors. It specifies that a risk assessment procedure (RAP) should be used.
- Land Reform (Scotland) Act 2003. This Act and accompanying guidance places the responsibility for personal safety largely on the individual. However, this legislation only covers up to the low tide water mark.
- The Nature Conservation (Scotland) Act 2004 places a duty on the Council to further the conservation of biodiversity which implies that water environments should be managed for wildlife as well as for public benefit.



- The Civic Government (Scotland) Act 1967 allows the Council to provide signage and rescue equipment at locations it considers appropriate. National signage standards ensure that signs are easily understood by most people.
- National guidance from the Royal Society for the Prevention of Accidents (RoSPA) provides useful advice for local authorities in relation to managing water safety and explaining the level of risk based on numbers of water related incidents recorded.
- Bye-laws: ELC have a number sites which are either owned or managed that have Bye-Laws in place.

### 2.3 Use of Open Water for Activities

East Lothian has a significant capacity in relation to beaches and water features across the county including harbours, rivers, reservoirs and ponds.

The variety of water activities and participation has increased over the years with stakeholders observing a huge increase in 2020 and 2021 of people taking to the water. Appendix 1 lists the variety of activities that are being undertaken.

### 2.4 Environmental Management

East Lothian Council Countryside Ranger Service has management plans for all the sites that they manage and undertakes regular patrols of the areas. They also receive information from members of the public and organisations who have an interest in the environment. Water quality testing is carried out when required.



Where wildlife may be put at risk as a result of pollution (oil/blue green algae/etc) or pollution found to be present in or entering open water, ELC Staff and/ or partner organisations report such occurrences immediately to Principle Countryside Officer who in turn, notifies Environmental Health and Scottish Environment Protection Agency (SEPA) for the appropriate action to be taken.

In such cases, ELC and partners ensure that appropriate warning notices are displayed around the affected area and that water based recreation is prohibited or restricted until the water condition improves.

### 2.5 Edge protection and future design

Virtually all of the coast has international, European and national designation for its natural heritage features.

It is the natural habitats of the area that attracts people to visit and it is therefore these habitats and features that must continue to be protected. Any future plans and designs must protect the wildlife and not erode the fragile environment that makes East Lothian a special place.

When facilities such as play areas, external recreational or sporting facilities, walkways or planting areas etc which are adjacent or near to water, are to be developed, careful consideration of both design and maintenance will be made in accordance with the Construction, Design and Management Regulations. The siting and design of such facilities will be jointly planned and prepared in consultation with Landscape and Countryside Principle Countryside Officer and site Countryside Ranger to ensure the safety of all users of the facilities, staff employed to maintain the completed facility and that the site protected.

Factors to be considered in any design include, but are not limited to:

- Designations placed on the site
- Edge gradients
- Planting
- Steep gradients
- RoSPA open water design guide/ management

## 2.6 Water safety signage (WSS)

East Lothian Water Safety Group recognises that the provision of appropriate and adequate information on water safety, both to staff and to members of the public, is crucial to the success of the Water Safety Policy and to accident prevention. Information is made available in a number of ways.

In 2021 water safety signage was designed and installed in conjunction with the Belhaven Water Safety Group (BWSG) for Belhaven Bay at Shore Road and at Thorntonloch. Later, during the summer of 2021, the lessons learnt from BWSG were expanded and visitor management signs, which included water safety, were designed and installed at the following coastal sites:

- Fisherrow
- Longniddry Bents 1, 2 & 3
- Gullane Bents
- Yellowcraig
- North Berwick east and west beaches
- Belhaven Bay
  - John Muir Country Park
  - Tynninghame
  - Shore Road
- Whitesands
- Barns Ness
- Thorntonloch

The signage is positioned at key access points and next to toilets so as to gain as many viewers as possible.

In 2022 posters were developed to further highlight water safety and to prevent incidents.

When ice develops on open water at its sites Council Landscape and Countryside and partners will ensure that appropriate and adequate warning signs are displayed at appropriate points and near to the water's edge. The location of such signs will be to ensure that they give a clear warning of danger to visitors to the site.

When ice forms on ponds it is policy not to break ice as it forms.

Signage is a mitigation feature and therefore should continue to be considered in risk assessments.



## 2.7 Management of public rescue

equipment (PRE)

The Royal Society on the Prevention of Accidents (RoSPA) guidance on the provision of life buoys:

*You should only decide to install public rescue equipment after you have conducted a risk assessment. Rescue equipment should play only a minor role in a water safety strategy, with greater emphasis on prevention.*

<https://www.rosipa.com/faqs/detail?id=189> accessed 11/4/2022

It is recognised that when considering new items these should be carried out through the risk assessment process to determine the need, likelihood of them being of used and reliability of them.

At sites overseen by the Council and partners all signs and PRE are monitored and are to be maintained.

## 2.8 Reporting Accidents and Incidents

Where a member of staff is involved in an incident or sustains injury as a result of an accident, the reporting of the accident/incident must be in accordance with ELC written procedures.

Where a member of the public is involved in an incident or sustains injury through an accident and the accident/incident is witnessed either by a member of staff or ELC service provider, the accident/incident must be recorded.

Members of the public will be encouraged to report accidents/incidents to the Countryside Ranger Service via an online service.

## 2.9 Water Safety Scotland: Water Safety Education

Water Safety Scotland (WSS) is committed to reducing drowning and by working collaboratively they aim to reduce all accidental drowning fatalities by 50 percent by 2026. Recognising the pivotal role that education plays, Water Safety Scotland and Education

Scotland announced in 2022 the creation of resources in order to support practitioners to further develop children and young people's understanding and awareness of the dangers of water. They have also created a National presentation that is designed to be used outside



the classroom, by partners and in communities to encourage safer behaviours in and around water.

As part of the Drowning Prevention Strategy, WSS aims to drive a generational change in Water Safety education with a key focus on promoting the WSS Code. The use of Scotland's waterways can be enjoyable and positive when coupled with appropriate risk awareness and valuable education opportunities: to help with this they are releasing a new education

resource which will provide age-and-stage-appropriate learning opportunities for children aged 3 – 18. The progression pathway is comprised of lessons and a suite of materials including extension activities that will encourage critical thinking regarding the dangers of water, risk and lifesaving knowledge. The three step Water Safety Code is woven throughout the Progression Pathway that contains inclusive, accessible lessons and activities for children and young people. The first release of these cost-free resources, initially for the Third/Fourth Level, will be made available on the 25th April 2022 on the National Improvement Hub and also available the WSS Website.

These resources fall within the Health and Wellbeing Curriculum (which is a responsibility of all practitioners) and helps young people foster better understanding in mental, emotional, social and physical wellbeing. The progression pathway and accompanying guidance and resources will sit alongside additional Water Safety related content on the National Improvement Hub, including: E-Sagoil Water Safety Assembly featuring Olympic Swimmer Duncan Scott. Extra-Curricular resource, such as resource for CLD practitioners and outdoor education will also be available. Additionally, a Water Safety Education National Presentation will be available to download for free on the Water Safety Scotland website. WSS hope that this will support partners, communities and families to talk to young people about water safety, and will encourage children and young people to think critically about their behaviour in and around water.



### **3. Council and Partner Policies for Water Safety**

#### **3.1 Risk Assessments and Site inspections**

Risk assessments are in place where appropriate and are reviewed on an annual basis and updated as required.

Where a risk assessment has previously identified areas known to be attractive for water sports, additional signs, normally positioned at main entrances to the site, will be positioned at regular intervals around the water's edge as determined by the risk assessment.

It is recognised that a partnership approach is required to attain high quality management of water features throughout East Lothian therefore ELC welcomes the input from partner organisations in carrying out site risk assessments.

#### **3.2 Site Water Safety/ Emergency Plans**

It is unfortunate but acknowledged that accidents and incidents occur in the outdoors and that assistance is required, on occasion, by the emergency services. Due to the natural environment not all areas are easily accessible by heavy vehicles or by any vehicles in some locations.

Working in partnership with HM Coastguard, Royal National Lifeboat Association (RNLI), Scottish Fire and Rescue Scotland (SFRS), Police Scotland (PS), and the Scottish Ambulance Service (SAS) the Council and partners will review and produce Incident Plans for the various sites when and where appropriate.

Any plans could include, but would not be limited to, the following aspects:

- Maps of all areas of open water at sites managed by ELC
- A plan of the site including emergency access routes
- Potential hazards and risk factors
- Managing visitors to the site - water safety information - controlling access inc. tidal information
- Special conditions and supervision requirements relating to the use of the water for activity groups
- Details, maintenance and location of all emergency equipment
- Staffing arrangements
- Systems of work for all staff and volunteers
- Training requirements for all staff and volunteers
- Actions in the event of an incident
  - Helicopter landing areas
  - Emergency access routes
  - Seaward access point

### 3.3 Sustainable Drainage (Suds and the National Planning Policy)

The National Planning Policy framework sets out the expectation for new developments that they should be sustainable and should avoid flood risks to people and property, and manage any residual flood risks.

Many sites are currently in use in East Lothian or are to be used to support the above. The flood risk within such sites needs to be managed effectively and consideration must be given to the current and ongoing risks when accommodating flood water on site. The factors will include location and the length of time the water will be present, this is critical to water safety for all site users, therefore as no site can be considered generic, individual assessments of all sites involved in flood elevation schemes will be required by those who own and manage them. All relevant parties should be involved in this process to provide a suitable outcome for all with the project

In addition, RoSPA strongly encourages developers and designers to separate children's play equipment from water features, including SUDS schemes. Even schemes which are occasionally or temporarily submerged pose an unnecessary risk to children from drowning, increased risk of slips on and around equipment and from water borne contamination directly and indirectly.

RoSPA recommends that play areas be at least 30 metres from water features, including SUDS schemes. Young children, who have escaped supervision, can run at one metre per second and can quickly reach the water's edge. Mitigation needs to be provided if separation cannot be achieved.

Further information from RoSPA can be found here:

<https://www.rospa.com/leisure-water-safety/water/advice/sustainable-drainage-systems>



### 3.4 Working in, on or near Water

In circumstances where employees or volunteers are required to work on or supporting employees carrying out such duties or activities on open water or rivers, buoyancy aids manufactured in accordance with EN393:1994 must be provided.

In accordance with the above a minimum of two staff must be involved when the use of water craft is required. A suitable and sufficient risk assessment must be undertaken before any such work or other activities are undertaken.

### 3.5 Public rescue equipment (PRE)

Following up on a risk assessment carried out by the RNLI a lifebelt is located near the Beil Bridge in Dunbar as they are better used from height, (they can only be dropped or thrown a short distance). This lifebelt is monitored by the nearby Surf Hub and Countryside Staff.

PRE is a mitigation feature and therefore should continue to be considered in risk assessments along with the likelihood of vandalism, monitoring and maintenance of them.

See Appendix 2 Open Water Rescue Provision - Guidance on the provision of life buoys

East Lothian Council and partners will continue to support and emphasise preventative messages.

### 3.6 Public awareness

#### 3.6.1 Educational initiatives through schools and partners

East Lothian Council undertakes a range of water safety related activity which includes its Primary School Learn to Swim Programme at Primary 5. All Primary 5's are assessed in their swimming competency and further lessons are provided for those who require it on a targeted and needs basis. Identified Non-Swimmers are also able to access the council's Leisure partner enjoyleisure who themselves provide a wide range of swimming lessons across the County.

**enjoyleisure** support East Lothian's primary school swimming programme by offering 12 weeks of free swimming lessons to children who do not meet the East Lothian standard (swimming 15m competently) after their block of school lessons. Children who do meet this standard are given a pass for 8 free swims to encourage them to continue to swim and build water confidence.

**enjoyleisure** work in partnership with Scottish Swimming to deliver the National Learn to Swim framework. Lessons are available from age 4 months onwards, with children and adults able to access weekly swimming lessons. The National Framework has an emphasis on water safety, to ensure that children are not only competent swimmers but have the necessary skills to keep themselves safe in the water.

**enjoyleisure** offers 'free swims' as part of the Learn to Swim membership for children and adults, to encourage frequent swimming to build confidence and develop water safety skills.

**enjoyleisure** actively participate in the annual Drowning Prevention Week, with all swimming lessons dedicated to water safety activities. The aim is to educate children and adults in keeping themselves safe in and around open water. We are committed to working with schools and the RLNI to extend this offer to target schools and provide sessions to educate children not only in water safety, but basic first aid and spotting the dangers around open water.

**enjoyleisure** are committed to expanding their Learn to Swim programme to allow more people the opportunity to learn to swim. We aim to extend our range of water based activities by offering rookie lifeguard classes and swim fit classes.



The Council's Outdoor Learning Service provide a range of education and learning opportunities in water based activities under the guidance of experienced and suitably qualified staff.

The East Lothian Water Safety Group will continue to look to enhance wider education and training opportunities around water safety taking a collegiate approach.

### 3.6.2 Communications

It is recognised that water safety is a partnership approach and that the partners provide a range of expertise. ELC will continue to share and link in with national and local campaigns and share content that will raise the profile of water safety and assist in the flow of information related to preventing incidents and improving safety.



3.6.3

### Private Operators and Public Safety

The Adventure Activities Licensing Authority (AALA) came into existence in April 1996 and ensures that activity providers follow good safety management practices. The licensing aims to allow young people to experience exciting and stimulating activities outdoors without being exposed to avoidable risks of death or disabling injury.

Aspects that providers must provide include:

- Management of Health and Safety
- Procedures for assessing & controlling risk (risk assessments and/or operating procedures)
- Recruitment, selection & deployment of competent instructors
- Equipment and maintenance of equipment
- Reviewing & monitoring safety arrangements
- Emergency procedures, incidents & first aid

However, the AALA does not cover adults or families where a parent/s is taking part in the activity.

East Lothian Water Safety Group recognises the growth in the number of water based groups and private operators on the coast and are seeking to investigate ways to ensure suitable qualified operators are recognised as ' Safe Operators – Good to Go ' .

#### 3.6.4 Training schemes

ELC will support organisations who wish to utilise the county for training purposes. This will include providing advice on area suitability based on wildlife sensitive areas and links to water safety organisations with an interest in the area.



#### 3.6.5 Beach Wardens

Beach Wardens (BW) are on sites across the country where it is deemed that the area would benefit from extra qualified staff on site. BW's can be paid or undertake the roles on a voluntary basis.

Pre-requisites include:

- Being a full member of Surf Life Saving Great Britain (SLSGB)
- Current and Valid SLSGB Surf Lifeguard/ NVBLG or Surf Lifesaver Award.
- Completed a minimum of 20 hours of beach safety/patrol activity in 2019.
- Competent in the operation of an LOP and EAP

- A statement from a Club Referee, who must be a qualified Lifeguard or a TA for the Lifeguard Award, to confirm that the candidate is suitable for the roll.

ELC will continue to monitor visitor numbers and water safety across the County; and, assess and liaise with partner organisations on areas of high activity.

### 3.7 Drowning and Incident Reporting

In line with national guidance, any accidental fatality will go through Water Safety Scotland's voluntary Drowning and Incident (DIR) process where it is appropriate to do so. The DIR aims to ensure a comprehensive review of each accidental water-related fatality in order to gather relevant data intelligence that may help to prevent future incidents.

### 3.8 Design and management of public open spaces

Some of the designations placed on the areas that ELCCRS manage include:

- Special Protected Area (SPA's) are selected to protect one or more rare, threatened or vulnerable bird species listed in Annex I of the Birds Directive, or certain regularly occurring migratory species
- Site of Special Scientific Interest (SSSI) -are those areas of land and water that are considered the best that represent natural heritage and are designated under the Nature Conservation (Scotland) Act 2004.
- Ramsar site are wetlands of international importance designated under the Ramsar Convention on wetlands: an intergovernmental treaty that aims to conserve wetlands through local and national action and international cooperation.

All of the above plus other legislation relating to the protection and management of habitats and species must be considered in conjunction with the Countryside Team when designing areas and managing visitors to ensure that, as far as possible, wildlife is protected and visitors have a safe and enjoyable visit.

### 3.9 Policy Review

New ways of working and innovation is a continuing process. As such it is recommended that this policy is reviewed on an annual basis and updated when required to reflect the most up to date actions being carried out.



## Appendix 1

### Water Safety- East Lothian Users and Activities

#### 1. Who are the users?

- Locals
- Tourists
- Commercial businesses
- Community Groups
- Educational Groups
- Individuals

#### 2. What activities are taking place?

##### Water based activities

- Open Water Swimming
- Paddling
- Surfing
- Kayaking
- Suba diving
- Snorkelling
- Coasteering
- Skim boarding
- Jet ski
- Speed boat user
- Cold Water Therapy
- Paddle boarding
- Kite surfing
- Sailing
- Body boarding
- Pool inflatables
- Spear fishing
- Tomb stoning
- Water ski-ing/ wakeboarding
- Windsurfing
- Fishing from a craft

##### Non-water based activities near water

- Kite flying
- BBQ and fires
- Dog Walking
- Horse riding
- Fishing from beach, rock, harbour walls
- Harvesting marine species
- Campers
- Fat bikes
- Sand castle building/ picnicking
- Metal detecting
- Bird watching
- Rock climbing
- Weddings
- Drone flying
- Beach Schools

## Appendix 2

### Open Water Rescue Provision

#### Guidance on the provision of life buoys

*You should only decide to install public rescue equipment after you have conducted a risk assessment. Rescue equipment should play only a minor role in a water safety strategy, with greater emphasis on prevention.*

We recognise the value of providing life buoys at appropriate locations around all areas of open water. The location of life buoys are determined as a result of a risk assessment to ensure that they are provided at points where they may be easily accessible by any person who needs to use them for rescue purposes.

In determining the positioning of life buoys, particular attention is paid to locations where there have been previous incidents, fast flowing water and the presence of very steep banks in areas accessible to the public.

It is generally recognised that:

Life buoys may be provided at strategic intervals around all of the areas of open water managed by Landscape and Countryside (Guide 200 metres). Vandalism and theft represents both a risk to members of the public in the event that an in-water incident arises and also a severe financial burden to the East Lothian Council when replacement becomes necessary.

Life buoys are intended to be dropped into the water from a height or thrown a short distance to a casualty who is in the water. In severe winter conditions, the water surface on most reservoirs, lochs and ponds freezes. These conditions significantly reduce the value of life buoys as rescue devices.

Life buoys provided in such situations act as an attraction to vandals as they can be projected across the surface of the ice to a point where their recovery represents a risk to staff or others venturing onto the ice.

In situations where members of the public may choose to ignore warnings and venture onto the ice, they are likely to break through the surface within a few feet, and therefore reaching or wading distance, of the edge given the profile of the waters bottom adjacent to the edge.

In periods of sustained ice on ponds etc. ELC Landscape and Countryside staff will together review the provision of life buoys at sites where they are thrown onto the ice.

## References

Maritime and Coastguard Agency (2019), *Review of the legal responsibility for beach safety January 2019 for the Maritime and Coastguard Agency*, viewed 25/02/2022, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/931295/Review\\_of\\_the\\_legal\\_responsibility\\_for\\_beach\\_safety.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/931295/Review_of_the_legal_responsibility_for_beach_safety.pdf).

East Lothian Council (2017), *East Lothian Council Plan 2017-2022*

FAQ Question: *At what intervals should I place life rings around a water hazard?*  
<https://www.rospa.com/faqs/detail?id=189>, viewed 11/4/2022

**REPORT TO:** Cabinet  
**MEETING DATE:** 17 January 2023  
**BY:** Executive Director for Council Resources  
**SUBJECT:** Review of Charging Policy

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## **1 PURPOSE**

- 1.1 To agree the updated charging policy attached at Appendix 1.

## **2 RECOMMENDATIONS**

- 2.1 Cabinet is recommended to:
- i. Note the proposed changes to the Council's charging policy, attached at Appendix 1 and detailed within the covering report.
  - ii. Agree that the updated policy attached at Appendix 1 be adopted with immediate effect, and that this version will replace the previous iteration of the policy adopted in 2019.

## **3 BACKGROUND**

- 3.1 The Council's current policy on charging was last updated in 2019 and makes a commitment to review the Charging Policy every three years as a minimum. Cabinet has responsibility for approval of the policy and for overseeing the effective management of charging by Council officers. This report documents the outcomes of the review of the Charging Policy, which officers have undertaken, and seeks Cabinet's approval for the revised policy, which is attached at Appendix 1.
- 3.2 The Council is able to recover the costs of providing certain services through making a charge to service users. For some services, this is a requirement and charges are set out in statute, and in other areas the council has discretion to determine whether charging is appropriate, and the level at which charges are set. The policy attached at Appendix 1 relates to services for which the Council has discretion to set a charge and to set the level of the charge. It should be noted that a separate policy exists for non-residential social care charging.

- 3.3 During the coming years, it is likely that the use of charging will become an increasingly important consideration for the Council's medium term financial strategy, as pressures on the revenue budget limit the extent to which subsidisation of discretionary services is feasible. Recovering the costs of these services from users where possible helps to ensure sustainability of the council's offer to residents and businesses, beyond the statutory minimum.
- 3.4 It is recommended that the following overarching principles should apply for the consideration and review of all current and future fees and charges levied by the council:
- Fees and charges should support the improvement of services, and the delivery of the Council's corporate priorities, as set out in the strategic plan;
  - Where appropriate, fees and charges should seek to maximise cost recovery and income generation, to the extent that the Council's legal powers permit, providing that this would not present any conflict with the Council's strategic objectives.
  - Where a subsidy or concession is provided for a service, this must be targeted towards the delivery of strategic priorities, for example, by facilitating access to services.
  - The process for setting and updating fees and charges should be administratively simple, transparent and fair, and for budgeting purposes, income projections must be robust and rational.
- 3.5 The review of the Charging Policy concluded that the current policy is largely designed to accommodate this, and as such, the changes which are proposed do not represent a fundamental change of direction. A summary of the key changes is provided below:
- Introduction of overarching principles to be adopted when reviewing existing charges or considering the establishment of a new charge.
  - Clarification of the process for reviewing charges, with the intention of linking this to the budget setting process going forwards.
  - Flexibility with regard to inflationary increases, enabling Heads of Service to consider the impacts of inflation over a period of more than one year.
  - Strengthening the requirement for Heads of Service to work in consultation with the Chief Finance Officer and Head of Finance when reviewing and setting charges.
  - Insertion of a requirement for Heads of Service to advise Cabinet members of any changes to existing charges.
  - Clarification around eligibility for subsidies for external organisations and elected representatives.



3.6 The revised policy at Appendix 1 to this report incorporates these changes and Cabinet is asked agree that the updated policy be adopted with immediate effect, meaning that this version will replace the previous iteration of the policy adopted in 2019.

#### **4 POLICY IMPLICATIONS**

4.1 The Charging Policy constitutes a significant aspect of the Council's medium term financial strategy. As no fundamental changes to the existing policy are being proposed, this report does not have any specific policy implications at this stage.

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

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

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial – as described above and in the supporting appendices

6.2 Personnel - none

6.3 Other – none

#### **7 BACKGROUND PAPERS**

7.1 None.

Appendix 1 – Charging Policy, November 2022

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<b>DATE</b>	5 January 2023





# Charging Policy

Version 4, November 2022

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# 1. INTRODUCTION

- 1.1 Income from charges is one of the three major financing sources for local authority services. These three sources are:
- Grants from central government
  - Local taxation
  - Charges (including fees).
- 1.2 The Chief Financial Officer (CFO) has responsibility, under Section 95 of The Local Government (Scotland) Act 1973, for the proper administration of the financial affairs of the Council. One such area of administration is that relating to external charging for goods and services provided by the Council.
- 1.3 The Council raises charges to the general public or businesses for a range of goods or services such as:
- Trade and special waste collection
  - Residential Care charges
  - Burial charges
  - Building inspection fees
  - Hall and room hire
  - School meals
  - Administration charges
  - Licensing fees
  - Parking
- 1.4 When charges are being considered services fall into one of three categories:
1. Services for which there is a statutory prohibition on charges; i.e. the Council is not legally allowed to charge for that service (e.g. Personal Care)
  2. Services for which charges are set nationally; i.e. the Council has to set a charge and that charge is determined by the Scottish Government (e.g. planning fees)
  3. Services for which the Council has discretion as to whether a charge is set and the level at which the charge is set (e.g. care at home service, booking a Council venue etc).
- 1.5 The purpose of this policy is to set out the broad principles that govern charging for the third of these categories - **services for which the Council has discretion to set a charge and to set the level of the charge**. Due to the distinct nature of care services and the particular needs of the users of care services a separate Non-Residential Social Care Charging Policy aligned to this Charging policy is in place. The application of these policies bring greater clarity to the process of setting charges and will therefore assist the Council in achieving its corporate objectives. This policy does not apply to Council-owned community

centres which are leased to voluntary management committees who can set their own charges. However, it is expected that the charges for use of these facilities would broadly mirror the Council's charging policy to support fairness and equity of access across the county.

- 1.6 Many factors affect the level of charges, including:
- Historical, political, legal and financial considerations
  - Strategic priorities and the objectives of the service area for which the charge is being considered.
  - The cost and quality of the service
  - Charges made by other councils and the private sector
  - Users' ability to pay and their views on the service.
- 1.7 The basis of charging in the Council varies widely both by service area and within service areas. Methods include:
- Agreed rates
  - Charges set following a consultation exercise
  - Recommendations by a Director / Head of Service
  - Nominal charge to cover part of the cost
  - Historic cost plus inflation
  - Percentage mark-up on cost
  - Full cost recovery
  - Calculation of inflationary pressures combined with need to balance budget / meet income budgets.

## **2. POLICY AIMS**

- 2.1 This policy applies to all areas of the Council that can apply charges to external service users, including residents, visitors, businesses and partner agencies. It excludes:
- Council Tax
  - Non Domestic Rates
  - Any charges determined by statute or otherwise outside the Council's control
  - Council House Rents (the Council has a separate policy relating to the setting of Council House rents)
  - Rent of industrial and commercial land and property
- 2.2 This policy has been prepared to:
- Establish broad principles to govern charging for those services where the Council has the discretion to set a charge
  - Ensure that an appropriate balance is achieved between income generation and delivery of service priorities.

- Ensure officers are aware of their responsibilities when setting charges for their service areas
- Provide a framework within which to establish if a charge is generating full cost recovery
- Ensure that all opportunities for charging are identified and reviewed on a regular basis in all service areas
- Treat service users consistently and fairly across all Council services
- Determine the most efficient customer access channel for charging for goods and services e.g. on-line charging / self billing / invoice etc
- Strike a fair balance between the financial needs of the council and the social needs of its customers.

2.3 The following overarching principles apply for the consideration and review of all current and future fees and charges levied by the council:

- Fees and charges should support the improvement of services, and the delivery of the Council's corporate priorities, as set out in the strategic plan;
- Where appropriate, fees and charges should seek to maximise cost recovery and income generation, to the extent that the Council's legal powers permit, providing that this would not present any conflict with the Council's strategic objectives.
- Where a subsidy or concession is provided for a service, this must be targeted towards the delivery of strategic priorities, for example, by facilitating access to services.
- The process for setting and updating fees and charges should be administratively simple, transparent and fair, and for budgeting purposes, income projections must be robust and rational.

2.4 It is the Council's policy that if a charge is levied for a service then service users should make a direct contribution to the cost of providing services at their point of use. When charges for services are reviewed it will be against this background and exceptions will only be considered on a case by case basis.

2.5 The Council's general approach to charging for services offered on a discretionary basis is to:

1. Make a charge but only where the assessed income (or other benefit) from charging is greater than the cost of charging.
2. Use a full cost recovery approach as the basis of charging where practical unless the Council has endorsed a policy of partial cost recovery i.e. has agreed to subsidise a chargeable service.
3. Benchmark our charges against charges set by other Scottish local authorities, with particular reference to the Scottish average charge for the service.

- 2.6 The aim of the policy is to maximise the Council's income from charges, whilst recognising the need to ensure that some groups or individuals may require assistance to overcome disadvantage and a chargeable service will be subsidised. Even where charges are set nationally, there is much that the Council can do to improve income performance, including:
- Ensuring service users are assessed where appropriate and pay charges promptly.
  - Having high quality transparent accounting and administration to recover a high proportion of income due on time.
  - Maximising sundry debt income for the Council so that late and non-payment are kept to an absolute minimum.
- 2.7 In addition to offering scope for the Council to manage its financial position, the charging policy can also help the Council deliver its policy objectives in many service areas and can play a significant role in other ways such as:
- Demonstrating the value of a service
  - Contributing to the achievement of service and corporate objectives, by managing demand or promoting certain behaviours
  - Discouraging abuse of a service
  - Promoting and encouraging, and widening, access to services.
- 2.8 The Council needs to be realistic in its charging policies and so needs to consider:
- The impact of charges on residents and service users
  - The market within which it is operating when setting charges. Factors to be considered include the extent to which there is private sector or third sector competition for the service and the level of charges made by neighbouring and other Councils
  - The current economic environment locally and nationally
  - Demand for the service
  - Affordability to the customer.

### **3. LINKS TO CORPORATE PRIORITIES AND OUTCOMES**

- 3.1 This Charging Policy is aligned to the Council's Vision, the Council Plan, the Council's Financial Strategy and to national and local outcomes.
- 3.2 **National Outcome**  
Our public services are high quality, continually improving, efficient and responsive to local people's needs.
- 3.3 **Local Outcome**



Growing our Capacity – to deliver excellent services as effectively and efficiently as possible within our limited resources. The Council Plan includes a commitment that the Council will continue to strive to maximise its resources.

## **4. ROLES AND RESPONSIBILITIES**

- 4.1 Under the Council's Standing Orders and Scheme of Administration responsibility for determining Council policies such as the Charging Policy has been delegated to the Cabinet.
- 4.2 Under the Scheme of Delegation, Heads of Service have responsibility for setting charges in consultation with the Chief Finance Officer and Head of Finance. Charges should be set within the framework established by the Charging Policy and taking into account the budget agreed by the Council.
- 4.3 The Chief Financial Officer/Head of Finance shall be responsible for maintaining a Council directory of charges listing all relevant charges and discounts or concessions and the arrangements to review charges.
- 4.4 Appropriate income budgets shall be set for each element of service activity for which a charge is levied. Where appropriate income from charges should be identified in the Council's Financial Plan.
- 4.5 The Council will produce and publish on its web-site an annual register of charges following the financial planning approval.
- 4.6 A detailed breakdown of roles and responsibilities can be found in Appendix 1.

## **5. CHARGING POLICY**

- 5.1 Charges should be considered wherever it is legally and practically possible. The Local Government (Scotland) Act 2003 provides powers for local authorities to charge for discretionary services and enables full cost recovery. However the aim of the act was not to provide a new source of income for local authorities, but to encourage new and enhanced discretionary services that promote economic, social or environmental well-being.
- 5.2 Where a Council service is delivered to all residents or householders equally this is considered to be funded from Council Tax. In general, charges should be considered where only some members of the public benefit from the service provided. This policy is based on the assumption that "the user pays" and that in general non-users do not subsidise users through Council Tax. Service users should make a direct contribution to the cost of providing services at their point of use. When charges for services are reviewed it should be against this background.
- 5.3 The decision on whether to make a charge is not always within the control of the Council. Where it is, it is important that the implications of the charging decisions

being taken are fully understood and the elected members have the appropriate information they need to make informed decisions.

- 5.4 It is the Council's policy that unless there is good reason why an exception should be made, a charge should be made for all discretionary services and statutory services where the Council has control, in accordance with this policy the Council's objectives. Where a full cost recovery approach is not pursued, this decision should be documented and kept under regular review.
- 5.5 Charges implemented should be both lawful and in line with the Council's corporate strategy and priorities.
- 5.6 A review of market conditions should be undertaken and considered when setting and reviewing charges. The Council will provide information and consult as appropriate on proposals to introduce charges or amend existing charges prior to the Council taking its final decision as part of the budget process.
- 5.7 Where possible the charge should be made at the point of sale/ delivery of the service. The Council will not raise an invoice for a charge unless:
  1. The charge has been set by the Council
  2. The charge could not have been obtained in advance
  3. The charge is collectable. Customers must be clearly aware they have a liability for the charge and where they fail to pay for charges they will then be liable for the additional costs of enforcement
  4. The charging department has evidence to support the raising of a charge (i.e. order, written contract, statutory obligation etc.)
- 5.8 Appendix 2 provides details of the administration of charges

## **6. SETTING CHARGES**

- 6.1 The Council will aim to maximise income from charges by ensuring, where practical, that charges to users reflect the full cost of the service provision, unless there is a case of a discount or concessions or where there are legal or contractual reasons.
- 6.2 A fair and appropriate methodology for establishing and setting individual charges should be determined in accordance with the principle of ensuring that fees and charges support the improvement of services, and the delivery of the Council's corporate priorities, as set out in the strategic plan.
- 6.3 Heads of Service, working in conjunction with the Head of Finance and Chief Finance Officer, will have the discretion to determine the most appropriate method for calculating charges for services within their remit. Full cost recovery is encouraged and it is expected that in the majority of cases this will be the most appropriate approach to determining charges. Full cost recovery means recovering the total costs of an activity, including the relevant proportion of all overheads (indirect costs). Each service has costs directly associated with it,

such as the cost of staff or equipment (direct costs). It will also draw on the rest of an organisation's resources. For example, it may occupy corporate property, and draw resource from central functions such as Finance or, Legal services. Full cost recovery works on the premise that both direct costs and a relevant portion of indirect costs and overheads are integral to the delivery of a service. By calculating the full costs of a service, the Council can make more informed decisions about both managing the costs and allocating funding to recover them.

### **Existing Charges**

- 6.4 Each Head of Service shall be responsible for setting the level of existing charges in their respective service area in line with this Charging Policy and taking into account the budget set by the Council.
- 6.5 The Accounts Commission has provided a useful check-list (see Appendix 3) for use by service managers in applying a systematic approach to setting and reviewing charges. The Finance service will support this process through the provision of advice and analysis relating to costs incurred in the discharging of services and income received.

### **Reviewing existing charges**

- 6.6 Heads of Service have responsibility for reviewing charges in their service areas. Charges should be reviewed by, as a minimum, on an annual basis as part of the budget setting process in order to ensure that charging levels are maintained and to assist in the service and financial planning process.
- 6.7 Heads of Service should work with the Chief Finance Officer / Head of Finance to ensure that the annual review of charges is undertaken with reference to inflation where appropriate. Where inflation is not an appropriate indicator of price rises, the level of charge can be varied in line with other specific factors. This policy recognises that inflation will impact different services in different ways meaning that it may not always be appropriate to apply a uniform level of annual increase across all charges in percentage terms.
- 6.8 The costs of implementing changes may mean that it is not practical to amend charges on an annual basis. Where this applies, it is reasonable for Heads of Service to consider applying larger increases on a less frequent basis, ensuring that the impact of inflation is offset over this period.
- 6.9 Charges set outside the charging framework, such as one-off charges relating to an event should also be reviewed in line with this Charging Policy.
- 6.10 A review of charges may be carried out for other than financial reasons; e.g. as part of a Best Value review of a service; as part of a review of how a service is meeting its objectives; as part of a process to manage demand or promoting certain behaviours, or to promote and encourage access to services.

6.11 In reviewing existing or setting new charges, any relevant government guidance relating to the service making the charge shall be followed.

6.12 When reviewing or setting charges it is important to consider:

- The legal basis on which the charge is made
- The reason for charging and the rationale for providing the service
- The impact of charging on service users
- Equalities impacts
- Environmental impacts
- Effects of charges on demand and on total income
- Administration cost of raising and collection of the charge
- The relationship of the service to Council objectives
- The wider market and what competitors or neighbouring authorities are charging
- Benchmarking against charges made by other local authorities, with particular reference to the Scottish average charge for the service.
- The impact of inflation on the cost of service delivery.
- The impact on service viability.
- The merits of introducing surcharges or varying certain charges, for example at weekends, public holidays, by type of event, alcohol, music etc. with reference to the aims of this policy.

Appendix 3 provides some suggested questions to assist with the annual consideration of charges.

6.13 The cost of changing charges should be factored into any evaluation when reviewing charges or considering new charges. These costs may include:

- Consulting users (sometimes a statutory requirement)
- Publicising the changes
- New stationery
- IT systems' updating of charging modules
- Administration and finance time.

6.14 If, after a review of charges is carried out, a decision is made not to charge for a service or where a reduced rate is being charged (i.e. the income from a service does not meet its costs) the service is effectively being subsidised by Council taxpayers. Where this occurs it will be a conscious choice and should be consistent with Council objectives and this should be recorded in the relevant report or Council decision.

6.15 Charges must be balanced against participation targets to ensure price increases do not impact on overall income.

6.16 Commercial operators should pay the full cost of any service they receive from the Council. Services received by commercial organisations should not be subsidised by other users or Council taxpayers.

- 6.17 Legal and financial advice should be obtained when new charges or revisions to existing charges are being considered.
- 6.18 Heads of Service will ensure that Cabinet members are advised of any proposed variations to existing charges. The finance service will work towards ensuring that a full list of fees and charges will be presented as part of the formal budget process in advance of commencement of financial year.

### **New Charges**

- 6.19 In line with the policy aims, charges should be introduced when the assessed income or other contribution to policy objectives is greater than the cost of charging. Heads of Service shall be responsible for ensuring that this is kept under regular review, and proactively identifying opportunities for introducing new charges where appropriate, in line with the principles of full cost recovery and “the user pays.”
- 6.20 Proposals to introduce new charges should be considered as part of service planning and should be based on robust evidence, incorporating the anticipated financial impact of introducing the charge, as well as the potential impact on demand for the service. Proposals should also be accompanied by an Integrated Impact Assessment.
- 6.21 Where possible, proposals for introducing new charges should be considered as part of the budget setting process and members shall be consulted on the introduction of new charges.
- 6.22 Reports containing proposals to levy new charges shall include the following information:
- The aim or objective of the charge and how it links to the Council’s priorities
  - The basis of the charge, i.e. statutory or discretionary
  - The full cost of providing the service (in line with full cost recovery principles) and the estimated income from the charge
  - The proposed charge
  - Details of any proposed subsidies, concessions or exemptions, with details of justifications and how they link to the Council’s priorities
  - Whether the charge is being set net or gross of VAT
  - The date from which the new charge will be levied
  - Forecast surplus / subsidy (if applicable).

## **7. DISCOUNTS**

- 7.1 There are those in our community who are disadvantaged and should be provided with assistance to overcome such disadvantage. The Council has a

major role to play in this regard and there are areas where the Council can offer assistance, either because central government has dictated such a policy or because the Council believes it has a responsibility to meet such needs in the community.

- 7.2 Discounts (also known as subsidies or concessions) cover a wide range of differing situations. A discount can be a reduction in the cost or charge, the provision of a subsidy or grant to offset the full cost, or a discretionary rate offered to a selected organisation or group. For example, the Council may wish to apply a concession to a particular age group such as children or older people, or people in receipt of a welfare benefit, or exempt specific categories of service users or events from particular charges.
- 7.3 Discounts are a cost to the Council, and as such need to be managed in a consistent manner and need to be applied to ensure the delivery of Council services in an equitable manner.
- 7.4 In offering discounts in relation to particular activities or customer groups criteria should be applied which are consistent with achieving the Council's overall objectives. The use of discounts to service users can be used to help to increase access to services by:
- Encouraging the use of services among particular groups of people
  - Allowing continued access to services by people who are financially disadvantaged
  - Reflecting different levels of need for the service amongst users.
- 7.5 Appendix 4 sets out the discount/ subsidy to be applied to different categories of organisations, events or activities. The need for consistent application of the clear policy on discounts will increase when the full cost recovery of a service provision is passed on to the customer. Blanket discounts should only be considered where the Council considers that the benefits to the community outweigh expenditure or loss of income. Specific points to consider when establishing or reviewing the level of any discount offered for a particular service include:
- Are we benefiting local residents?
  - Can a discount policy contribute to wider policy objectives aimed at maximising access to services from disadvantaged groups?
  - Is the policy to target specific groups with discounts still valid?
  - To what extent is there evidence that the discount policy is successful in benefiting the target groups?
  - Are there other groups that should be considered for discounts?
- 7.6 An assessment of the desirability of offering discounts (and the financial implications) needs to form part of the evaluation of an appropriate charge for a given service and should be considered as part of the business case or Equality Impact Assessment.

## **8. REVIEWING THIS POLICY**

- 8.1 We are committed to continuous improvement so it is inevitable that there will be changes to the way in which the Charging Policy is delivered. This policy will be reviewed every three years by the Service Manager Corporate Finance and agreed by the Chief Financial Officer in consultation with Council Management Team. It will be updated to take account of changes in legislation, service improvements or changes to the Council's Financial Regulations.

## Appendix 1: Key Roles and Responsibilities

Stakeholder	Key Roles & Responsibilities
Council	<ul style="list-style-type: none"> <li>Under the Council's Standing Orders and Scheme of Administration responsibility for determining the Council's Charging Policy and the application of the policy has been delegated to the Cabinet.</li> </ul>
Cabinet	<ul style="list-style-type: none"> <li>Responsible for approving the Charging Policy and accountable for the effective management of charging by officers of the Council.</li> <li>Responsible for approving any proposal to introduce a new source of income or new charges.</li> <li>Responsible for approving Licensing fees has been delegated to the Licensing Sub-Committee</li> </ul>
Heads of Service including (s95 Officer)	<ul style="list-style-type: none"> <li>Responsible for setting specific charges within the framework established by the Charging Policy and taking into account the budget agreed by the Council, working in conjunction with the Chief Finance Officer and Head of Finance.</li> <li>To be accountable for the effective management of external charging by Officers of the council. Ensure that Financial Regulations and the Scheme of Delegation in relation to the charging for goods and services are adhered to.</li> <li>Ensure the parts of Policy that apply to their Service are correctly followed.</li> <li>Proactively support the achievement of corporate targets for Charging.</li> <li>Ensure that Service Managers are fully aware of their external charging responsibilities.</li> <li>Ensure that relevant information on the cost of providing the service, the users of the service, and the income to be collected from the service are held by the service.</li> <li>Ensure that employees involved in the charging process are appropriately trained and the quality of training is kept under continuous review.</li> <li>Ensure appropriate benchmarking is undertaken to support charges being levied by the Council.</li> </ul>
Chief Financial Officer	<ul style="list-style-type: none"> <li>Advising and providing guidance on setting the policy and ensuring that the policy is implemented.</li> <li>Responsible for the proper administration of the financial affairs of the Council, one such area being external charging of goods and services provided by the Council.</li> </ul>
Anyone that processes external charges	<ul style="list-style-type: none"> <li>Raise the charge on a timely fashion either prior to or immediately following the provision of the goods or service.</li> <li>Ensure that charges raised are accurate and timely and that evidence to support the charge is retained for audit purposes.</li> <li>Ensure that the customer or service user is provided with written details of the conditions pertaining to the charge for which they are liable. This should include the policy on cancellations and refunds where applicable.</li> </ul>



Finance Service	<ul style="list-style-type: none"><li>• Invoice production and debt recovery, the provision of reports, reconciliations.</li><li>• Liaison with service users in departments with regards to business processes, disputed invoices and recovering arrears.</li><li>• Provide joint training along with Business Finance for users.</li></ul>
Customer/ Service User	<ul style="list-style-type: none"><li>• To make payment for goods and services received within the terms and conditions of the service provision.</li></ul>

## Appendix 2 – Administration of Charges

The basic principles of administering charges shall be:

- The most economic, efficient and effective method of external charging shall be used and shall comply with the Council's Financial Regulations.
- Wherever it is reasonable to do so, charges shall be collected either in advance or at the point of service delivery to minimise the risk of non-payment and to assist customers manage their liabilities to the Council.
- Providing goods and services before securing payment provides the potential to increase the value of debt outstanding and consequently places the Council at risk in terms of bad debt and potential write-off of bad debt.
- Only where it is considered unreasonable to demand payment in advance, or at the point of delivery, should income be collected by raising a formal debtor's account.
- Where credit is extended to customers, payment by direct debit should be promoted as the preferred method of payment.
- Charges shall be easy to understand and administer.
- Charges shall be transparent and well promoted to service users.
- Where customers fail to pay charges, they shall be made liable for the additional costs of enforcement. Customers must be clearly aware of this additional liability.

All external charges must be despatched within 5 days of the charge being incurred where practical. Charges raised erroneously, or raised not in accordance with this policy and found to be not collectable shall be cancelled immediately or a credit note raised (ensuring an audit trail) by the Sundry Accounts team. Charges raised erroneously shall NOT be written off to the Council's bad debt provision.

Where an incorrect charge to a customer has been made, the Department that originated the charge must inform the Sundry Accounts Team within 3 days of discovering the error and provide instructions as to how the error is to be resolved.

It is not acceptable for any department to raise an invoice and ask for collection not to be pursued.

The Council's standard terms require payments to be made within 30 days upon receipt of invoice and these terms apply to all external charges raised by all departments of the Council. Payment by monthly direct debit should be promoted as a preferred method of payment where appropriate and by agreement with the Sundry Accounts Team as part of an agreed instalment plan.

Where practical and legally allowable advance payment or payment at the point of delivery should be requested for goods and services to minimise the financial risk to the Council. Unless obliged to do so contractually, for example peppercorn rents, officers must not raise an invoice for a debt less than £10 as it is uneconomical to collect.

All departments have a responsibility to ensure income due from external charges is collected in a timely and efficient manner.

Charges should not be levied where:

- The administration costs associated with making a charge would outweigh any potential income.
- Income from external charges exceed the costs of provision of the service, taking one financial year with another.
- Making the charge for the service would be directly contrary to achieving one of the Council's corporate objectives.
- Where it would be counter productive, e.g. where it would result in a substantial reduction in usage of the service (unless that is the objective of the charge). However the use of price mechanisms to influence behaviour provides scope for development in the future.

Within the service and financial planning process, each charge should be identified to one of the following charging policy categories and the appropriate charging policy adopted.

## Appendix 3: Charging Policy Objectives Considerations Checklist

Charging Policy	Policy Objective	Points for Consideration
Full commercial	The Council seeks to maximise revenue within an overall objective of generating as large a surplus (or a minimum loss) from this service.	<ul style="list-style-type: none"> <li>• Are the charges high enough for the business to be profitable? If not, consider whether we should be providing this service.</li> </ul>
Full commercial with discounts	As above, but with discounted concessions being given to enable disadvantaged groups to access the service.	<ul style="list-style-type: none"> <li>• Are competitors charging similar prices?</li> <li>• Do we offer any premium in terms of service levels that customers would be prepared to pay more for?</li> <li>• How would changes in pricing structure affect demand for the service and potentially its profitability?</li> <li>• How does the proposed fee structure fit in with the long-term business plan for this service?</li> </ul>
Fair charging	The Council seeks to maximise income but subject to a defined policy constraint. This could include a commitment made to potential customers on an appropriate fee structure. Alternatively, a full commercial rate may not be determinable or the Council may be a monopoly supplier of services.	<ul style="list-style-type: none"> <li>• How do our charges compare to other providers of similar services and the average charge set by Scottish local authorities?</li> <li>• Has the loss of income from not charging on a full commercial basis been evaluated?</li> <li>• Is the policy constraint justifying this charging policy still valid?</li> </ul>
Cost recovery	The Council wishes to make the service generally available, but does not wish to allocate its own resources to the service.	<ul style="list-style-type: none"> <li>• Do charges recover the full costs, including overheads, capital charges, recharges and cost of collection?</li> </ul>

		<ul style="list-style-type: none"> <li>• Is it possible to charge on a full commercial basis and if so has the loss of income from not charging on a full commercial basis been evaluated?</li> <li>• Are members aware of the effect on demand for this service from this charging policy?</li> <li>• What would be the effect of changing the policy to a different one e.g. subsidised?</li> </ul>
Cost recovery with discounts	As above, but the Council is prepared to subsidise the service to ensure disadvantaged groups have access to the service	
Subsidised	Council policy is to make the service widely accessible, but believe users of the service should make some contribution from their own resources. Could also be due to the adverse impact a cost recovery or commercial charging policy would have on other council services.	
Nominal	The Council wishes the service to be fully available, but sets a charge to discourage frivolous usage.	
Free	Council policy is to make the service fully available.	
Statutory	Charges are set in line with legal obligations.	

## Appendix 4: Discount / Subsidy for Organisations, Events & Activities

Category	Description of Organisation, Event or Activity
<p><b>Category 1: East Lothian Council Owned &amp; Managed Activities or Events</b></p>	<p><b>0% of Fee Charged</b>            The Council wishes to make the service fully available, and requests. <b>No contribution</b> to the costs of delivering the service within this category.</p> <p>If space, facilities or services are required for the undertaking of the council's own activities or events, then no charge will be made other than services that are normally recharged to service budgets.</p> <p>This includes active schools sessions and other healthy/active lives programmes managed by the council, but does not include other activities or programmes supported but not managed by the council. Full subsidy is only available for other events or activities if the Service Level Agreement (contract) in place has agreed terms of full discount. Official Armistice Day Commemorations shall also receive category 1 subsidies.</p> <p>Parent/Teacher Associations and Parent Councils will fall within category 1 for the use of school facilities during normal operational hours, but will be considered under categories 2 - 4 for all other/ additional services and provisions.</p> <p>There may be occasions when external organisations will benefit from free use of council facilities through participation in an event or meeting hosted by the Council. For the avoidance of doubt, bookings made by council officers on behalf of external organisations will be charged at the appropriate booking fee, less any applicable discounts.</p> <p>Accommodation for the purpose of facilitating face to face surgeries will be available to elected representatives, MPs and MSPs free of charge in any building that is open and staffed for another. However, if the required accommodation is in a particular building or at a particular time where that building would not otherwise be open, the Council will impose a charge for the booking to cover the cost of staffing, heating and cleaning for that period.</p>
<p><b>Category 2: Voluntary &amp; Charity Organisations/ Events</b></p>	<p><b>Maximum 50% Subsidy of Full Charge</b>            The Council wishes to make the service widely available, but still requires a <b>fair contribution</b> to the costs of delivering the service within this category.</p>

	<p>This rate of charge should be applied to charities and voluntary organisations where the primary purpose of the organisation is to provide events, activities or services for the benefit of: the whole community, young people, vulnerable or disadvantaged people for free or at very limited charge.</p> <p><b>Examples of voluntary and charitable organisations but are not limited to:</b></p> <ul style="list-style-type: none"> <li>• Mental health support groups</li> <li>• Poverty Action Groups</li> <li>• OAP Organisations</li> <li>• Children's Playgroups/Youth Clubs/Young People's Organisations</li> <li>• Support Groups (e.g. Alcoholics Anonymous, Single Parents, Carers)</li> <li>• Festival/Gala Day Organisations</li> <li>• Community Councils</li> <li>• Parent Councils and PTAs</li> </ul> <p><b>Examples of such events or activities but are not limited to:</b></p> <ul style="list-style-type: none"> <li>• Community sport days</li> <li>• PTA fund raising events</li> <li>• Public firework displays</li> <li>• Public holiday celebrations</li> <li>• Children's Playgroups/Youth Clubs/Young People's Support activities &amp; meetings</li> <li>• Community Support Group events &amp; meetings</li> <li>• Free Entry Rural or Town Festivals/Galas</li> <li>• Community Council Meetings/Public Events</li> </ul> <p>To receive the subsidised rate events and activities should not include free hospitality, gifts or prizes to organisers, service providers, stand holders, invited guests or competitors, other than the provision of soft drinks &amp; light refreshments. Nor should the event provide significant profit making opportunities to any business or operation, including not-for-profit trading organisations. The event should also be significantly managed, operated and staffed by volunteers and have no political affiliations.</p>
<p><b>Category 3: Non-Profit Making, Faith Based Groups, Enthusiast, Hobbyists or Active Recreation</b></p>	<p><b>Maximum 25% Subsidy of Full Charge</b></p> <p>The Council wishes to make the service available, and is prepared to <b>discount the service to a limited degree</b> to support within this category.</p> <p>This rate of charge should be applied to organisations that operate on a non-profit making basis and where their activities are of a general recreational nature, as distinct from a charitable cause or a specific social need or community service. Organisations in this category will</p>

	<p>normally comprise individuals who give their time on a voluntary basis.</p> <p>These events and activities should have no or very limited commercial or financial benefit to the organisers, stand holders or service providers, but are not hosted as a charitable or community wide activity or fundraiser. Often these events or activities are run for the benefit, special interest, or aims of their members and participants or for a segment of the community, rather than having broad, whole community participation.</p> <p><b>Examples of such events or activities but are not limited to:</b></p> <ul style="list-style-type: none"> <li>• Specialist interest rallies or hobbyist activities &amp; events</li> <li>• Recreational walking groups</li> <li>• Flower &amp; produce shows</li> <li>• Adult &amp; youth sporting events and sports training of a non-professional nature</li> <li>• Amateur Drama, art or performing art activities and events</li> <li>• Historical re-enactments</li> <li>• Commemorative parades other than for Armistice Day</li> <li>• Not for Profit training and learning events</li> <li>• Craft or social groups</li> </ul> <p>To receive the subsidised rate the event should not include free hospitality, gifts or prizes to organisers, service providers, stand holders or invited guests, other than the provision of soft drinks &amp; light refreshments. The event should also be significantly managed, operated and staffed by volunteers and have no political affiliations.</p>
<p><b>Category 4: Commercial &amp; Social Enterprises</b></p>	<p><b>100% of Fee Charged</b> The Council wishes to make the service available, but <b>does not wish to allocate its own resources</b> to the service within this category.</p>
	<p>Events and activities that provide commercial benefit to a profit making business or an operation that is or has the potential to be self-funding and/or generate a surplus, including not-for-profit trading organisations and social enterprises. This includes any event/activity where there is a <b>significant proportion</b> of commercial benefit derived to the organisers or to those involved such as stand-holders, service providers, invited guests or competitors.</p> <p>It should also be applied to central and local government bodies and other public or statutory agencies; as well as individuals seeking space, facilities or services for the purpose of hosting private functions or for their private benefit.</p>



**Examples of commercial events includes but are not limited to:**

- Dance shows & other commercial performances
- Music or other festivals
- Trade stands, food markets or craft shows
- Art exhibitions (sales or reservations being taken)
- Fun fairs and circuses
- Trade promotions or product launches
- Temporary/pop-up eateries, galleries or shops
- Professional or Semi-Professional Sporting Tournaments

**Examples of commercial organisers or beneficiaries includes but is not limited to:**

- Any Limited Company, PLC, Sole-Trader, Partnership or CIC
- Other Local Authorities, Health Boards and other Public Bodies
- Dance, Drama or Music Schools, Tutors, Coaches or Performers
- Fairtrade Co-operatives and Other Co-operative Societies
- Market Operators and Stand-holders
- Fitness Instructors, Activity Coaches & Slimming Clubs
- Private Therapist, Life Coaches or Motivational Speakers
- Professional or Semi-Professional Sports Persons, Groups or Events
- Professional Musicians, Choirs, Orchestras, Pipe or Other Bands

Not all council services and facilities will be able to offer subsidised rates of charge. Some services such as Licence Fees require by law to be set at full cost for all applicants. There are other services, especially those associated with individual access (such as leisure facilities) that have different subsidy schemes. There are also a number of facilities that may not, for reasons of Best Value, be able to be subsidised under the guidance given above. However should a service manager be able to offer any discounted rates of charge for any services delivered to organisations, then it should fall within the guidance given above and not exceed the maximum % rates of subsidy. Authorisation is required by the relevant Head of Service when setting charge rates and available subsidies. The full charge for any service or facility should be set at not less than cost recovery.



**REPORT TO:** Cabinet

**MEETING DATE:** 17 January 2023

**BY:** Executive Director for Council Resources

**SUBJECT:** Charges Relating to Licensing of Public Entertainment Activities

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**10**

## **1 PURPOSE**

- 1.1 To advise Cabinet of the introduction of new, shorter term licences for Public Entertainment activities, for periods of both one and two years, and to seek approval of the proposed licence fees for these new licences.

## **2 RECOMMENDATIONS**

- 2.1 That Cabinet -
- (i) Notes that on 10 November 2022 Licensing Sub-Committee approved the granting of Public Entertainment Licenses for a reduced duration of one or two years;
  - (ii) Approve the fee of £200 for a one year licence and
  - (iii) Approve the fee of £400 for a two year licence.

## **3 BACKGROUND**

- 3.1 Under the Civic Government (Scotland) Act 1982, the default duration of a licence is three years, or such shorter period as the licensing authority may decide. At the present time the duration of a Public Entertainment Licence is three years, and the fee for this is presently £600. This does not include the larger scale, multi-event type licences which fall into a separate category, and are not affected by the proposals in this report.
- 3.2 It has been noted that for some categories of public entertainment activities, an initial outlay of £600 can be potentially prohibitive, and that in some cases having a licence for a duration of three years may be considered unnecessary or less flexible than might be desired.

- 3.3 In an attempt to address this potential issue, the Licensing Sub-Committee agreed at their meeting on 10 November 2022 to introduce the option of applicants being able to obtain a Public Entertainment Licence for a period of one and two years, while retaining the present three year option. It was recommended that the fees for these shorter duration licences be fixed at the relevant proportion of the three year licence- namely £200 for a one year licence and £400 for a two year licence.
- 3.4 If the fees are approved applicants would have the option to apply for any of the three durations of licence, as best suits their individual business model and funding arrangements.
- 3.5 The Licensing Sub-Committee agreed these proposals, noting that confirmation of the proposed fees for the new one and two year licences would be subject to formal approval/adoption by Cabinet. The present report is seeking Cabinet approval of these proposed fees.

#### **4 POLICY IMPLICATIONS**

- 4.1 None.

#### **5 EQUALITIES 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 Report to Licensing Sub-Committee 10.11.22

<b>AUTHOR'S NAME</b>	Ian Forrest
<b>DESIGNATION</b>	Senior Solicitor
<b>CONTACT INFO</b>	x7389
<b>DATE</b>	22.12.22

**REPORT TO:** Cabinet

**MEETING DATE:** 17 January 2023

**BY: Depute** Executive Director for Council Resources

**SUBJECT:** Kings Coronation – May 2023

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**11**

**1 PURPOSE**

- 1.1 To inform Cabinet of the UK Government's and Scottish Governments decision to declare a National Bank Holiday on Monday 8 May 2023 to mark the Coronations of His Majesty King Charles III
- 1.2 To seek Cabinet approval to agree an additional Public Holiday (pro-rata) for all employees on Monday 8 May 2023 to mark the occasion.

**2 RECOMMENDATIONS**

- 2.1 That Cabinet agree to an additional Public Holiday on Monday 8 May 2023.

**3 BACKGROUND**

- 3.1 The UK Government announced that the Coronation of His Majesty King Charles III, will take place on Saturday 6 May 2023 and they have declared a National Bank Holiday on Monday 8 May 2023 to celebrate. The Scottish Government has also declared its support for this additional national holiday, which will form part of a three day "Coronation Weekend" of celebration.
- 3.2 It is the Council's proposal that services (with some exceptions) will observe Monday 8 May 2023 as an additional Public Holiday. Consultation has taken place with the Joint Trades Unions, who are supportive of the Council proposal. Some employees due to the nature of the service they operate in may be required to work that day or because of their work pattern would not be due to be at work that day, will be given the day to take at some alternative time within their leave year
- 3.3 School are required to provide 190 days employee teaching per year and any reduction in this number must be approved by the Scottish Government. The Council has sought and gained approval from the

Scottish Government to reduce the pupil teaching days from 190 days to 188 days in 2023. The Council previously secured a reduction from 190 to 189 day for the Queens State funeral.

- 3.4 At Cabinet on 10 September 2019 the Council Leave Policy was amended to grant Cabinet the powers to award additional leave in accordance with the para below:-

“3.3 On occasion, to mark events of significant national importance, the Council may decide to grant an additional fixed day as annual leave for all or specific employee groups as appropriate.”

#### **4 POLICY IMPLICATIONS**

- 4.1 The ability of Cabinet to grant an additional leave on special occasions was confirmed at Cabinet on 10 September 2019.

#### **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 costs of this additional public holiday will largely be contained from within existing budgets, but some front line services will be required to operate over this period and therefore will attract enhanced rates for a public holiday as well as cover arrangements when they take the day at a later time, this will likely cost in the region of £150,000.
- 6.2 Personnel - There may be some issues around shorter working days and changed shift patterns caused by the additional days leave. Information will be provided for all employees on the application arrangements of this change.
- 6.3 Other – None

#### **7 BACKGROUND PAPERS**

- 7.1 None.

<b>AUTHOR'S NAME</b>	Paul Ritchie
<b>DESIGNATION</b>	Service Manager People & Council Support
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<b>DATE</b>	04/01/2023

**REPORT TO:** Cabinet

**MEETING DATE:** 17 January 2023

**BY:** Executive Director for Place

**SUBJECT:** Prohibition of Overnight Parking at Coastal Car Parks

**12**

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**1 PURPOSE**

- 1.1 To seek Cabinet approval to start the statutory procedures necessary to introduce and amend Experimental Traffic Regulation Orders to prohibit overnight parking at coastal car parks.
- 1.2 To note if approved that the order is temporary and its benefits and impact will be monitored to ensure the approach is successful. We are also looking at providing some dedicated trial chargeable campervan parking that will provide capacity where required and appropriate.

**2 RECOMMENDATIONS**

- 2.1 That Cabinet approves the initiation of the statutory procedure necessary to introduce and amend Traffic Regulation Orders in accordance with The Local Authorities (Procedures) (Scotland) Regulations 1999 and such introductions of locations and proposals listed in Appendix A .

**3 BACKGROUND**

- 3.1 East Lothian Council as Local Traffic Authority is responsible for the making or amending of Traffic Regulation Orders as necessary; to avert danger to road users; to aid free unrestricted movement on the road; to prevent inappropriate use of the road and/or adjoining property and to improve the amenity of the area.
- 3.2 Since the beginning of the COVID pandemic coastal car parks in East Lothian have seen a considerable increase in the numbers of vehicles parking overnight associated with visitors camping in and near beach areas and in the car parks.
- 3.3 This camping activity has caused damage to the biodiversity of this protected area by the lighting of fires and barbeques as well as generating litter, including human waste.

- 3.4 There has also been an increase in the numbers of camper vans and motorhomes parking overnight at coastal car parks rather than at formal camping locations. The council operated car parks do not have the facilities to support camper vans or motorhomes and damage has been caused by the unlawful emptying of chemical toilets. In addition, when parked in close proximity some do pose a fire risk to themselves and others due to the gas that they carry on board.
- 3.5 The introduction of this prohibition will deter the harmful activity and will be supported by targeted enforcement under delegated powers.

#### **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 – All costs involved in connection with consultation, advertising, design and implementation associated with the making of these Orders can be accommodated within the Roads revenue budget.
- 6.2 Personnel - None
- 6.3 Other – None

#### **7 BACKGROUND PAPERS**

- 7.1 None.

Appendix A – list of car parks

<b>AUTHOR'S NAME</b>	Ian Lennox
<b>DESIGNATION</b>	Roads Asset and Regulatory Manager
<b>CONTACT INFO</b>	Grant Talac ( <a href="mailto:gtalac@eastlothian.gov.uk">gtalac@eastlothian.gov.uk</a> ) or Keith Scott ( <a href="mailto:kscott@eastlothian.gov.uk">kscott@eastlothian.gov.uk</a> )
<b>DATE</b>	17 <sup>th</sup> January 2023



<b>Appendix A</b>		
<b>The Prohibition of Overnight Parking at Various Coastal Car Parks, Traffic Regulation Orders</b>		
<b>No.</b>	<b>Location</b>	<b>Description</b>
1	Longniddry Bents No. 1	Prohibit overnight parking from 2200 – 0600 daily
2	Longniddry Bents No. 2	Prohibit overnight parking from 2200 – 0600 daily
3	Longniddry Bents No. 3	Prohibit overnight parking from 2200 – 0600 daily
4	Gullane Bents	Prohibit overnight parking from 2200 – 0600 daily
5	Yellowcraig	Prohibit overnight parking from 2200 – 0600 daily
6	Tynninghame	Prohibit overnight parking from 2200 – 0600 daily
7	Linkfield	Prohibit overnight parking from 2200 – 0600 daily
8	Shore Road, Belhaven Bay	Prohibit overnight parking from 2200 – 0600 daily except for pre-booked, designated spaces
9	Shore Road hammerhead	Prohibit overnight parking from 2200 – 0600 daily
10	Whitesands	Prohibit overnight parking from 2200 – 0600 daily except for pre-booked, designated spaces
11	Barns Ness	Prohibit overnight parking from 2200 – 0600 daily
12	Aberlady Bay	Prohibit overnight parking from 2200 – 0600 daily
13	Backsands / Fisherrow	Prohibit overnight parking from 2200 – 0600 daily
14	Mountjoy	Prohibit overnight parking from 2200 – 0600 daily
15	Levenhall	Prohibit overnight parking from 2200 – 0600 daily
16	Morrison's Haven	Prohibit overnight parking from 2200 – 0600 daily
17	Prestonpans	Prohibit overnight parking from 2200 – 0600 daily
18	Pondhall	Prohibit overnight parking from 2200 – 0600 daily
19	Skateraw	Prohibit overnight parking from 2200 – 0600 daily
20	Thornton Loch	Prohibit overnight parking from 2200 – 0600 daily

