



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

TUESDAY 29 NOVEMBER 2022  
VIA DIGITAL MEETINGS SYSTEM

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### Committee Members Present:

Councillor Bruce	Councillor McFarlane
Councillor Jardine	Councillor Ritchie
Councillor Menzies (Convener)	Councillor Trotter
Councillor McGuire	

### Council Officials Present:

Ms M Patterson, Chief Executive  
Ms S Fortune, Executive Director for Council Resources  
Mr D Proudfoot, Executive Director for Place  
Ms L Brown, Executive Director for Education and Children's Services  
Ms M Sullivan, Head of Development  
Ms W McGuire, Head of Housing  
Ms M Ferguson, Head of Corporate Support  
Ms E Dunnet, Head of Finance  
Mr D Stainbank, Service Manager – Internal Audit  
Mr P Vestri, Service Manager – Policy, Improvement & Partnerships  
Mr S Kennedy - Emergency Planning, Risk and Resilience Officer  
Mr C Grilli, Service Manager – Governance, Council Resources  
Ms S Saunders, Head of Communities and Partnerships  
Mr I Gorman, Head of Operations (NHS)  
Ms A Glancy, Service Manager – Corporate Accounting  
Mr P Moore, Senior Auditor  
Mr A Cruickshank, Service Manager - IT  
Ms L Smith, Team Manager - Arts  
Mr R Baty – Companies Manager (ELL & ELI)  
Mr B Axon – Chief Executive (Enjoy Leisure)

### Clerk:

Ms M Scott  
Ms F Currie (back up)

### Visitors Present:

Mr R Butt – Brunton Theatre Trust

### Apologies:

Councillor K McLeod

### Declarations of Interest:

**Councillor Menzies declared she was appointed by the Council to the Board of EnjoyLeisure but there was no conflict as there was no vote for item 7 on the agenda.**

**1. MINUTE OF AUDIT & GOVERNANCE COMMITTEE ON 20 SEPTEMBER 2022 AND 1 NOVEMBER 2022**

The minutes of the Audit & Governance Committee from 20 September and 1 November were approved.

**2. INTERNAL AUDIT REPORT: NOVEMBER 2022**

A report was submitted by the Service Manager for Internal Audit, informing the Audit and Governance Committee of Internal Audit reports issued since the last meeting of the Committee, to provide details of Internal Audit's follow-up work undertaken and provide an update on progress made against the 2022/23 annual audit plan.

Duncan Stainbank, Service Manager for Internal Audit reported that since the last meeting of the Committee final reports had been issued in respect of the following audits: IT Asset Management, Sundry Accounts, Data Protection, and City Deal Governance and Monitoring. IT Asset Management was given an assessment of "limited assurance", Sundry Accounts, Data Protection and City Deal Governance and Monitoring were given as assessment of "reasonable assurance".

**IT Asset Management**

Mr Stainbank explained that the Council IT Team are responsible for authorising the purchasing all IT assets of East Lothian Council but the current system for recording the initial device location had fallen into disuse over the last three years due to the increased demand for mobile devices to meet the needs of staff during the COVID-19 pandemic. Mr Stainbank highlighted the following key findings and recommendations which had been agreed with the IT Service Manager:

- There was no IT Asset Management procedure in place for the Council. Management have agreed to develop a procedure by July 2023.
- No IT Asset Management system was currently being used to confirm the individuals responsible for each device and to track it. Management have agreed to put in place and IT Asset Management system and reconcile to purchases by September 2023.
- There were currently no regular checks and reconciliations on the IT equipment issues within East Lothian schools, a recent check completed within one school resulted in the blocking of 41 devices, where the current whereabouts could not be identified following a lengthy checking exercise. Management have agreed to introduce appropriate annual exercises by April 2023.

**Sundry Accounts**

Mr Stainbank reported that the Council has a Domestic Rates and Sundry Accounts team that, in addition to responsibility for Non-Domestic Rates, provides a service for the raising of Council invoices and where this is required follow up and collection of the fees and charges due from other Council Services. Invoices are raised for many Council Services including residential care charges, trade and special waste collection and Section 75 contributions. Mr Stainbank noted that over the last three financial years the Council have raised on average 14,000 invoices to the value of 28.4 million. Mr Stainbank identified the following key findings:

- 10% of the invoices tested had been undercharged to a value of £25,000 due to a lack of appropriate completion of verification and authorisation processes. Management within Council services raising these invoices have agreed to improve verification and authorisation processes and to undertake further training of staff raising invoices to avoid these errors by April 2023.
- For three of these invoices tested there was a delay of between four and ten months in raising the invoices. Revenues management have agreed that any delays in the raising of invoices by Council services will be monitored and raised with those Council services in regular meetings which are in place.
- Until recently the core processes of debt collection action completed by the Sundry Accounts team formally finished when final notices had been issued and followed up by further contact and the system did not allow for automatic file transfer to Sheriff Officers. A trial has recently commenced of sending four accounts to Sheriff Officers. Revenues Management are in the processes of working with software suppliers to develop a mechanism for transferring appropriate debt cases to Sheriff Officers, and a suitable solution should be in place by June 2023.

### **Data Protection**

Mr Stainbank explained that on the 25<sup>th</sup> May 2018 the European General Data Protection Regulation (GDPR) came into effect which is now underpinned by the UK General Data Protection Regulations (UKGDPR) which are distinct from the EUGDPR. Mr Stainbank highlighted the following key findings:

- There was a backlog of Information Sharing Agreements (ISAs) that require to be put in place with organisations with whom personal data is shared. Management have confirmed that following recruitment of new posts, processes for approving ISAs are to be simplified and streamlined by June 2023 to remove backlogs.
- There has been limited progress on the development of Information Asset Registers for areas in the Council where data processing activities are undertaken. Management have confirmed that there will be continued development of the Information Asset Register, with four workshops being held with service areas per annum on an ongoing basis.
- The Council has appropriate policies, procedures and guidance documents in place for all aspects of Data Protection, however in a small number of cases the policies and procedures require to be reviewed and updated. Management have confirmed that these will be reviewed and updated by April 2023.

### **City Deal Governance and Monitoring**

The Edinburgh and South-East Scotland (ESES) City Region Deal was the second of its kind to be established in Scotland and comprised of six local authorities, including East Lothian Council, together with regional universities, colleges and the private sector. The ESES City Regional Deal Document was signed in August 2018 with the UL and Scottish Government to a value of £1.3 billion. Mr Stainbank added that the innovation hub and innovation park had been developed in partnership with East Lothian Council and Queen Margaret Universities with an overall cost of £40 million with £10 million ELC capital investment for land acquisition. Mr Stainbank then highlighted the following key findings:

- Governance arrangements within the Council could be further enhanced by the reporting of project progress, risks and issues to a formal Programme or Project Board for the Innovation Hub, independent of operational involvement in the Hub. Management have agreed to formalise the arrangements in place and to set up a Programme/Project Board by January 2023.

Mr Stainbank reported Internal Audit have followed up three previous audits since the last Audit and Governance Committee being Non-Domestic Rates Reliefs and Recoveries, Council Tax Reliefs and Recoveries and Restart of Capital Projects. Mr Stainbank stated that out of 19 recommendations, 17 have been fully implemented and 2 recommendations have been put forward for implementation by April 2023. Mr Stainbank highlighted that 56% of the audit plan has been completed or commenced and the team is on target to complete by June 2023.

There were no questions for Mr Stainbank.

Councillor Jardine stated she found the report incredibly detailed and valuable to come to the Committee on a regular basis. Councillor Jardine commended Mr Stainbank and his team for their work on the report and found it a valuable addition to the work of the Council giving a lot of assurance.

Councillor Ritchie said it was helpful to see the updates and follow up from the last audit and it was good to see the progress made.

Councillor Menzies echoed the comments of the other Councillors and added that the robust measures help us all improve as a Council.

### **Decision**

The committee agreed to note:

- i) the main findings and recommendations from the Internal Audit reports issued during the period from September 2022 to November 2022 as contained in Appendix 1;
- ii) the findings from Internal Audit's follow-up work;
- iii) Internal Audit's progress against the annual audit plan for 2022/23 as set out in Appendix 2.

### **3. INTERNAL AUDIT CHARTER**

A report was submitted by the Service Manager for Internal Audit to present an updated Internal Audit Charter to the Audit and Governance Committee for approval.

Mr Stainbank explained East Lothian Council's Internal Audit Charter was approved by the Audit and Governance Committee in November 2021. The Charter has been reviewed and updated to reflect revised job titles. The updated Internal Audit Charter is being presented to the Audit and Governance Committee for approval.

There were no questions or comments on the report.

The Convener moved to the vote on the recommendation, taken by roll call, which was approved unanimously

### **Decision**

The committee unanimously agreed to approve the updated Internal Audit Charter.

### **4. CIPFA POSITION STATEMENT: AUDIT COMMITTEES IN LOCAL AUTHORITIES AND POLICE 2022**

A report was submitted by the Service Manager for Internal Audit to East Lothian Council's position in relation to the adoption of the Chartered Institute of Public Finance and Accountancy (CIPFA) Position Statement: Audit Committees in Local Authorities and Police 2022.

Mr Stainbank informed Members that the East Lothian Council Audit and Governance Committee already meets the majority of the principals outlined in the CIPFA Position Statement however there are three key areas the Committee do not fully comply with which are highlighted within the report. The following actions were proposed to adopt the principals in full:

- Self-review of the knowledge and expertise of the Audit & Governance Committee members to take place during 2023. Recommendations on any requirements for co-opted members would then be made to the September 2023 Audit & Governance Committee meeting.
- A meeting to be set up with the incoming Audit Scotland external audit team and the Service Manager – Internal Audit, with all of the Audit & Governance Committee members invited. Consideration could then be given to future arrangements to meet privately on an appropriate basis.
- A self-assessment of good practice against the CIPFA Position Statement would take place during 2023. This self-assessment will form the key input to an annual report on compliance with the statement and the performance of the Audit & Governance Committee, which would be presented to the committee in September 2023.

Councillor Jardine asked for clarification on what co-option would look like. Mr Stainbank explained that this would be best answered when going through the self-assessment which would provide information on what type of Member you would like to co-opt on and the length of time you would like them to be on the Committee or if you feel there is no need to co-opt Members onto the Committee but an assessment would be useful to go through to identify if there would be any benefits to having a co-opted Member and what kind of skills or experience you would be looking to co-opt onto the Committee. Mr Stainbank added that there are a variety of ways in which this could occur. Councillor Jardine asked Mr Stainbank to expand of the ways this could be done to give some transparency to people watching online where co-optees may be requested from if they are required. Mr Stainbank indicated that core elements of what the Committee looks at are Governance, Risk Management and Control and also a number of financial reports therefore experience in finance particularly within local authorities may be one of the areas where the Committee feel they need additional experience. In addition risk management or audit experience would be the skills that audit committees may benefit from. Sarah Fortune, Executive Director for Council Resources assured Members that Officers try to support Members of this Committee as best they can and there are no significant obvious gaps so she didn't want anyone to think that all of a sudden there are massive gaps in terms of our governance. Ms Fortune added that it is right and proper for us to go through this process and if Members did feel there were gaps in our expertise that we consider how we could try and fill those gaps which could be through co-opting external Members.

In response to a question from Councillor Menzies Mr Stainbank confirmed that the self-assessment process will start around Easter time next year. Mr Stainbank added he has a self-assessment template against the position statement that is providing additional guidance and he is looking to develop this across local Scottish authorities to give understanding how they have gone about identifying the skills and experience of the Committee Members so we can bring that at the same time to go along with the self-assessment. He noted this would run through the early part of the summer and then reassess with Councillor Menzies as to the process we take forward for the annual report.

## **Decision**

Members agreed to note the position of East Lothian Council in progressing the adoption of the CIPFA Position Statement: Audit Committees in Local Authorities and Police 2022.

### **5. INTERNAL AUDIT JOINT WORKING WITH MIDLOTHIAN COUNCIL**

A report was submitted by the Service Manager for Internal Audit to provide information to the Audit and Governance Committee concerning the approved trial of a joint working arrangement with Midlothian Council for Internal Audit services.

Mr Stainbank informed Members that in order to increase resilience, improve ability to benchmark controls across authorities, and increase the efficiency of Internal Audit, the East Lothian Council Internal Audit team had been considering partnership with another local authority. Mr Stainbank added the Chief Executives of East Lothian and Midlothian Councils considered that a joint working approach should be explored and the risks and benefits considered. This report provides the results of the consideration given and the subsequent process taken.

Mr Stainbank advised that the proposal is that for a trial period covering one full internal audit cycle, East Lothian and Midlothian Council's would share a Chief Internal Auditor with the Service Manager – Internal Audit of ELC acting in that capacity with the cost of the post being shared equally between both Council's. Mr Stainbank confirmed that all employees would remain under their current contracts of employment and there was no proposed change to staffing structure of either Internal Audit teams as part of this proposal.

Councillor Trotter asked how much of a saving would be made by this proposal. Mr Stainbank stated that plans are still being finalised with Midlothian Council but he would be happy to have a discussion offline about this. Mr Stainbank added that any financial savings made from the proposal would not be taken from the budget immediately and instead would happen later on if the trial works.

Councillor McGuire commented that after the finance meeting last week initiatives like this should be applauded where we are investigating where money can be saved and shared so he would like to record that this is a positive action being taken and maybe in the future more can be done.

Councillor Ritchie commented that this proposal lined up well with the vision of where we are going as a Council and looking towards more partnership working and working with other teams and Council's where possible. Councillor Ritchie added this was a positive step and the work that's gone in already to make this proposal and the work towards it becoming active was really positive.

Councillor Jardine stated the scope for shared services had been discussed previously and thought it would be useful to revisit some of what was done a decade ago. She added that it would be useful going forward in other areas we may want to look at to pick the learning from this one in terms of it being a trial and really understand the implications as the practicalities of shared services can be significantly different to what we planned but that she valued the proposal.

Councillor Trotter echoed the points made from other Councillor's and added proposals like this one have to be the way forward and we need to keep looking further afield for any benefits to the Council.

Councillor Menzies thanked Mr Stainbank for his report and for the meetings outside of this Committee meeting which gave her a fuller understanding of the benefits and possible benefits to the Council. She added that she was really heartened to hear the comments and it showed a real willingness of collaboration by all elected Members.

### **Decision**

The Committee agreed to note the trial of joint working arrangements with Midlothian Council.

## **6. TREASURY MANAGEMENT – MID-YEAR REVIEW 2022-23**

A report was submitted by Executive Director for Council Resources to update to the Committee on Treasury Management activity during the first six months of 2022-23.

Ann-Marie Glancy, Service Manager – Corporate Accounting stated that monitoring and scrutiny has been delegated to the Audit and Governance Committee therefore the mid-year and annual treasury reports will be submitted to this Committee for review. Ms Glancy reported that the mid-year report sets out the treasury activity of the Council for the first half of the year and this report is reviewed against the current treasury management strategy for the Council and the approved treasury indicators. Ms Glancy highlighted the key points within Economic Update, Review of Treasury Management Strategy Statement and Annual Investment Strategy, The Council's Capital Position (Prudential Indicators), Investment Portfolio 2022-23, Borrowing Strategy 2022-23, Debt Rescheduling and Introduction of Reporting Standard IFRS16.

There were no questions on the report.

Councillor Menzies thanked Ms Glancy and Ms Fortune for their report, for all the work that went into this before today's meeting and for providing updates to make sure all Members were fully aware with everything. Councillor Menzies stated that this is evident due to the lack of questions from Members today.

### **Decision**

The Committee agreed to note the paper.

## **7. ENJOY ANNUAL REPORT 2021/22**

Councillor Ritchie declared she is a Director for EnjoyLeisure. She apologised for not declaring this at the start of the meeting but she didn't think it was necessary as she was appointed by the Council. Morag Ferguson, Head of Corporate Support stated Councillor Ritchie was correct that you do not need to make a declaration but it does enable you to make a transparency statement which is essentially announcing the connection and being transparent for others. Ms Ferguson added that what Councillor Menzies and Ritchie have done today qualifies as a transparency statement.

A report was submitted by the Chief Executive of EnjoyLeisure to set out the financial and operational performance of EnjoyLeisure (enjoy) since March 2021, the challenges that enjoy faced in light of the cost of living and energy crises, and the successes that enjoy has achieved through this period.

Bill Axon, Chief Executive of enjoy spoke to his report highlighting the biggest challenges enjoy faces including; rebuilding reserves, planning for impact of utility price rises, increasing fitness memberships in light of the cost of living crisis, difficulties in recruitment of staff and keeping up with the demand of swimming and gymnastics lessons in East Lothian. Mr Axon also highlighted the successes for enjoy over the last three years since COVID hit including; the negotiation of a 10 year extension to the

funding agreement with East Lothian Council, which will ensure continuity of the existing service provision and affordable leisure activities for local communities, the avoidance of redundancies since the pandemic began, all facilities have remained open and the improved and sustained partnership with East Lothian Council.

In response to a question from Councillor Jardine Mr Axon explained that the staff member who leads on customer experience left his post to join the Council so analysis on this had stagnated but a new member of staff has recently been appointed. Mr Axon added that he will be reporting to the Board in the New Year about the way staff will be speaking with customers to determine what they require. Mr Axon stated that the business transformation restructure mentioned in the report will help determine a platform for constructive dialogue with customers.

Councillor Bruce asked if Mr Axon was confident membership levels at enjoy would return to their previous levels. Mr Axon stated that current figures indicate this has been successful however he is unsure what impact the cost of living crisis will have. Mr Axon pointed out that to some people an enjoy membership could be seen as a luxury however he would advocate it is not and instead is a need to ensure individuals wellbeing and fitness levels are maintained. He noted that some individuals are making decisions about memberships based on disposable income but this has been offset by new customers joining who were previously members at private gyms. Mr Axon stated he is confident enjoy are doing the right things at this time.

In response to a question from Councillor Ritchie regarding steps that have been taken to address recruitment issues Mr Axon reported that enjoy retains staff extremely well but a number of employees they have are of the younger generation who are potentially studying so move onto their chosen career after a few years in post so this is causing a gap. Mr Axon added that another big issue was the inability to complete staff training to achieve qualifications during lockdown. He noted enjoy was the first in the country to reintroduce training after lockdown which helped with their income as other local authorities and trusts asked for their staff to be trained. Mr Axon explained that fast track posts are advertised when enjoy is able to run a course to gain a professional qualification and the suitable candidates are chosen to join the programme. Individuals would be given a probationary post within enjoy which will allow for a paid qualification to be achieved. Mr Axon confirmed the cost of the qualification was covered by enjoy which was a good investment as it allowed them to gain new employees. Mr Axon noted that the current wage negotiations were having an impact as the private sector is able to pay higher rates and also offer individuals an upfront payment to join their facility. He added that staff continue to come up with new ideas to help with recruitment and at a meeting yesterday an action plan was created to address this particular issue and will be reported to the Board in the near future.

Councillor McGuire commented that as a member of enjoy he finds them to be fantastic value for money and he also hoped they will attract new members who currently use private gyms. Councillor McGuire added the roles behind the scenes at enjoy should be recognised for their hard work during the pandemic and although there will be financial implications the benefits to peoples mental and physical health and wellbeing was priceless. Councillor McGuire congratulated individuals who have come through enjoy and now compete at county, national and international levels in all sports bringing recognition and reward back to East Lothian. He thanked everyone involved with enjoy.

Councillor Menzies stated enjoy should be commended for their ongoing work and widely reported health benefits. She added that without enjoy and the benefits people get by attending a gym or swimming the Council would have much more work to do.



Councillor Menzies also commended enjoy for having no redundancies or reducing staff capacities and thanked Mr Axon

### **Decision**

The Committee agreed to note the report.

### **8. EAST LOTHIAN LAND LTD 2021/22**

A report was submitted by the Companies Manager for East Lothian Land Ltd to inform the Audit and Governance Committee of the work undertaken by East Lothian Land Ltd in 2021/22.

Richard Baty, Companies Manager (ELL & ELI) reported a number of changes have been made to Board for East Lothian Land Ltd due to the retirement of the senior council officer and private sector representative and the sad passing of Councillor Innis, Council Leader. Mr Baty noted the Board act on a pro bono basis and do not receive payment and Board meetings are held on a regular basis linked to business requirements. He confirmed that the end of year audit gave a true and fair view of the state of the company and there were no matters of concern. Mr Baty explained during the year the Board considered a number of projects and were guided by a report they receive monthly with available land and commercial property for sale.

Councillor McMillan asked Mr Baty to remind Members of the excellent work of Eric Murray and to say more about the work of directors and the wise advice and experience they bring. Mr Baty stated that Eric Murray was a founding director of East Lothian Land and brought with him a huge amount of business knowledge and contacts within East Lothian where he was highly regarded. Mr Baty added that Mr Murray guided him a great deal and that all directors have a say in running the company which is always well received.

### **Decision**

The Committee agreed to note the paper.

### **9. BRUNTON THEATRE TRUST PROGRAMME OUTCOMES 2021/22**

A report was submitted by the Team Manager for Arts to appraise the Committee of the performance of the Brunton Theatre Trust's programme 2021/22.

Richard Butt, Trustee for the Brunton Theatre Trust stated that the Brunton Theatre is registered Scottish charity and overall they had a positive year. Mr Butt reported that in April 2021, The Brunton was in a period of closure due to Scottish Government's Covid guidelines. He added that in May 2021, The Brunton was able to re-open for film screenings only and by September 2021, live events were permitted to re-start but in December 2021, due to rising cases of Covid infection, the Scottish Government closed live events until February 2022. Mr Butt said the impact of these periods of closure and restrictions on the programming of The Brunton was huge with many performances and screenings cancelled or postponed. He added despite the challenges presented by the pandemic, The Brunton Theatre Trust adapted and continued its programme when possible for local communities and despite the challenges, the programme that was presented resulted in a total attendance at live performances and screenings of 18,619. Mr Butt confirmed the COVID pandemic impacted the Trust's ability to raise income from ticket sales however careful budget management and raising funds from external sources ensured that the Trust was able to successfully navigate its way through this difficult period. Mr Butt stated that the key sources of income from the annual contract payment from East Lothian Council and

additional external funding from Creative Scotland enabled the Trust to remain financially stable. He explained that key short term artistic aim of the Brunton Theatre Trust over the next year is to continue to provide its high quality programme of performing arts and this would enable the Brunton to continue as a key performing arts venue. Mr Butt concluded The Trust is currently in a stable financial position going forward into 2022/23 and with its continued partnership with East Lothian Council will strive to respond and adapt to the continued economic challenges that it will face during these uncertain times.

Councillor Menzies asked what the Trust are doing to encourage people back into the theatre. Mr Butt explained they were reassuring customers on precautions they were continuing to take around health and safety and more recently there has been a desire from people to come back into the space. He added that the ticket sales for the pantomime had been very good with schools signing up strongly to attend. He said at the moment they are unsure if financially they will return to pre-pandemic figures and felt it would be foolish to be overly confident about this as people are now feeling the squeeze with the cost of living crisis but that the Trust will continue to do their part with advertising and fair pricing.

Councillor Trotter stated the Brunton Theatre is an excellent venue and he would highly recommend to anyone. He welcomed the report wished the Trust all the best for the future.

Councillor Ritchie echoed Councillor Trotter's comments and added that the culture sector had been hit hard from the pandemic but it was really encouraging to see the positive direction the accounts were heading in and commended the hard work that went on behind the scenes to keep them afloat. She thanked the team, staff and trustees at the Brunton Theatre adding that it was a huge asset to the community.

Councillor Menzies thanked Mr Butt for the report and echoed the comments from fellow Councillors.

## **Decision**

The Committee agreed to note the paper.

- 10. CORPORATE SUPPORT RISK REGISTER**
- 11. FINANCE RISK REGISTER**
- 12. INFRASTRUCTURE RISK REGISTER**

Reports were submitted by the Chief Executive to present to the Audit and Governance Committee the Corporate Risk Register for discussion, comment and noting.

Scott Kennedy, Emergency Planning, Risk and Resilience Officer stated due to the large number of items on the agenda he would combine the reports for Corporate Support, Finance and Infrastructure Risk Registers. Mr Kennedy explained that Very High risks are unacceptable and measures should be taken to reduce, transfer or treat the risk to a more tolerable position; high risks may be tolerable providing the Council is assured that adequate and effective control measures are in place;

medium risks are tolerable with control measures that are cost effective; and low risks are broadly acceptable without any further action to prevent or mitigate risk.

### **Corporate Support**

Mr Kennedy reported the current Corporate Support Risk Register included 1 Very High, 4 High, 12 Medium and 13 Low risks. As per the Council's Risk Strategy, only the Very High and High risks were being reported to the Committee. Mr Kennedy was happy to answer any questions on the format of the risk register and analysis of the risks and Ms Ferguson, Head of Corporate Support would answer any questions individual risks.

There were no questions or comments.

### **Finance**

Mr Kennedy reported the current Finance Risk Register includes 1 Very High, 7 High, 5 Medium and 2 Low risks. As per the Council's Risk Strategy, only the Very High and High risks are being reported to the Committee. Mr Kennedy was happy to answer any questions on the format of the risk register and analysis of the risks and Ms Dunnet would answer any questions on individual risks.

There were no questions or comments.

### **Infrastructure**

Mr Kennedy reported the current Infrastructure Risk Register includes 2 Very High, 17 High, 36 Medium and 14 Low risks. As per the Council's Risk Strategy, only the Very High and High risks are being reported to the Committee. Mr Kennedy was happy to answer any questions on the format of the risk register and analysis of the risk and Mr Reid, Head of Infrastructure would answer any questions on individual risks.

### **Decision**

The Committee agreed to note that:

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

Signed

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Councillor Lee-Anne Menzies  
Convener of the Audit and Governance Committee

**REPORT TO:** Audit and Governance Committee  
**MEETING DATE:** 14 February 2023  
**BY:** Service Manager – Internal Audit  
**SUBJECT:** Internal Audit Report – February 2023

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## **1 PURPOSE**

- 1.1 To inform the Audit and Governance Committee of Internal Audit reports issued since the last meeting of the Committee, provide details of Internal Audit's follow-up work undertaken and provide an update on progress made against the 2022/23 annual audit plan.

## **2 RECOMMENDATION**

- 2.1 That the Audit and Governance Committee note:
- i. the main findings and recommendations from the Internal Audit reports issued during the period from November 2022 to February 2022 as contained in Appendix 1 and covered in agenda item 11;
  - ii. the findings from Internal Audit's follow-up work;
  - iii. Internal Audit's progress against the annual audit plan for 2022/23 as set out in Appendix 2.

## **3 BACKGROUND**

- 3.1 Since the last meeting of the Committee final reports have been issued in respect of the following audits: East Lothian Works, Systems & Data Backup and Recovery Testing.
- 3.2 The main objective of the audits was to ensure that the internal controls in place were operating effectively. A summary of the main findings and recommendations from the East Lothian Works audit is contained in Appendix 1. The summary of the main findings and recommendations from the Systems & Data Backup and Recovery Testing audit is covered in agenda item 11.
- 3.3 For the audit reviews undertaken, Internal Audit has provided management with the following levels of assurance:
- East Lothian Works – Reasonable Assurance
  - Systems & Data Backup and Recovery Testing – Reasonable Assurance

- 3.4 Internal Audit follows-up on recommendations made in previously issued audit reports to ensure that they have been implemented as agreed by Management. Detailed spreadsheets are maintained to monitor progress being made and this report provides a summary of the current status for two audits that were reported in previous years. Our findings are detailed below:

#### **Covid-19 Grants**

- 3.5 Internal Audit's report on Covid-19 Grants was issued in June 2022. Our follow-up review has highlighted that seven of the nine recommendations made have been implemented, and two recommendations (to transfer files from email inboxes to a secure network file location and the recovery of two overpaid grants) are in progress and scheduled for completion by April 2023.

#### **Risk Management**

- 3.6 Internal Audit's report on Risk Management was issued in June 2022. Our follow-up review has highlighted that of the two recommendations made, one has been fully implemented and the second recommendation is awaiting the implementation of new risk management software and will be complete in April 2023.

#### **Progress Report 2022/23**

- 3.7 A progress report attached as Appendix 2 is prepared to assist the Committee in their remit to evaluate Internal Audit's work and measure progress against the annual audit plan for 2022/23.

### **4 POLICY IMPLICATIONS**

- 4.1 None

### **5 INTEGRATED IMPACT ASSESSMENT**

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

### **6 RESOURCE IMPLICATIONS**

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

### **7 BACKGROUND PAPERS**

- 7.1 None

<b>AUTHOR'S NAME</b>	Duncan Stainbank
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<b>DATE</b>	3 February 2023





# Appendix 1 Executive Summary: East Lothian Works

## Conclusion: Reasonable Assurance

The internal controls in place for East Lothian Works are generally reliable, however there are some improvements that can be made to provide a fully effective control process, including the arrangements in place for ensuring a clear audit trail exists when completing quarterly financial reports, undertaking appropriate checks on employers prior to awarding grant funding, maintaining a summary record of the discussions held at the quarterly No One Left Behind monitoring meetings and undertaking reconciliations between the database held for each programme and the quarterly financial reports.

### Background

East Lothian Works is the Council's central hub which provides employability services across East Lothian for both young people and adults, with the aim of helping and mentoring clients with training, adult learning programmes, apprenticeships and work experience. Grant funding for programmes is provided primarily from the Scottish Government – East Lothian Works was awarded No One Left Behind funding of approximately £985k on 23 March 2022 for financial year 2022/23. The No One Left Behind scheme is designed to enable a more flexible approach, delivering a number of distinct employability programmes, including the initial phase of No One Left Behind, the Parental Employability Support Fund and the Young Person's Guarantee. The East Lothian Council Plan 2022-2027 references the Council's recovery and renewal plan, and has a commitment to improve the employability of East Lothian's workforce, together with developing our future ways of working. East Lothian Works has a key role to play in meeting this commitment moving forward.

### Summary of findings & recommendations

The following key findings and recommendations are highlighted, which have all been **agreed by Management**:

- The existing arrangements in place for completing the quarterly financial reports for the Scottish Government require review – there was a lack of reconciliations undertaken between the database held for each employability programme and the financial reports, and the reports had not been checked by a person independent of processing. *Management have advised that a template has already been developed and implemented to allow reconciliations to be undertaken. In addition, a reconciliation summary sheet will be completed and the financial reports independently reviewed, all of which will be operational by February 2023.*
- Appropriate validation checks had not been undertaken on employers prior to awarding the first phase of No One Left Behind grant funding of £202k, including checks on health and safety records, public liability insurance and on staff working with young adults, and a formal summary of the discussions held with employers at the quarterly monitoring meetings had not been maintained. *Management have already undertaken retrospective checks on the employers and have agreed to maintain a formal summary of the discussions held at the quarterly monitoring meetings by January 2023.*
- There was a lack of a clear audit trail for the quarterly financial reports submitted to the Scottish Government – supporting evidence had not been retained and in a number of instances we were unable to verify the figures on the reports as the amounts in the databases had subsequently been updated. *Management have introduced revised procedures for the next financial report and will retain supporting evidence by February 2023.*

### Recommendation Summary

Recommendations Grade	High	Medium	Low	Total
Current Report	-	11	-	11
Prior Report	N/A	N/A	N/A	N/A*

### Materiality

East Lothian Works has an overall budget of approximately £3.7 million for financial year 2022/23, of which approximately £2.3 million is received from Scottish Government and other grant funding. The service helped 201 clients into employment in financial year 2021/22 and has assisted 69 people into employment for the first two quarters of financial year 2022/23.

\* No prior report exists for East Lothian Works.

# Headlines

Objectives	Conclusion	Comments
1. Adequate arrangements are in place for monitoring grant terms and conditions and for reporting to the Scottish Government.	Limited	From our review of the quarterly financial reports submitted to the Scottish Government, we found that there was a lack of a clear audit trail – supporting evidence had not been retained and in a number of instances we were unable to verify the figures on the reports, as the amounts in the databases had subsequently been updated and the databases had not been saved at the time the reports were completed. In addition, there was a lack of reconciliations undertaken between the database held for each employability programme and the financial reports, a summary sheet had not been completed and the reports had not been checked by a person independent of processing. We were informed that improvements are being made and support is being received from Finance for the next quarterly return.
2. Appropriate procedures are in place to ensure that local priorities have been assessed and services are configured accordingly.	Reasonable	The No One Left Behind scheme was introduced with the objective of placing people at the centre of the design and delivery of employability services. The Local Employability Partnership received 24 applications from employers for grant funding and the panel subsequently reviewed the bids using a scoring system to help select five successful employers. We found that local priorities had been assessed and services configured accordingly, the applications were assessed on the basis of quality and this included an assessment of applicants’ know-how, local knowledge, expertise, previous experience and past performance.
3. Clients are appropriately assessed and provided with services that meet their needs.	Reasonable	For a sample of 15 clients examined, we found that in each case an appropriate assessment had been carried out. In three cases East Lothian Works involvement did not lead to a positive outcome, the client did not wish to engage further or had independently found alternative employment. For the remaining cases the client had either commenced a work experience placement, training/college course or had received assistance through the East Lothian offenders recovery service, however in one case appropriate checks had not been undertaken on the financial information provided by an employer for the Young Person’s Guarantee scheme.
4. Adequate arrangements are in place for monitoring the provision of employability services with outside contractors.	Limited	East Lothian Works chairs the Local Employability Partnership (LEP), the LEP panel has responsibility for evaluating grant applications from local employers for the No One Left Behind funding programme. The panel undertook a review of the bids received, however appropriate validation checks had not been undertaken on employers prior to awarding initial funding, including checks on health and safety records, public liability insurance and on staff working with young adults. Quarterly monitoring meetings had taken place with employers, however a formal summary of the discussions held at these meetings had not been maintained.
5. The workforce plan for East Lothian Works is based on the anticipated future project funding.	Reasonable	We sought to establish if appropriate arrangements were in place to ensure that staff recruitment was analysed in conjunction with the anticipated project funding for the financial year. We found that a spreadsheet had been maintained for monitoring staff numbers along with the associated costs and the Team Leader – Funding and Contracts undertakes ongoing checks on the length of employment for temporary staff members within East Lothian Works, to ensure that the continuous employment matches the funding received and has not extended beyond two years.

# Areas where expected controls are met/good practice

No.	Areas of Positive Assurance
1.	Appropriate workforce planning arrangements were in place to ensure that the demand for staff within East Lothian Works is analysed in conjunction with the anticipated project funding for the financial year and ongoing checks are undertaken to confirm that the continuous employment for temporary staff members matches the funding received and does not extend beyond two years.
2.	The quarterly financial returns to the Scottish Government had been fully completed and submitted for both quarters reviewed in financial year 2022/23.
3.	Appropriate arrangements were in place to ensure that local priorities had been assessed under the No One Left Behind scheme and services had been configured accordingly.

# Recommendation Grading/Overall Opinion Definitions

Recommendation	Definition
<b>High</b>	Recommendations relating to factors fundamental to the success of the control objectives of the system. The weaknesses may give rise to significant financial loss/misstatement or failure of business processes.
<b>Medium</b>	Recommendations which will improve the efficiency and effectiveness of the existing controls.
<b>Low</b>	Recommendations concerning minor issues that are not critical, but which may prevent attainment of best practice and/or operational efficiency.

Levels of Assurance	Definition
<b>Substantial Assurance</b>	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
<b>Reasonable Assurance</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
<b>Limited Assurance</b>	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
<b>No Assurance</b>	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
HR/Payroll Recruitment and New Starters Process	We will review the processes for recruitment, vetting, contract completion, payment and initial training of new start employees for the Council.	February 2023	Commenced
Sundry Debtors	We will examine the processes and controls in place for raising, collection, monitoring and resolution of sundry debts.	November 2022	Completed
Finance Business Partners and Budget Monitoring	We will review the processes and procedures in place to assist services in financial management through the provision of Finance Business Partners and monitoring of budgets against best practice.	September 2022	Completed
Construction Materials Procurement	We will review the processes around procurement of construction materials and services across the Council's services.	February 2023	Testing Underway
City Deal Governance and Monitoring	We will review the governance and monitoring processes in place around the progress of the Edinburgh and South-East Scotland City Deal projects and the intended monitoring of the Joint Venture with Queen Margaret University.	November 2022	Completed
Homelessness Services	We will review the processes in place and recently reviewed to meet the new regulatory requirements of the Homelessness Service.	June 2023	

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Systems and Data Backup and Recovery Testing	We will review the processes in place to ensure that the Council has adequate processes and procedures in place to ensure that core systems have data backed-up and that systems and data could be recovered in the event of corrupted systems or data by testing this appropriately.	February 2023	Completed
ICT Asset Management	We will review the processes in place in relation to the asset management of Council ICT assets across the authority.	November 2022	Completed
COVID-19 Recovery & Renewal Plan	We will review the processes of governance and control in place to monitor progress against the East Lothian Council COVID-19 Recovery & Renewal Plan.	June 2023	In Planning
Climate Change Strategy Review and Monitoring	We will review the processes and governance in place to review and monitor the actions that are recorded against the Climate Change Strategy.	June 2023	
East Lothian Works	We will review the governance and controls in place for the operation of East Lothian Works and the links to educational outcomes.	November 2022	Completed
Housing Management System Replacement Project	We will review the governance, risk management and control measures in place for this vital systems improvement project.	June 2023	

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Education Workforce Planning	We will review the policy, processes and procedures in place to develop workforce planning for Education.	February 2023	Delayed for consideration in future plans, replaced with Brunton Theatre Trust Review  In Planning
Risk Management	We will select a sample of High risks from both the Council's Corporate Risk Register and service area Risk Registers and will review the adequacy and effectiveness of the risk control measures in place.	June 2023	
Scottish Housing Regulator (SHR) Annual Assurance Statement	Work required to provide assurance on the regulatory requirements set out in the Scottish Housing Regulator's Chapter 3 of the Regulatory Framework.	September 2022	Completed
Review of Performance Indicators	Internal Audit will continue to review the systems in place for the preparation and reporting of Performance Indicators.	September 2022	Completed





**REPORT TO:** Audit and Governance Committee

**MEETING DATE:** 14 February 2023

**BY:** Service Manager – Internal Audit

**SUBJECT:** Internal Audit Plan 2023/24

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**3**

## **1 PURPOSE**

- 1.1 To inform the Audit and Governance Committee of Internal Audit's operational plan for 2023/24.

## **2 RECOMMENDATION**

- 2.1 The Audit and Governance Committee is asked to approve the Audit Plan for 2023/24.

## **3 BACKGROUND**

- 3.1 The annual audit plan has been prepared in accordance with Public Sector Internal Audit Standards (PSIAS).

- 3.2 In preparing the annual audit plan a range of factors have been taken into account, including:

- the Council Plan 2022-27;
- areas highlighted by Senior Officers;
- corporate and service area risk registers;
- the Council's performance and financial statements;
- changes in service delivery;
- the findings from previous years' audit work; and
- the need to incorporate flexibility for reactive/investigatory work.

- 3.3 Internal Audit's primary role is to independently review internal control systems within the Council. Internal Audit will evaluate the adequacy and effectiveness of controls in responding to risks within the Council's governance, operations and information systems, regarding the:
- Achievement of the Council's strategic objectives.
  - Reliability and integrity of financial and operational information.
  - Effectiveness and efficiency of operations and programmes.
  - Safeguarding of assets.
  - Compliance with laws, regulations, policies, procedures and contracts.
- 3.4 Internal Audit are required to give an opinion on the Council's control environment in the annual Controls Assurance Statement and the audit work carried out will contribute to this opinion.
- 3.5 The provision of the Internal Audit service is on an in-house basis by the Council's Internal Audit Unit. The resources available have been applied to individual audits and a detailed operational plan has been produced for 2023/24 (see Appendix A).
- 3.6 Internal Audit will adopt a risk based approach to audit assignments as the principal means of providing assurance on the adequacy, reliability and effectiveness of internal controls. Testing of controls will be carried out on a sample basis. Samples are selected according to an agreed sampling methodology.
- 3.7 For each individual audit, a detailed audit report is prepared for the relevant member(s) of the Council Management Team (CMT). Copies of the audit report are provided to the Chief Executive, External Audit and to members of the Audit and Governance Committee.
- 3.8 Follow-up audits will be carried out to review the implementation of the recommendations made.

### **AUDIT COVERAGE**

- 3.9 Core Financial Systems, Risk Assessed Service and Corporate Audits – Internal Audit will review the Council's systems to provide assurance on the adequacy and effectiveness of internal controls. The audit plan includes a range of risk assessed core financial systems and non-financial audits.
- 3.10 Statutory Audits – Internal Audit undertake audit work in respect of specific grant awards made to the Council by the Scottish Government, to ensure compliance with grant conditions. In addition work to provide assurances required by the Scottish Housing Regulator will also be completed.

- 3.11 Best Value Audit – Internal Audit will review the systems in place for the preparation and reporting of Performance Indicators.
- 3.12 Investigations – Time has been allocated to carry out work on the National Fraud Initiative 2022/23, and provide a reactive service to investigate fraud and irregularity when appropriate.
- 3.13 Integration Joint Board (IJB) – The Committee is asked to note that in 2023/24 internal audit services to the East Lothian IJB will be provided by East Lothian Council's Internal Audit Unit and time has been allocated to carry out audit work for the IJB.

### **INTERNAL AUDIT PERFORMANCE INDICATORS**

- 3.14 Internal Audit will report on the completion of the annual audit plan, the percentage of audit recommendations accepted by Management and the percentage of audit staff with CCAB accounting qualifications.

### **OTHER FACTORS**

- 3.15 The Committee should note that reactive work may impact heavily on the Internal Audit Unit's ability to complete the audit plan. Contingency days are built in for 2023/24 in the investigations section, but by its nature reactive work is difficult to predict.
- 3.16 The plan and its completion have added importance, given its contribution to the annual Controls Assurance Statement to be prepared at the end of 2023/24.

## **4 POLICY IMPLICATIONS**

- 4.1 None

## **5 INTEGRATED IMPACT ASSESSMENT**

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

## **6 RESOURCE IMPLICATIONS**

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

## 7 BACKGROUND PAPERS

7.1 None

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<b>DESIGNATION</b>	Service Manager – Internal Audit
<b>CONTACT INFO</b>	dstainbank@eastlothian.gov.uk
<b>DATE</b>	3 February 2023

**INTERNAL AUDIT PLAN 2023/24****Appendix A**

<b>AUDITABLE AREAS</b>	<b>SCOPE OF THE AUDIT</b>	<b>INTERNAL AUDIT ASSESSED RISK</b>	<b>WEEKS</b>
<b>CORE FINANCIAL SYSTEMS AUDITS</b>			
Financial Sustainability/CIPFA FM Code	Examine the processes in place to demonstrate that the Council is taking all recommended steps to ensure continued financial sustainability in the long term against the financial sustainability principles within the CIPFA FM Code.	High	6
Capital Expenditure Prioritisation	Examine the processes that are in place to provide accurate, timely and complete information to allow the review of the priorities for Capital Expenditure across the Council including the learning estate.	High	5
Petty Cash	Examine the processes in place around the use of petty cash across the Council, including within schools and the processes to review the continued requirement for Petty Cash in the services continuing with this payment method.	Medium	5
IR35 Contractor Assessment Processes	Examine the processes in place to assess the tax status under the IR35 tax rules and provide determinations to all individuals when this is required and monitor the supply chain to ensure PAYE payments are made when appropriate, as required from April 2021.	Medium	4
<b>RISK ASSESSED SERVICE &amp; CORPORATE AUDITS</b>			
Cost of Growth Agenda	Review the processes in place to establish what the revenue budget costs are of increasing Council services to meet increased population within East Lothian and how consideration of this growth is demonstrated in the annual budget process and development of medium and long term financial strategies.	High	5

AUDITABLE AREAS	SCOPE OF THE AUDIT	INTERNAL AUDIT ASSESSED RISK	WEEKS
Housing Void Management	Examine the processes in place within the Housing and Property Maintenance teams to manage the timely return of void properties to a compliant standard for operational use.	High	5
Devolved School Management	Examine the processes and controls in place to ensure compliance with the newly reviewed and approved Devolved School Management Procedures.	Medium	5
PPP Contract Management	Examine the process of management of the PPP schools contract maintenance to ensure that procedures are in place to meet contractual requirements and ensure the safe and effective maintenance of the buildings.	Medium	5
Asset Management Review Project Management	Examine the project management process in place in relation to the current asset management process of building moves across the Council to ensure that it is meeting the objectives set.	Medium	5
Utility Costs Management	Examine the processes in place to ensure that a best value process is in place to manage the utilities costs across the Council's buildings portfolio.	Medium	5
Musselburgh Flood Prevention Scheme Governance processes	Examine the Governance processes in place to manage and control the development and procurement for the Musselburgh Flood Prevention Scheme.	Medium	5
Roads	Examine the Roads trading account operation and establish that this is operating in a best value format for the Council.	Medium	5

<b>AUDITABLE AREAS</b>	<b>SCOPE OF THE AUDIT</b>	<b>INTERNAL AUDIT ASSESSED RISK</b>	<b>WEEKS</b>
Area Partnerships	Review the processes in place across area partnerships for maintenance of a clear audit trail on use and decision making for provision of grants in relation to devolved Council funding to the Area Partnerships.	Medium	5
Education Additional Support Needs	Examine the processes around assessment and provision of additional support needs for children.	High	5
ALEO Enjoy Leisure	We will review the governance, control and risk management processes in place within the Council in respect of the relationship between East Lothian Council and Enjoy Leisure.	Medium	5
Risk Management	We will review the processes in place to ensure up to date timescales and risk updates are provided by management through the new risk management system.	Medium	4
Assurance Reviews	Undertake assurance reviews on areas of key controls for new or evolving systems of control to provide support for developing systems.	–	6
<b>STATUTORY AUDITS</b>			
Miscellaneous Grants	For grants awarded to the Council by the Scottish Government, Internal Audit is required to provide a statement of compliance with grant conditions on an annual basis.	Medium	2
Scottish Housing Regulator (SHR) Annual Assurance Statement	Work required to provide assurance of the regulatory requirements set out in the Scottish Housing Regulators Chapter 3 of the Regulatory Framework.	Medium	4

AUDITABLE AREAS	SCOPE OF THE AUDIT	INTERNAL AUDIT ASSESSED RISK	WEEKS
<b>BEST VALUE AUDIT</b>			
Review of Performance Indicators	Internal Audit will continue to review the systems in place for the preparation and reporting of Performance Indicators.	Medium	4
<b>INVESTIGATIONS</b>			
Fraud & Irregularity	Internal Audit will investigate all instances of suspected fraud or irregularity.	High	15
National Fraud Initiative (NFI)	Time has been allocated for coordinating and submitting data for the 2022/23 National Fraud Initiative (NFI) exercise, this plan anticipates that a Counter Fraud Officer will be recruited to progress the matches provided through NFI, further resource may be required if this recruitment is not possible.	Medium	5
<b>OTHER AUDIT WORK</b>			
Integration Joint Board	Time has been allocated for work that will be undertaken by Internal Audit for the East Lothian Integration Joint Board (IJB). A separate audit plan will be prepared which will be presented to the IJB Audit and Risk Committee for approval.	Medium	15
Review of Previous Year's Work	Internal Audit will review the outcome of our previous year's work to ensure recommendations have been actioned as agreed and that risks accepted by Management have been properly managed.	Medium	8
Attendance at Stocktakes	Internal Audit will attend the year-end stocktakes at Property Maintenance, Road Services and Waste Services. We will review the final stock sheets.	Medium	1



AUDITABLE AREAS	SCOPE OF THE AUDIT	INTERNAL AUDIT ASSESSED RISK	WEEKS
Community Councils and Management Committees	<p>Community Councils – Internal Audit provide advice and support to Community Councils.</p> <p>Management Committees – Internal Audit will independently examine the annual accounts of Management Committees where applicable.</p>	Medium	2
Advice and Consultancy	<p>Consultation on New Systems – for new systems implemented, Internal Audit will provide advice on internal control matters.</p> <p>Financial Reports – providing service areas with financial information about companies and offering advice where applicable.</p> <p>Consultancy – providing advice and consultancy on internal control issues.</p>	Medium	4
<b>TRAINING</b>			
Training	<p>An adequate allocation of budget resources and time will be given to maintaining and improving the knowledge base and quality of the staff resource. This includes time to attend the Scottish Local Authority Chief Internal Auditor Group (SLACIAG) and Computer Audit Sub Group, also for staff to undertake continuous professional development (CPD).</p>	–	4
External Quality Assessment	<p>The PSIAS requires the Internal Audit section to be subject to an External Quality Assessment (EQA) each five years, by appropriately qualified and independent reviewers. This EQA was carried out by Argyll &amp; Bute Council in April 2018 and the results were reported to the Audit &amp; Governance Committee in June 2018. The schedule for the second cycle of EQAs, with other participating Scottish Councils as peer reviewers, indicates that East Lothian Council will be reviewed by Scottish Borders Council in 2023 and will review South Lanarkshire Council in 2023.</p>	–	4



## East Lothian Council

2 February 2023

### Update on the 2022/23 audit of East Lothian Council

4

1. The purpose of this letter is to provide members with an update on the 2022/23 audit of East Lothian Council (ELC) and its group (consisting of ELC, East Lothian Investments, Enjoy East Lothian Ltd., Brunton Theatre Trust, East Lothian Integration Joint Board, Lothian Valuation Joint Board, East Lothian Land Ltd., East Lothian Mid-Market Homes LLP, Trust Funds and Common Good Funds). We will issue separate audit opinions for the council and its group and for the Dr Bruce Fund charitable trust. Covid-19 has continued to impact on the completion of the 2021/22 audits with ongoing extensions to statutory deadlines. This, along with the changeover in the appointed auditor, has impacted on the timing of our planning work on our 2022/23 audits.

2. Our planning work on the 2022/23 audit of East Lothian Council is at an early stage. Therefore, we are not able to present our Annual Audit Plan to the Audit and Governance Committee at the meeting on 14 February 2023. We have included this Audit Strategy Letter to update committee members on progress and highlight key audit matters. Following the conclusion of our audit planning procedures, we will issue a copy of the Annual Audit Plan to officers and members of the Audit and Governance Committee by 31 March 2023.

### Risks

3. Our preliminary planning work has identified the following significant risks that require specific audit considerations.

- **Risk of material misstatement due to management override of controls:** International Standard on Auditing 240 (ISA 240) requires that audits are planned to consider the risk of material misstatement in the financial statements caused by fraud, which is presumed to be a significant risk in any audit. This includes the risk of fraud due to the management override of controls to change the position disclosed in the financial statements.
- **Estimation in the valuation of land and buildings:** East Lothian Council held land and buildings with a net book value of £926 million as at 31 March 2022. There is a significant degree of subjectivity in the valuation of land and buildings. Valuations are based on specialist and management assumptions and changes in these can result in material changes to valuations. Through our audit work we will pinpoint our risk to areas most susceptible to material misstatement and include this in our external audit plan.

4. ISA 240 presumes a risk of fraud in revenue recognition which is extended to expenditure by Practice Note 10. There is a risk that income or expenditure may be fraudulently misstated resulting in a material misstatement in the financial statements. Through our initial audit planning, we do not consider these to be significant risks for East Lothian Council as there are limited opportunities to manipulate the way income or expenditure are recognised in the financial statements and have therefore rebutted these risks.

5. Our Annual Audit Plan will include any further risks identified from our planning work and outline our response to all identified risks.

## Best Value

6. Under the 2021 Code of Audit Practice, the audit of Best Value in councils is fully integrated within our annual audit work.

7. Best Value at East Lothian Council will be assessed comprehensively over the period of the audit appointment and will include an annual evaluation of East Lothian Council's approach to demonstrating improvement in the effective use of resources and public performance reporting. We will also follow up findings reported previously in the Best Value Assurance Report in November 2018 to assess the pace and depth of improvement.

8. In addition to our annual work on Best Value we will conduct thematic reviews as directed by the Accounts Commission. In 2022/23 our focus will be on the effectiveness of council leadership in developing new local strategic priorities following the elections in May 2022. Our conclusions and judgements will be reported in a separate report to management and summarised in our Annual Audit Report.

## Audit Fee

9. The proposed baseline audit fee for the 2022/23 council audit is £290,020 (2021/22: £257,700) as set out in [Exhibit 1](#). Our fees have increased in 2022/23 and this is a reflection of the current audit market and the rising costs in delivering high quality audit work. There are increased regulatory expectations and risks placed on audit and its quality, as well as a widening in the scope of work audit must cover.

10. In setting the fee for 2022/23 we have assumed that the council has effective governance arrangements and will prepare comprehensive and accurate accounts for audit in line with the agreed timetable for the audit. The audit fee assumes there will be no major change in respect of the scope of the audit during the year and where our audit cannot proceed as planned, a supplementary fee may be levied.

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### Exhibit 1

#### Audit fees (including VAT)

Fee component	Fees (£)
External Auditor Remuneration	223,480
Contribution to Audit Scotland costs	8,470
Contribution to Performance and Best Value	58,430
Sectoral Cap Adjustment	(360)
2022/23 Audit fee	290,020
Audit of Charitable Trust (Dr Bruce Fund)	1,000
Total 2022/23 fee	291,020

Source: Audit Scotland

## Audit Timetable

11. As outlined in paragraph 1, Covid-19 has continued to impact on the timings of our 2022/23 audit planning. We are working towards issuing the independent auditor's report and Annual Audit Report by the statutory deadline of 30 September 2023. However, we acknowledge this may not be achievable due to ongoing pressures. We will maintain a pragmatic and flexible approach to the audit and will continue to have discussions with management and the Chair of the Audit and Governance Committee around the progress of our work and any changes that may be required to the target dates outlined in [Exhibit 2](#).

## Exhibit 2 Audit outputs

Audit Output	Target date	Audit and Governance Committee date
Annual Audit Plan	31 March 2023	<i>To be circulated to members by 31 March and presented at the Audit and Governance Committee on 13 June</i>
Independent Auditor's Report	30 September 2023	TBC
Annual Audit Report	30 September 2023	TBC

Source: Audit Scotland

## Independence and Objectivity

12. Auditors appointed by the Accounts Commission or Auditor General must comply with the Code of Audit Practice and relevant supporting guidance. When auditing the financial statements, auditors must also comply with professional standards issued by the Financial Reporting Council and those of the professional accountancy bodies. These standards impose stringent rules to ensure the independence and objectivity of auditors. Audit Scotland has robust arrangements in place to ensure compliance with these standards including an annual "fit and proper" declaration for all members of staff. The arrangements are overseen by the Executive Director of Innovation and Quality who serves as Audit Scotland's Ethics Partner.

13. The engagement lead (i.e. appointed auditor) for ELC is John Boyd, Audit Director. Auditing and ethical standards require the engagement lead to communicate any relationships that may affect the independence and objectivity of audit staff. We are not aware of any such relationships pertaining to the audit of East Lothian Council.



John Boyd  
Audit Director

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G2 1BT

**REPORT TO:**           **AUDIT & GOVERNANCE COMMITTEE**

**MEETING DATE:**   **14<sup>th</sup> February 2023**

**BY:**                   **Chief Executive**

**SUBJECT:**           **Council Improvement Plan 2021-2022 Update Report**

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**5**

## **1 PURPOSE**

- 1.1 To present the Council Improvement Plan 2021-2022 update report to the Audit & Governance Committee.

## **2 RECOMMENDATIONS**

- 2.1 That Audit & Governance Committee notes the progress in achieving the Council Improvement Plan 2021-2022 as detailed in the update report (Appendix 1).

## **3 BACKGROUND**

- 3.1 The Council Improvement Plan 2021-2022 was approved by Council in February 2021. The 16 actions in the Plan include seven actions carried forward from the 2018-2020 Plan and nine new actions identified in the 2020 Corporate Governance Self-Evaluation and the auditors' 2019/20 Annual Audit Report (October 2020).
- 3.2 The update report (Appendix 1) outlines progress that has been made in completing the actions in the Improvement Plan. The update report includes a new column – Outcome/ Objective – which shows how the action relates to the Council Plan themes and the objective.
- 3.3 The council remained in Business Continuity mode throughout 2021 and for most of 2022 in response to the COVID-19 pandemic, which has necessitated focus on business critical activity and reduction in non-critical activity. This has meant that progress in completing some of the actions in the Improvement Plan have been delayed and consequently the deadline for completion of several actions has been extended.

- 3.4 Most of the actions in the Plan have been now been completed. However, several are ongoing and/ or will be carried forward into the next (2023-2024) Council Improvement Plan which will be presented for approval by Council in Spring 2023. The new Plan will include relevant outstanding actions from the Recovery and Renewal Plan that are now embedded within the new 2022-2027 Council Plan.

#### **4 POLICY IMPLICATIONS**

- 4.1 The Council Improvement Plan assists the Council in demonstrating that it is achieving Best Value. It provides the necessary focus to improve key areas of the Council at a corporate level, thus aiding delivery of the Council Plan. Moreover, it supports the Council in its striving for continuous improvement, to continue improving the quality and delivery of its services and to meet Council Plan objectives.

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

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

#### **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – none.
- 6.2 Personnel – none directly, although certain actions within the Council improvement Plan are likely to require the commitment of staff resources.
- 6.3 Other – none.

#### **7 BACKGROUND PAPERS**

- 7.1 Appendix 1: Council Improvement Plan 2021-2022 Update Report (January 2023)

<b>AUTHOR'S NAME</b>	Paolo Vestri
<b>DESIGNATION</b>	Service Manger Policy, Improvement & Partnerships
<b>CONTACT INFO</b>	<a href="mailto:pvestri@eastlothian.gov.uk">pvestri@eastlothian.gov.uk</a> 01620 827320
<b>DATE</b>	31 <sup>st</sup> January 2023



## Appendix 1: Council Improvement Plan 2021-2022 Update Report (January 2023)

### Council Improvement Plan 2021 – 2022

#### Update April 2022

	ACTION	OUTCOME/ OBJECTIVE	LEAD OFFICER / DEADLINE	UPDATE
1	<p>Implement the Council Workforce Plan 2018-2022. The implementation plan has 48 actions within 7 work streams</p> <p>Source: 2018-20 Improvement Plan and 2020 Corporate Governance Self-evaluation</p>	<p>Growing our Capacity – sustain a skilled, flexible, high performing and motivated workforce; support and initiate transformational change; build and sustain leadership and management capacity.</p>	<p>SM Policy Improvement &amp; Partnerships</p> <p><b>Completed</b></p>	<p>Over half of the actions in the plan have been completed and progress has been made on the remaining actions.</p> <p>A new 2023-2027 Workforce Plan was approved by Cabinet, 17<sup>th</sup> January 2023.</p>
2	<p>Continue to embed transformational change across the Council and ensure it delivers expected improvement and benefits within planned timeframes, prioritising projects that are most likely to lead to major change and significant benefits</p> <p>Source: 2018-20 Improvement Plan</p>	<p>Growing our Capacity – deliver transformational change and harness the opportunities technology offers in the provision of services</p>	<p>Chief Executive</p> <p><b>Completed/ Ongoing</b></p>	<p>Transformation principles are being embedded across all services. Key Transformation projects (including the On-line HR/ Payroll system and the On-line Customer Portal) have been or are being completed. Capacity has been created to support the delivery of major transformational change projects with significant benefits, including Assets Rationalisation, a new Housing Management System and other digital projects, Commercialisation, and Transforming Services for Children.</p> <p>A prioritisation matrix is used to inform decisions about which projects will be supported.</p>

3	<p>Continue to focus on improving education performance for all children and young people in East Lothian</p> <p>Source: 2018-20 Improvement Plan</p>	<p>Growing our People – reduce the poverty-related attainment gap and raise the attainment and achievement of our children and young people</p>	<p>Head of Education</p> <p><b>Completed/ Ongoing</b></p>	<p>The council has adopted the <a href="#">Education Service Progress and Improvement Plan</a>. All schools continue to have a priority relating to raising attainment and achievement in their School Improvement Plans. This, along with progress towards meeting our stretch aims is the focus of termly Associated Schools Group Meetings and Quality Improvement Officer visits.</p>
4	<p>In order to ensure the council continues to have relevant governance policies, guidance, regulations and internal controls that are reviewed and kept up-to-date, a register of such documentation will be prepared and reviewed annually</p> <p>Source: 2018-20 Improvement Plan</p>	<p>Growing our Capacity – meet the council’s commitment to the principles of openness, accountability and transparency</p>	<p>SM Policy Improvement &amp; Partnerships / SM People &amp; Governance</p> <p><b>Carried forward into 2023/24 Plan</b></p>	<p>This project was been on hold as this area of work is not deemed critical within Business Continuity Plans.</p> <p>This piece of work has not yet started but will be scheduled for 2023 and therefore will be carried forward in to the next Council Improvement Plan</p>
5	<p>Establish formal mechanism for evaluating partnership working and the effectiveness of partnerships based on an agreed partnership self-evaluation framework</p> <p>Source: 2018-20 Improvement Plan and 2020 Corporate Governance Self-evaluation</p>	<p>Growing our Capacity – review of the governance arrangements of the East Lothian Partnership</p>	<p>SM Policy Improvement &amp; Partnerships</p> <p><b>Carried forward into 2023/24 Plan</b></p>	<p>The East Lothian Partnership was to undertake a self-evaluation exercise drawing on frameworks developed by Audit Scotland, the Improvement Service and EFQM in Spring 2020. This project was put on hold as this area of work is not deemed critical within Business Continuity Plans.</p> <p>This piece of work has not yet started and is now scheduled to be undertaken in Spring 2023 and therefore will be carried forward in to the next Council Improvement Plan</p>
6	<p>The council will explore the development of a Community Charter in partnership with civic society and the</p>	<p>Growing our Communities – extend community engagement and decision making and increase</p>	<p>Chief Executive</p> <p><b>Completed</b></p>	<p>Work commenced on developing the Community Charter but was delayed in order to reflect the development of the Climate Change Charter following the adoption of the Climate Change</p>

	<p>communities and citizens of East Lothian</p> <p>Source: 2018-20 Improvement Plan and 2020 Corporate Governance Self-evaluation</p>	<p>community and individual resilience</p>	<p>Strategy. Work was then put on hold as this area of work is not deemed critical within Business Continuity Plans.</p> <p>The Community Charter has not been included in the 2022-2027 Council Plan. However, the Plan does include a strong commitment to community empowerment and partnership working with 'civic society'.</p> <p><i>'The Plan builds on the collaborative effort of our staff, partners and communities in responding to COVID: enabling and empowering citizens and communities to be more resilient; being a more enterprising authority in order to be more effective and efficient; harnessing the power of digital to deliver services for the benefit of our customers. Given the scale of the challenges faced by East Lothian, the Council has to look to how it can further harness the power of its citizens and communities. Central to this approach is the Council moving away from doing things for, and to, communities and individuals, to the Council and the communities and citizens of East Lothian working together to identify and then meet our needs in partnership and co-operation.'</i></p> <p>The delivery of this commitment will be monitored as part of the reporting on progress with implementing the 2022-2027 Council Plan.</p>
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7	<p>The Council will ensure it meets any additional requirements to further develop community participation in decision-making arising from the Local Governance Review</p> <p>Source: 2018-20 Improvement Plan</p>	<p>Growing our Communities – extend community engagement and decision making and increase community and individual resilience</p>	<p>Chief Executive</p> <p><b>Carried forward into 2023/24 Plan</b></p>	<p>Work on the Local Governance Review was interrupted by the public sector response to Covid-19 and was further postponed as a result of Scottish Government and COSLA resources being redeployed to deal with the Ukraine humanitarian response. Although dialogue recommenced at the end of 2022 and the Scottish Government plans to launch the next round of the ‘Democracy Matters’ conversations to explore community empowerment and decision-making by the end of March 2023.</p> <p>The outcome of the Review and its implications will be reported to Council.</p>
8	<p>Continue to review reporting and monitoring of expenditure against budgets and recovery plans in order to deliver outcomes within agreed budgets</p> <p>Source: 2018-20 Improvement Plan</p>	<p>Growing our Capacity – maintain the current rigorous approach to controlling expenditure, ensuring that that it continues to ‘live within its means’ by operating as efficiently as possible</p>	<p>Head of Finance</p> <p><b>Completed/Ongoing</b></p>	<p>Quarterly financial monitoring reports to the council provide updates on expenditure against budgets and any recovery plans that may be required to ensure the council delivers outcomes within agreed budgets.</p>
9	<p>The roll out and adoption of the Staff Charter will be monitored and the Charter will be reviewed</p> <p>Source: 2018-20 Improvement Plan</p>	<p>Growing our Capacity – sustain a skilled, flexible, high performing and motivated workforce</p>	<p>SM Policy Improvement &amp; Partnerships</p> <p><b>Completed</b></p>	<p>The Staff Charter was adopted in 2019 and has been promoted on the Intranet.</p> <p>The Charter is being updated and will be re-issued following the adoption of 2023-2027 Workforce Plan.</p>
10	<p>The Council should review how the Improvement to Excellence framework and new Council Plan performance reporting is operating</p>	<p>Growing our Capacity – meet the council’s commitment to the principles of openness,</p>	<p>SM Policy Improvement &amp; Partnerships</p> <p><b>Completed</b></p>	<p>A new reporting framework has been developed to report on progress with the 2022-2027 Council Plan Action Plan. A new suite of Top 50 Council Plan Indicators is being developed and will be presented to Council for approval in February 2023. The</p>

	Source: 2018-20 Improvement Plan and 2020 Corporate Governance Self-evaluation	accountability and transparency		Council is adopting the Improvement Service's Public Sector Improvement Framework as its self-evaluation tool. The Improvement to Excellence Framework is being updated to take account of these developments
11	It is important the council ensures its performance reports are improved to that it is easier for elected members and the public to evaluate performance across equalities  Source: 2019/20 Annual Audit Report	Growing our Capacity – meet the council's commitment to the principles of openness, accountability and transparency	SM Policy Improvement & Partnerships  <b>Completed</b>	The Equality Plan 2021-2025 was approved by Council in October 2021.  A new suite of Poverty and Equality indicators has been developed to monitor progress with implementing the Equality Plan and Poverty Plan objectives and actions.
12	The council's reporting and monitoring against its improvement plan could be further improved to update members on what has been achieved through its improvement actions  Source: 2019/20 Annual Audit Report	Growing our Capacity – meet the council's commitment to the principles of openness, accountability and transparency	SM Policy Improvement & Partnerships  <b>Completed</b>	The update report includes a new column – Outcome/ Objective – which shows how each action relates to the Council Plan themes and objectives.  The next Council Improvement Plan will include more detail on the objective of each action and how progress/ achievement will be measured.
13	Refresher training on the Code of Conduct will be provided to elected members in 2020/21  Source: 2020 Corporate Governance Self-evaluation	Growing our Capacity – ensure elected members meet the personal values and principles of public service as set out in the Councillors Code of Practice	SM People & Governance  <b>Completed</b>	The 2022 elected members' induction programme included a session on the Code of Conduct.
14	Undertake a review of the arrangements for dealing council business arrangements when the	Growing our Capacity – meet the council's commitment to the principles of openness,	Head of Corporate Resources	Arrangements for dealing council business were reviewed along with Business Continuity arrangements following the COVID pandemic.

	council's Business Continuity Plan has been invoked  Source: 2020 Corporate Governance Self-evaluation	accountability and transparency	<b>Completed</b>	
15	Monitor the implementation of the Climate Change Strategy Action Plan  Source: 2020 Corporate Governance Self-evaluation	Growing our Communities – tackle the climate emergency and reach net zero by 2045	Head of Development  <b>Completed/ Ongoing</b>	Implementation of the Climate Change Strategy Action Plan is being carried out by the Climate Change Planning Group and reported to Council annually.
16	Review and take action to minimise any negative impact of the COVID19 emergency on the council's revenue and capital budgets  Source: 2020 Corporate Governance Self-evaluation	Growing our Capacity – maintain the current rigorous approach to controlling expenditure, ensuring that that it continues to 'live within its means' by operating as efficiently as possible	Head of Finance  <b>Completed</b>	Quarterly financial monitoring reports to the council have provided updates on expenditure against budgets and on the impact of the COVID-19 response on the council budget. The Council's Financial Strategy and revenue and capital budgets take account of, and try to minimise, any negative impacts of the COVID-19 emergency.

**REPORT TO:** Audit and Governance Committee  
**MEETING DATE:** 14<sup>th</sup> February 2023  
**BY:** Companies Manager – East Lothian Investments Ltd  
**SUBJECT:** East Lothian Investments Ltd 2021/22

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**6**

**1 PURPOSE**

- 1.1 To inform the Audit and Governance Committee of the work undertaken by East Lothian Investments Ltd in 2021/22.

**2 RECOMMENDATIONS**

- 2.1 That the Audit and Governance Committee note the contents of the report.

**3 BACKGROUND**

- 3.1 East Lothian Investments Ltd (ELI), formerly East Lothian Economic Development Company (SC187674) - was formed in April 2001 by East Lothian Council (ELC) following the disaggregation of the Lothian Enterprise Board (LEB).

- 3.2 The aforementioned disaggregation resulted in the transfer of equity stakes in 5 East Lothian companies which, under local authority governance rules, ELC could not accept hence the requirement to form a company to take ownership of the shareholding.

ELI Ltd developed and implemented exit strategies for the investments and used the funds generated as an instrument for the development of the business base and therefore economy of East Lothian.

- 3.3 This instrument took the form of interest free loans to start-ups / businesses based within the county of East Lothian. The current ceiling for loans is £25,000 although this is discretionary and a higher level can be awarded depending on economic benefits / job creation and are repayable over 36 to 60 months with an arrangement fee of 5% of loan award to cover company overheads.

- 3.4 The company has a board of 5 directors comprising of the Leader of the Council, Economic Development spokesperson, and three private industry sector representatives. (See appendix 1 for current directors)
- 3.5 Directorship changes - 20<sup>th</sup> December 2021- Due to the passing of Cllr Innes the directorship changed to the new Council Leader who had been acting as a proxy for Cllr Innes in his absence. Following the retirement of the director Eric Murray, the board appointed Louise Elder, owner of Black & Gold cold pressed rape seed oil, East Lothian farmer (Stevenson mains) and director of the Royal Highland Show to the board. The board act on a “*Pro Bono*” basis and do not receive payment.

## **GOVERNANCE**

- 3.6 Following the credit crisis of 2008 all lenders of credit were required to apply to the Financial Conduct Authority (FCA) for approval to lend. This replaced the previous credit license arrangement.
- 3.7 A Compliance Monitoring Document (CMD) (Appendix 2), regulatory business plan and a suite of policies including a new application process were developed for ELI. The FCA approved the application in June 2016 and the company is now fully authorised and regulated by the FCA.
- 3.8 The former Economic Development & Strategic Investments (EDSI) Business Development manager, is the Companies manager and is the FCA approved person and Senior Manager under the FCA Certification Regime. The manager is supported by the EDSI Business Development assistant.
- 3.9 The Companies manager acts as the Company Secretary.
- 3.10 Board meetings are held on a regular basis linked to the level of loan applications. The CMD and relevant policies are reviewed and updated at each board meeting as per FCA requirements. Decisions made to award loans, the level of award and repayment period are taken by a majority with the Chair having the casting vote on any tied decision.
- 3.11 Minutes of board meetings are taken and approved at subsequent board meeting by the chair. COVID restrictions were adhered to for board meetings and all FCA required policies were amended accordingly.
- 3.12 East Lothian Investments Ltd is audited annually by Azets. End of Year accounts are approved by the board and signed off accordingly and provided to ELC for group accounting purposes. The company use Xero accounting cloud software.
- 3.13 As per FCA legislation ELI is required to report annually on the following: - Complaints return, Financial Data, Lenders, Volumes and Company organisation. Due to the COVID pandemic from July 2020 the FCA have been requiring quarterly reports on loan book, level of turnover, company liquidity and provision of bad debts.



- 3.14 The company has an interest bearing and two chequing accounts with the Royal Bank of Scotland. Legal advice is provided by Addleshaw Goddard, Edinburgh.

### **OVERALL LENDING**

- 3.15 Since formation ELI has awarded and paid 372 loans to the value of £3,389,531 which has levered in private investment of £20,635,531. The lending created 896 new jobs and protected 1,869. Loans are unsecured but for limited companies personal guarantees may be taken if the board requests. The level of bad debts written off for the period commencing from 2009 stands currently at 3.03%.

### **2021/22 Lending Activity**

- 3.16 12 applications for funding were received in the period - 8 were approved to the value of £99,300 which levered in private funds of £147,280. It is projected that 11 new jobs will be created and 10.5 jobs protected.

Sectors awarded:-

Leisure – 2  
Hospitality – 3  
Tourism – 1  
Business Services – 1  
Manufacturing – 1

*(Post Committee paper period note – As at January 2023 there are no loan defaults, 2 loan holidays are in place and 1 business (retail) entered into liquidation. The loan book has 43 active loans with an outstanding balance of £332,792.65.)*

### **EAST LOTHIAN GIFT CARD - Background**

- 3.17 The ELI board agreed in July 2018 to launch and deliver the East Lothian Gift Card on behalf of ELC. This was based on the successful Christmas Shop local programme ran by ELC Economic Development for 10 years with the aim to keep spend local.
- 3.18 The gift card is based on a money card which is presented to participating businesses that swipe through their credit / debit card terminal and are paid instantly. There is no cost to the business for participation in the initiative.
- 3.19 A supplier of gift cards was identified (Miconex) and website created <https://eastlothiangiftcard.co.uk/>. The front end website is supported by substantial back office management systems for card loading, electronic money transfers, and financial control and audit requirements.
- 3.20 As at November 2021 the gift card was also made available in selected local outlets for individuals to pick up and then load themselves via the website – programme run under the name “Load this Card”.

3.21 The initiative, which is year round, was launched in October 2018 and in the period was delivered by the Companies Manager, the business development assistant of Economic Development and the support services administrator.

*(Post Committee paper period note – As at April 2022 due to ELC internal staff promotions for the business development assistant and support services administrator it was agreed in the short term that the company Gift Card provider (Miconex) deliver the operational aspect for an agreed monthly fee.)*

### Outputs

3.22 The following indicates quarterly card purchases since launch:-

GIFT CARD purchases	Period	Amount	no's	average
Q1 2018	Oct - Dec 2018	£12,824	235	£54.57
Q2 2019	Jan-March 2019	£2,605	71	£36.69
Q3 2019	April - June 2019	£1,930	49	£39.39
Q4 2019	July - Sept 2019	£1,671	32	£52.22
Q5 2019	Oct - Dec 2019	£21,485	346	£62.10
Q6 2020	Jan to March 2020	£1,535	35	£43.86
Q7 2020	April - June 2020	£3,890	82	£47.44
Q8 2020	July - Sept 2020	£3,197	56	£57.08
Q9 2020	Oct - Dec 2020	£47,393	2328	£20.36
Q10 2021	Jan-March 2021	£14,025	220	£63.75
Q11 2021	April - June 2021	£15,136	1095	£13.82
Q 12 2021	July - Sept 2021	£17,931	2158	£8.31
Q 13 2021	Oct - Dec 2021	£23,765	532	£44.67
Q14 2022	Jan - March 2022	£25,545	1650	£15.48
		<b>£192,931</b>	<b>8889</b>	<b>£21.70</b>

137 businesses accept the gift card in the following towns:-

TOTALS	Town	no's
	Dunbar	27
	Dir/NB	20
	East Linton	5
	Longniddry	2
	Gullane	10
	Haddington	31
	Musselburgh	19
	East Saltoun	3
	Tranent / Prestonpans	18
	Gifford	2
<b>Total</b>		<b>137</b>

3.23 The number of outlets has increased since 2020/21 by 20. It would be a reasonable assumption to attribute the increase to coming out of the pandemic and businesses re-opening / starting up.

#### **4 POLICY IMPLICATIONS**

4.1 None.

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

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

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial – none.

6.2 Personnel - Companies Manager, EDSI's Business Development assistant and support services administrator.

6.3 Other – none.

#### **7 BACKGROUND PAPERS**

7.1 2020/21 report to the Audit and Governance Committee in February 2021.

<b>AUTHOR'S NAME</b>	Richard Baty
<b>DESIGNATION</b>	Companies Manager
<b>CONTACT INFO</b>	<a href="mailto:rbaty@eastlothian.gov.uk">rbaty@eastlothian.gov.uk</a>
<b>DATE</b>	14 <sup>th</sup> January 2023



## Appendix 1 – Current Company directors / officers

### EAST LoTHIAN INVESTMENTS LIMITED

Company number SC187674

[Follow this company](#) [File for this company](#)

Overview	Filing history	People	More
<p>Officers <span>Persons with significant control</span></p>			
<p><b>Filter officers</b></p> <p><input checked="" type="checkbox"/> Current officers</p>			
<p><b>6 current officers</b></p>			
<p><b><a href="#">BATY, Richard</a></b></p>			
<p>Correspondence address  <b>John Muir House, Room 2.19, Brewery Park, Haddington, East Lothian, EH41 3HA</b></p>			
Role	<b>ACTIVE</b>	Appointed on	
<b>Secretary</b>		<b>11 September 2007</b>	
Nationality	<b>British</b>	Occupation	<b>Manager</b>
<hr/>			
<p><b><a href="#">ELDER, Louise, Dr</a></b></p>			
<p>Correspondence address  <b>John Muir House, Room 2.19, Brewery Park, Haddington, East Lothian, EH41 3HA</b></p>			
Role	<b>ACTIVE</b>	Date of birth	Appointed on
<b>Director</b>		<b>January 1966</b>	<b>21 December 2021</b>
Nationality	<b>British</b>	Country of residence	Occupation
		<b>Scotland</b>	<b>Business Owner</b>
<hr/>			
<p><b><a href="#">HAMPSHIRE, Norman</a></b></p>			
<p>Correspondence address  <b>John Muir House, Room 2.19, Brewery Park, Haddington, East Lothian, EH41 3HA</b></p>			
Role	<b>ACTIVE</b>	Date of birth	Appointed on
<b>Director</b>		<b>September 1959</b>	<b>20 December 2021</b>
Nationality	<b>British</b>	Country of residence	Occupation
		<b>Scotland</b>	<b>Councillor</b>
<hr/>			
<p><b><a href="#">HARPER, Joseph William Meikle Cochran</a></b></p>			
<p>Correspondence address  <b>Richard Baty, John Muir House, Room 2.19, East Lothian Investments Ltd, Brewery Park, Haddington, East Lothian, Scotland, EH41 3HA</b></p>			
Role	<b>ACTIVE</b>	Date of birth	Appointed on
<b>Director</b>		<b>July 1954</b>	<b>16 December 2015</b>
Nationality	<b>British</b>	Country of residence	Occupation
		<b>Scotland</b>	<b>Company Director</b>
<hr/>			
<p><b><a href="#">MCMILLAN, John Fleming Allan, Provost</a></b></p>			
<p>Correspondence address  <b>John Muir House, Room 2.19, Brewery Park, Haddington, East Lothian, Scotland, EH41 3HA</b></p>			
Role	<b>ACTIVE</b>	Date of birth	Appointed on
<b>Director</b>		<b>December 1951</b>	<b>6 June 2012</b>
Nationality	<b>British</b>	Country of residence	Occupation
		<b>Scotland</b>	<b>Local Authority Councillor</b>
<hr/>			
<p><b><a href="#">SHEARER, Rodney</a></b></p>			
<p>Correspondence address  <b>11 High Street, Haddington, East Lothian, EH41 3ES</b></p>			
Role	<b>ACTIVE</b>	Date of birth	Appointed on
<b>Director</b>		<b>April 1956</b>	<b>19 January 1999</b>
Nationality	<b>British</b>	Country of residence	Occupation
		<b>Scotland</b>	<b>Production Director</b>



## Appendix 2 – Compliance Monitoring Document

Policy / procedure	Board approved date	Responsibility to the Board	Next review date
FCA Compliance Manual	Aug-15	Companies manager	Ongoing
Compliance Monitoring document	Jun-15	Companies manager	Ongoing
Business Continuity ELC insert	Feb-15	Companies Manager / East Lothian Council	Aug-23
Operational resilience plan	Aug-21	Companies manager	Aug-23
Debt Management policy incl. letters	Mar-15	Companies manager	Aug-23
Loan application form	Mar-15	Companies manager	Aug-23
Loan statements to clients (XERO)	Mar-15	Companies manager	Aug-23
Data Protection policy - GDPR	Apr-15	Companies manager	Feb-23
GDPR Privacy policy	May-18	Companies manager	Feb-23
GDPR Retention & Record keeping policy	Aug-15	Companies manager	Feb-23
Complaints policy	Apr-15	Companies manager	Aug-23
Anti Money Laundering policy	Apr-15	Companies manager	Aug-23
Anti Bribery Policy	Apr-15	Companies manager	Aug-23
Audit compliance Policy	Jun-15	Companies Manager / ELC	Feb-23
Personal guarantee document / letters	Jun-15	Companies Manager / ELI Lawyers	Mar-23
Conflicts of interest policy	Jul-15	Companies Manager / ELC auditors	Feb-23
Lone working policy	Jun-15	Companies Manager / East Lothian Council	June 2019 (ELC)
Senior Manager and Certification regime	Dec-19	Companies manager	Feb-23
Statement of responsibility	Dec-19	Companies manager	Feb-23
Certification of employees	Jan-21	Companies manager	Mar-23
Cancellation policy	Aug-15	Companies manager	Feb-23
Regulatory Business Plan	Aug-15	Companies manager	Mar-23
Guidance to loan applicants	Aug-15	Companies manager	Aug-23
Personal Statement form	Aug-15	Companies manager	Aug-23
Director induction	Dec-21	Companies manager	Dec-23
Director induction checklist	Dec-21	Companies manager	Dec-23
Skills gap matrix	Dec-21	Companies manager	to be reviewed at recruitment
Equal opp policy	Feb-22	Companies manager	Mar-23
Consumer Principle policy	Aug-22	Companies manager	Aug-23
Gifts & hospitality policy	Aug-22	Companies manager	Aug-23
Gifts & hospitality register	Aug-22	Companies manager	Aug-23





**REPORT TO:           AUDIT AND GOVERNANCE COMMITTEE**  
**MEETING DATE:     14 FEBRUARY 2023**  
**BY:                   EXECUTIVE DIRECTOR-COUNCIL RESOURCES**  
**SUBJECT:            INFORMATION GOVERNANCE ANNUAL REPORT**

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7

## **1     PURPOSE**

- 1.1    To report on the delivery and continuous improvement of East Lothian Council's ('the Council's) compliance with regulatory regimes relating to Data Protection, Information and Records Management, and the Regulation of Investigatory Powers over 2022.

## **2     RECOMMENDATIONS**

- 2.1    To note the contents of the report and where appropriate highlight areas for further action or consideration.

## **3     BACKGROUND**

- 3.1    Information Governance covers a range of policies, procedures, tools and guidance used to support the Council in maintaining compliance with information legislation, ensuring that our information assets remain relevant and accessible over time, and empowering both the Council's employees and the citizens of East Lothian to derive the greatest possible benefits from the valuable public records in our custody.

- 3.2    A summary of the relevant legislation and key features is provided in **Appendix 1** to this report.

### **Data Protection**

- 3.3    The protection of personal data in the UK is governed by the Data Protection Act 2018 ('DPA2018') and the UK General Data Protection Regulation ('UK GDPR'). In 2018, the Council implemented a raft of new measures to support compliance; these measures were subject to their first assessment by the Council's Internal Auditors in November 2022.

- 3.4    The audit found **reasonable assurance** overall, with multiple points of good practice noted as well as a number of recommendations made for further improvements. The Audit Report acknowledged that staffing challenges within the Information Governance team have contributed to risks, which are regularly highlighted in the Corporate Support and Corporate Risk Registers. In

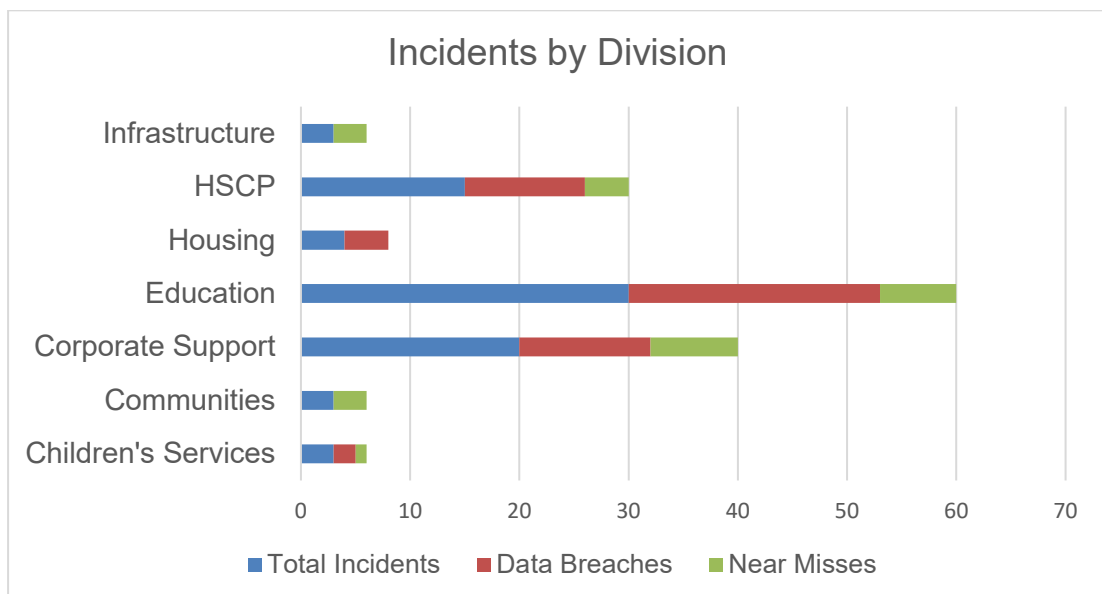
particular, a backlog of approvals for Data Sharing Agreements and Data Protection Impact Assessments has developed due to capacity challenges within the Information Governance team; likewise the population of the corporate Information Asset Register has made slow progress.

- 3.5 A summary of the audit’s findings is presented in paragraph 3.17 under ‘Lessons Learned’ below, alongside feedback from the Information Commissioner’s Office, actions taken and planned future measures.
- 3.6 The Information Governance team has recently created an additional Information Officer post, which was filled in early December 2022. The creation of a new Team Lead-Information Governance post is currently in progress and nearing completion. These additional posts will be a key factor in making continuous improvements to the Council’s compliance across Services going forward.

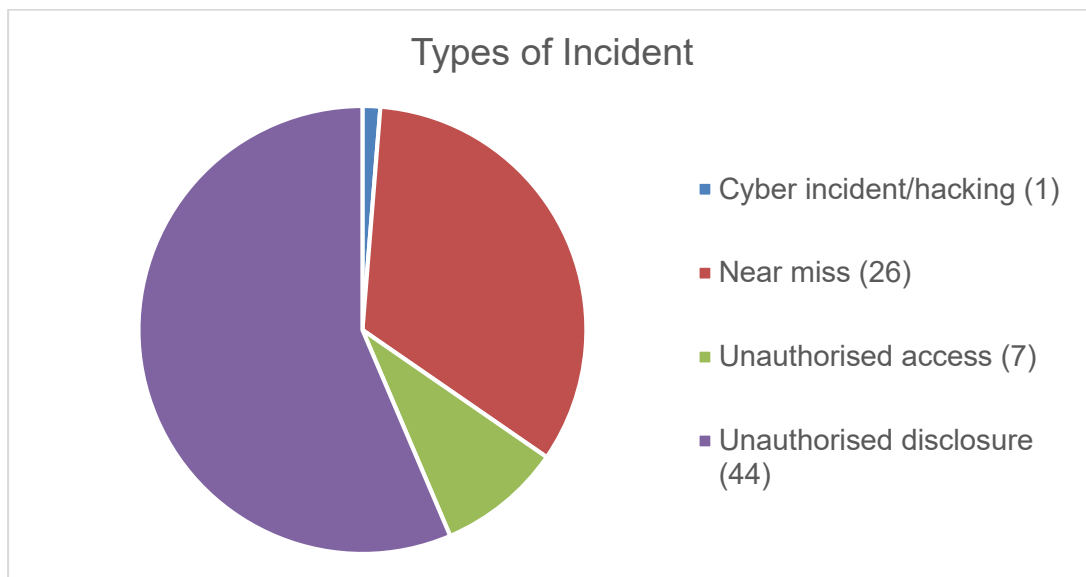
*Data Breaches*

- 3.7 The Council’s current Data Breach Procedure was introduced in 2018. This Procedure requires all staff to report personal data breaches internally to the Council’s Data Breach Team within 24 hours, to allow for a risk assessment and a decision to be taken whether too formally report to the national regulator, the Information Commissioner’s Office (‘ICO’). Where incidents meet the threshold of ‘likely risk’ to the rights of the data subject, by law the Council must report to the ICO within 72 hours; where incidents meet the threshold of ‘high risk’ to the data subject, the Council must also report the incident to the data subject(s) concerned.
- 3.8 Data breaches can present significant financial and reputational risks to the Council; the ICO has the power to levy significant fines and/or take enforcement action where significant or systemic failures are identified.

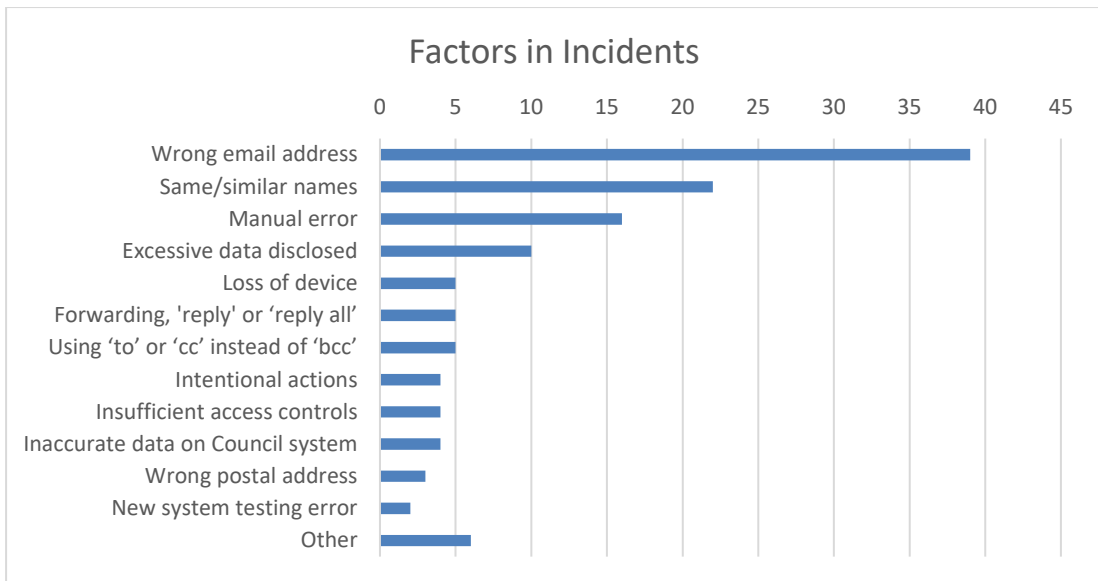
Over the course of 2022, the Council recorded 54 Data Breaches and 24 Near Misses, resulting in a total of 78 incidents. These incidents occurred across Council Divisions as follows:



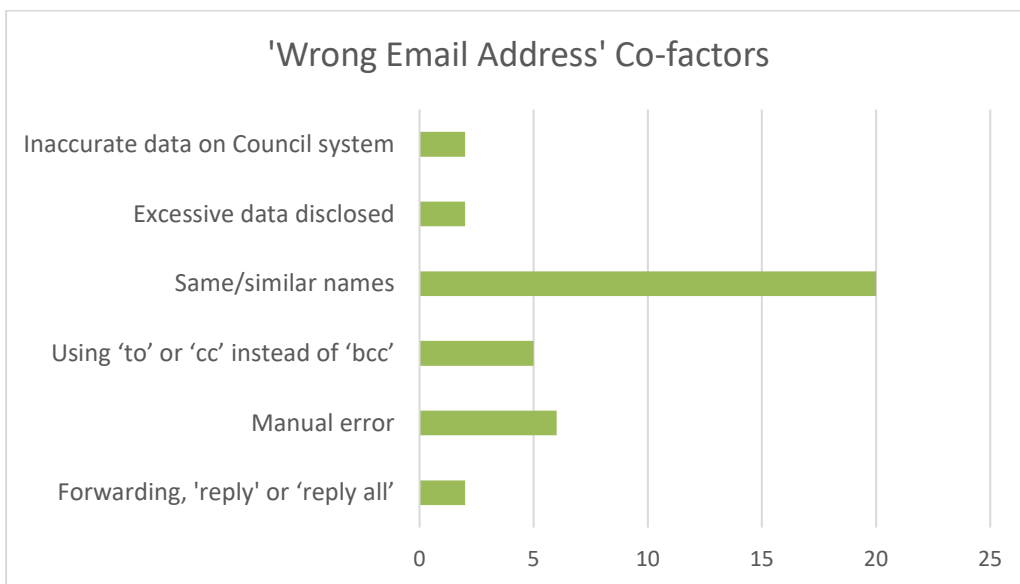
- 3.9 A total of **three** incidents were considered to meet the ‘likely risk’ threshold for reporting to the Information Commissioner’s Office. In all three cases, the ICO found that the Council had appropriate technical and organisational measures in place, and took no further action.
- 3.10 No incidents were considered to meet the statutory ‘high risk’ threshold requiring reporting to the Data Subject(s), however in some cases Council officers chose to inform the Data Subject(s) as a point of good practice.
- 3.11 The most prevalent type of incident was unauthorised disclosure, i.e. the unnecessary or disproportionate sharing of Council-controlled personal data. There were also several incidents of unauthorised access, i.e. gaining or procuring access to Council systems without an authorised business purpose for doing so. On one occasion, a third party Supplier was subject to a cyber-attack that compromised Council-controlled data, however on investigation this was found to present low risk to East Lothian clients/customers.
- 3.12 In addition to Data Breaches, the Information Governance team tracks Near Misses to gather additional data, identify trends and put appropriate preventative measures in place. The Council is not required by law to track Near Misses, but this provides a useful tool in understanding information management practices and where/how breaches might arise.



- 3.13 There are a number of trends evident in the factors and circumstances contributing to incidents (including both Data Breaches and Near Misses). The most frequently occurring factor by far is the misdirection of email, which occurred in **39** instances.



3.14 The factors identified above might not occur in isolation, i.e. a single incident might involve multiple factors. For example, an incident might involve the use of a 'wrong email address' due to the individual 'using "to" or "cc" instead of "bcc"', and so both are recorded as relevant factors to the incident. The chart below identifies the factors that most commonly appear alongside a 'wrong email address':



3.15 Regarding the three breaches reported to the ICO, contributing factors included:

- Wrong email address
- Using 'to' or 'cc' instead of 'bcc'
- Disclosure of excessive data
- New system testing error

### *Lessons learned*

- 3.16 Every data incident is assessed on a case-by-case basis, and accordingly the Information Governance team makes recommendations to Services for future improvements to their information management practices. In some cases, additional technical measures can be put in place, for example putting labels in Active Directory that identify employees with the same or similar names by department. Many cases, however, and particularly those involving misdirected email, require careful manual checking by individual employees, relying on their professional knowledge and training to maintain compliance.
- 3.17 In relation to incidents reported to the ICO, the Council was found to have appropriate technical and organisational measures in place. In their responses, the ICO noted a number of areas of good practice, as well as recommended actions. Combined feedback from the ICO and the Council's Internal Audit Service regarding the Council's overall Data Protection Compliance is set out in the following table, along with the actions taken in 2022 and planned measures for 2023:

<b>Good Practice</b>
<p><i>Information Commissioner's Office</i></p> <ul style="list-style-type: none"> <li>• Preventative measures in place, including a Data Protection Impact Assessment, Data Protection Policy, IT Accessible Use Policy, and Data Protection training for all staff;</li> <li>• Review/testing of new systems before implementation;</li> <li>• Remedial action taken immediately to contain incidents;</li> <li>• Ongoing discussion/work with partner organisations to implement prevention of incident recurrence.</li> </ul>
<p><i>Internal Audit</i></p> <ul style="list-style-type: none"> <li>• Clearly defined policies, procedures, guidance, roles and responsibilities;</li> <li>• Appropriate use of Privacy Notices;</li> <li>• Appropriate arrangements for data sharing, including Data Sharing Agreements with third parties;</li> <li>• Appropriate procedures for responding to, documenting and reporting Data Breaches / Near Misses;</li> <li>• Regular reporting of data protection risks to senior managers;</li> <li>• Appropriate data protection training;</li> <li>• Appropriate input into COVID-19 response.</li> </ul>
<b>Recommendations</b>
<p><i>Information Commissioner's Office</i></p> <ul style="list-style-type: none"> <li>• Review internal security procedures to identify additional preventative measures;</li> <li>• Spot-checking systems to ensure they are robust and fit for purpose;</li> <li>• Continue to monitor incidents for evidence of additional risk/detriment to Data Subjects;</li> </ul>
<p><i>Internal Audit</i></p> <ul style="list-style-type: none"> <li>• Seek to ensure that relevant policies and procedures are reviewed on a regular basis;</li> </ul>

<ul style="list-style-type: none"> <li>• Ensure that Data Sharing Agreements are put in place on a timely basis;</li> <li>• Ensure that appropriate progress is made in development of the Information Asset Register;</li> <li>• Ensure that timescales for planned risk control measures are realistic and implemented on a timely basis;</li> <li>• Roll out Communications Plan across the Council to reinforce the importance of Data Protection compliance.</li> </ul>
<p><b>Actions Taken</b></p> <ul style="list-style-type: none"> <li>• Additional Information Officer recruited to post in early December 2022;</li> <li>• Additional Team Lead-Information Governance post creation in progress;</li> <li>• Access procedures for the Council’s Social Work case management system, Mosaic, reviewed;</li> <li>• 19 Data Sharing Agreements reviewed and signed; 39 in progress, 1 declined.</li> <li>• 11 Data Protection Impact Assessments reviewed and signed off; 38 in progress.</li> <li>• New and streamlined review/authorisation procedures have been designed for Data Sharing Agreements (‘DSAs’) and Data Protection Impact Assessments (‘DPIAs’);</li> <li>• Reports on compliance scheduled to be submitted annually to Audit and Governance Committee;</li> </ul>
<p><b>Planned Actions</b></p> <ul style="list-style-type: none"> <li>• Communications/Training Plan development to be led by new Team Lead-Information Governance pending recruitment;</li> <li>• Information Asset Register workshops to be conducted quarterly, supported by new Information Officer;</li> <li>• Information Champions to be identified within each Service in line with completion of the Information Asset Register;</li> <li>• Backlog of DSAs and DPIAs to be addressed in line with new procedures, supported by new Team Lead pending recruitment.</li> </ul>

3.18 Noting the correlation between the number of email-related data incidents and factors involving human errors, it is predicted that an increased focus on training and awareness of Data Protection across Services via the Communications/Training Plan will be key to improving compliance in relation to data breaches going forward.

**Records Management**

3.19 The Public Records (Scotland) Act 2011 (‘PRSA’) requires public authorities to develop and maintain a Records Management Plan (‘RMP’) subject to approval by the Keeper of the Records of Scotland (‘the Keeper’). East Lothian Council’s first and current RMP was approved in 2015 on an ‘improvement plan’ basis, highlighting a number of areas for ongoing development and improvement. The Council has continued to engage constructively with the Keeper’s Assessment

Team via a process of voluntary annual review since 2015, apart from a brief hiatus over the period of the pandemic.

3.20 The Keeper's Assessment Team's full comments on the Council's 2022 annual review are provided as a Background Paper to this report.

3.21 Additionally, the Council Management Team ('CMT') has recently taken a major step forward for Records Management compliance by giving approval to contract out all storage, retrieval and destruction services for paper records. A procurement exercise will be performed by the end of financial year 2022-23 to identify a best value Supplier, and then the contents of the Dunbar Road paper records store (c.8000 boxes) will be emptied and transferred to the chosen Supplier. This will introduce significant service improvements through flexible and responsive retrievals services, secure transactions and effective environmental controls.

3.22 The Council's Records Management Plan is modelled after the Keeper's Model Plan, which at the time of creation included 14 Elements. Key updates in relation to these Elements include:

- Elements 4 & 5 – Business Classification Scheme (BCS) / Retention Schedule

The Council has retired the previous version of the BCS / Retention Schedule and adopted the current version of the national model Retention Schedules produced by the Scottish Council on Archives ('SCARRS'), which are available to all staff via the Council intranet.

Initial steps have been taken to implement Microsoft 365 ('M365'), with a view to wider roll-out throughout the Council over 2023 and beyond. The Information Governance features of M365 are robust, and will allow the automatic application of Retention labels to individual records belonging to all Council Services. This is a key step in practically applying the BCS and Retention Schedule to the Council's records, and will provide a significant improvement to compliance in relation to digital records.

- Element 6 – Destruction

The introduction of M365 will also bring significant improvement to the Council's arrangements for the secure destruction of digital records. M365 allows for records to be regularly reviewed and authorised for destruction based on Retention labels; it also allows 'holds' to be applied to specific records or types of records to ensure they are not destroyed, even if their Retention period has expired.

As the Council increasingly shifts to digital ways of working, these features will become a key component of the Council's compliance with this Element.

- Element 7 – Archiving and Transfer

Following recruitment of an additional Information Officer in early December 2022, work has commenced to scope and create a Digital Preservation Plan to ensure that our records of enduring business and historical value remain accessible and retain their integrity.

- Element 10 – Business Continuity

The transfer of paper records to an external Supplier will improve environmental conditions and controls for records storage. Professional-level protection against fire, flood and other disasters will help to ensure that the Council's paper information assets remain usable and accessible, and this will also mitigate the risk of personal data breaches due to data loss.

- Element 11 – Audit Trail

As part of the services offered by the new Supplier, Council staff will have the option of requesting files to be delivered to Council premises within 1 week, 1 day, a half day or 2 hours. They will also have the option to request that records be scanned and sent to the requester as digital files or made accessible via an online portal ('scan on demand').

The movements of any paper file between storage and Council premises will be tracked, with an audit trail retained. Likewise any action performed against a record, such as modification of metadata, added/removed files, and permanent destruction will be recorded and tracked, and certificates of destruction will be issued. Access to records will be role-based and strictly controlled, thus reducing the risk of data breaches due to unauthorised access.

This will be a significant improvement to the Council's current file tracking and access controls, which are currently manual and very limited.

- Element 15 – Public Records Created by Third Parties

The Keeper's Model Plan states that 'adequate arrangements must be in place for the management of records created and held by third parties who carry out any functions of the Council.' This Element was introduced to the Model Plan by the Keeper in 2019, therefore it is not present in the Council's current Records Management Plan, which was first implemented in 2015. Work is ongoing to gather relevant information to evidence the Council's compliance with this Element as part of a future re-submission to the Keeper.

### **Covert Surveillance**

- 3.23 The Regulation of Investigatory Powers (Scotland) Act 2000 ('RIPSA') was enacted to provide a statutory framework for the operation of covert surveillance investigative techniques by public authorities. This framework gives public authorities powers to undertake necessary and proportionate surveillance while



respecting the individual's 'right to respect for private and family life' under the Human Rights Act 1998 ('HRA').

- 3.24 In order to carry out surveillance under RIPSA, Council officers must follow a prescribed statutory process, according to statutory roles and responsibilities. In order to undertake an investigation under RIPSA, the Investigating Officer must submit an application to a senior Authorising Officer, who must consider and document the decision to proceed. This process exists primarily to ensure that risks have been considered appropriately, that effective mitigations are put in place, that the investigation is fully documented to appropriate standards, and that the investigation is monitored and reviewed over time.
- 3.25 East Lothian Council has to-date made very limited use of its RIPSA powers, and there were no applications made in 2022.
- 3.26 In February/March 2022, the Council underwent a desktop inspection by the Investigatory Powers' Commissioner's Office ('IPCO'), the national regulator for compliance with the RIPSA framework (RIPA in England and Wales). The inspection was in line with the routine 3-yearly inspection schedule for relevant authorities, and consisted of a video conference interview involving the Inspector, the Council's Senior Responsible Officer (Head of Corporate Support), the RIPSA Gatekeeper / Coordinating Officer (Team Manager-Information Governance) and the Service Manager-Governance. The Inspector provided comments on the Council's RIPSA documentation over the period 2018-2021 and asked the Council officers a series of questions, noting that the level of compliance shown by the Council removed the need for a physical inspection.
- 3.27 The Inspector's report was positive on the whole, noting a number of points of good practice, and including recommendations for improvements.

<b>Good Practice</b>
<ul style="list-style-type: none"> <li>• Introduction of quality assurance process for RIPSA applications;</li> <li>• Development of a training programme for relevant Council officers, including a new 'Guide for Authorising Officers'.</li> </ul>
<b>Recommendations</b>
<ul style="list-style-type: none"> <li>• Update RIPSA Policies and submit to Elected Members at least once a year;</li> <li>• Authorising Officers must not attempt to adjust 3-month authorisation periods;</li> <li>• Ensure applicants do not conflate considerations of necessity and proportionality;</li> <li>• Include sufficient considerations of collateral intrusion by applicants and Authorising Officers.</li> </ul>
<b>Actions Taken</b>
<ul style="list-style-type: none"> <li>• RIPSA and Surveillance Through Social Media Policies were combined into a single RIPSA Policy and approved by Cabinet on 14 June 2022;</li> <li>• Reports on compliance scheduled to be submitted annually to Audit and Governance Committee;</li> </ul>

<ul style="list-style-type: none"> <li>• Guidance for Authorising Officers updated.</li> </ul>
<b>Planned Actions</b>
<ul style="list-style-type: none"> <li>• RIPSAs Gatekeeper (Team Manager-Information Governance) to feed back to Investigating Officers via review of Application Forms prior to authorisation;</li> <li>• Business Classification Scheme / Retention Schedule to be updated to include RIPSAs material;</li> <li>• E-learning module to be developed;</li> <li>• Service Manager-Governance to undertake external training.</li> </ul>

### *2023: Information Transformation Strategy*

- 3.28 Looking forward, a key focus of 2023 will be the development of an Information Transformation Strategy. The Strategy will underpin and support the provisions of the new Digital Strategy, and will draw together the elements and considerations set out in this report with an overall aim of getting the right information to the right person, at the right time, and in the right format.
- 3.29 The rapid changes to working practices that were triggered and accelerated by the COVID-19 pandemic are now embedded in the Council's ways of working, with customer expectations and compliance demands higher than ever. By adopting a Customer First, responsive approach to information management as an integral component of our wider business strategies, we can ensure effective decision-making based on robust and reliable data, all while protecting individual rights, maintaining compliance and preserving the Council's legacy in its communities.

## **4 INTEGRATED IMPACT ASSESSMENT**

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

## **5 RESOURCE IMPLICATIONS**

- 5.1 Financial – there are no financial implications for this report.
- 5.2 Personnel - there are no personnel implications for this report.
- 5.3 Other – there are no other resource implications for this report.

## **6 BACKGROUND PAPERS**

- 6.1 Progress Update Review (PUR) Report by the PRSA Assessment Team (01 November 2022)
- 6.2 East Lothian Council Data Protection Audit Report (November 2022)
- 6.3 IPCO CHIS and Surveillance Inspection of East Lothian Council (08 March 2022)

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<b>DATE</b>	31/01/2023



Legislation	Key Features
Data Protection Act 2018 / UK GDPR	<ul style="list-style-type: none"> <li>• Governs the protection of <b>personal data</b>;</li> <li>• Mandatory recording and reporting of <b>personal data breaches</b>. Any breach meeting the 'likely risk' threshold must be reported to the UK Information Commissioner's Office ('ICO') within 72 hours. Any breach meeting the 'high risk' threshold must be reported to the data subject(s).</li> <li>• A 'personal data breach' is defined as 'a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.'</li> </ul>
Public Records (Scotland) Act 2011	<ul style="list-style-type: none"> <li>• Governs the management of <b>public records</b>;</li> <li>• All named authorities must create a 15-point <b>Records Management Plan</b> in line with the Model Plan created by the Keeper of the Records of Scotland ('the Keeper');</li> <li>• Authorities can undergo <b>optional review</b> of their Records Management Plans by the Keeper's Assessment Team on an annual basis, called the 'Progress Update Review Mechanism' ('PUR'). This is not mandatory, but active engagement provides greater assurances regarding the authority's compliance.</li> </ul>
Regulation of Investigatory Powers (Scotland) Act 2000	<ul style="list-style-type: none"> <li>• Governs the use of <b>covert surveillance</b>;</li> <li>• Provides a framework for public officers to undertake <b>necessary and proportionate surveillance</b> while maintaining compliance with 'the right to respect for private and family life' under the Human Rights Act 1998;</li> <li>• RIPSAs investigations undergo a rigorous <b>process of authorisation and review</b> with frequent oversight by qualified Senior Officers within the Council;</li> <li>• Only applies to '<b>core functions</b>,' i.e. the specific public functions undertaken by a particular authority. It does not apply to 'ordinary functions' such as employment/Human Resources which are undertaken by all authorities.</li> </ul>



**The Public Records (Scotland) Act 2011**

**East Lothian Council and Licensing Board**

**Progress Update Review (PUR) Report by the PRSA Assessment Team**

**01 November 2022**

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## 1. Public Records (Scotland) Act 2011

The Public Records (Scotland) Act 2011 (the Act) received Royal Assent on 20 April 2011. It is the first new public records legislation in Scotland since 1937 and came into force on 1 January 2013. Its primary aim is to promote efficient and accountable record keeping by named Scottish public authorities.

The Act has its origins in *The Historical Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950-1995* (The Shaw Report) published in 2007. The Shaw Report recorded how its investigations were hampered by poor recordkeeping and found that thousands of records had been created, but were then lost due to an inadequate legislative framework and poor records management. Crucially, it demonstrated how former residents of children's homes were denied access to information about their formative years. The Shaw Report demonstrated that management of records in all formats (paper and electronic) is not just a bureaucratic process, but central to good governance and should not be ignored. A follow-up review of public records legislation by the Keeper of the Records of Scotland (the Keeper) found further evidence of poor records management across the public sector. This resulted in the passage of the Act by the Scottish Parliament in March 2011.

The Act requires a named authority to prepare and implement a records management plan (RMP) which must set out proper arrangements for the management of its records. A plan must clearly describe the way the authority cares for the records that it creates, in any format, whilst carrying out its business activities. The RMP must be agreed with the Keeper and regularly reviewed.

## 2. Progress Update Review (PUR) Mechanism

Under section 5(1) & (2) of the Act the Keeper may only require a review of an authority's agreed RMP to be undertaken not earlier than five years after the date on which the authority's RMP was last agreed. Regardless of whether an authority has successfully achieved its goals identified in its RMP or continues to work towards them, the minimum period of five years before the Keeper can require a review of a RMP does not allow for continuous progress to be captured and recognised.

The success of the Act to date is attributable to a large degree to meaningful communication between the Keeper, the Assessment Team, and named public authorities. Consultation with Key Contacts has highlighted the desirability of a mechanism to facilitate regular, constructive dialogue between stakeholders and the Assessment Team. Many authorities have themselves recognised that such regular communication is necessary to keep their agreed plans up to date following inevitable organisational change. Following meetings between authorities and the Assessment Team, a reporting mechanism through which progress and local initiatives can be acknowledged and reviewed by the Assessment Team was proposed. Key Contacts have expressed the hope that through submission of regular updates, the momentum generated by the Act can continue to be sustained at all levels within authorities.

The PUR self-assessment review mechanism was developed in collaboration with stakeholders and was formally announced in the Keeper's Annual Report published on 12 August 2016. The completion of the PUR process enables authorities to be credited for the progress they are effecting and to receive constructive advice concerning on-going developments. Engaging with this mechanism will not only maintain the spirit of the Act by encouraging senior management to recognise the need for good records management practices, but will also help authorities comply with their statutory obligation under section 5(1)(a) of the Act to keep their RMP under review.

### **3. Executive Summary**

This Report sets out the findings of the Public Records (Scotland) Act 2011 (the Act) Assessment Team's consideration of the Progress Update template submitted for East Lothian Council and Licensing Board. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

### **4. Authority Background**

East Lothian borders the City of Edinburgh, Midlothian and the Scottish Borders. Its administrative centre is Haddington, although its largest town is Musselburgh.

The council area was created in 1996, replacing the East Lothian district of the Lothian region. The district had been created in 1975 under the Local Government (Scotland) Act 1973, consisting of the old county of East Lothian plus the burghs of Musselburgh and Inveresk, which until then had been in the county of Midlothian.

Licensing is the responsibility of licensing boards under powers contained in the Licensing (Scotland) Act 2005. Local licensing boards have wide discretion to determine appropriate licensing arrangements according to local needs and circumstances and their own legal advice. Each local government area must have a licensing board. East Lothian Licensing Board consists of 6 Board members.

## 5. Assessment Process

A PUR submission is evaluated by the Act's Assessment Team. The self-assessment process invites authorities to complete a template and send it to the Assessment Team one year after the date of agreement of its RMP and every year thereafter. The self-assessment template highlights where an authority's plan achieved agreement on an improvement basis and invites updates under those 'Amber' elements. However, it also provides an opportunity for authorities not simply to report on progress against improvements, but to comment on any new initiatives, highlight innovations, or record changes to existing arrangements under those elements that had attracted an initial 'Green' score in their original RMP submission.

The assessment report considers statements made by an authority under the elements of its agreed Plan that included improvement models. It reflects any changes and/or progress made towards achieving full compliance in those areas where agreement under improvement was made in the Keeper's Assessment Report of their RMP. The PUR assessment report also considers statements of further progress made in elements already compliant under the Act.

Engagement with the PUR mechanism for assessment cannot alter the Keeper's Assessment Report of an authority's agreed RMP or any RAG assessment within it. Instead the PUR Final Report records the Assessment Team's evaluation of the submission and its opinion on the progress being made by the authority since agreeing its RMP. The team's assessment provides an informal indication of what marking an authority could expect should it submit a revised RMP to the Keeper under the Act, although such assessment is made without prejudice to the Keeper's right to adopt a different marking at that stage.

### Key:

<b>G</b>	The Assessment Team agrees this element of an authority's plan.	<b>A</b>	The Assessment Team agrees this element of an authority's progress update submission as an 'improvement model'. This means that they are convinced of the authority's commitment to closing a gap in provision. They will request that they are updated as work on this element progresses.	<b>R</b>	There is a serious gap in provision for this element with no clear explanation of how this will be addressed. The Assessment Team may choose to notify the Keeper on this basis.
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## 6. Progress Update Review (PUR) Template: East Lothian Council and Licensing Board

Element	Status of elements under agreed Plan 05JAN15	Progress Status 17JUL19	Progress Status 01NOV22	Keeper's Report Comments on Authority's Plan 05JAN15	Self-assessment Update 15MAY19	Progress Review Comment 17JUL19	Self-assessment Update as submitted by the Authority since 17JUL19	Progress Review Comment 01NOV22
1. Senior Officer	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No Change.	No immediate action required. Update required on any future change.	The Council officer holding Senior Management responsibility for the Records Management Plan is now Morag Ferguson, Head of Corporate Support, mferguson@eastlothian.gov.uk.	The Assessment Team thanks you for this update which has been noted. Update required on any change.
2. Records Manager	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	East Lothian Council appointed Zarya Rathé as Team Manager for Information Governance and Data Protection in 2018. Due to maternity leave commencing in October 2018 Maureen Henderson was appointed interim Team Manager for Information Governance and Data	The Assessment Team thanks East Lothian Council for this update which we have noted.	Zarya Rathé has resumed her post as Team Manager-Information Governance (and Data Protection Officer).	Thank you for this update which has been noted. Update required on any future change.

					Protection.			
3. Policy	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	<p>No change has taken place due to the implementation of GDPR and other priorities so the review of the Information and Records Management Policy has not been done at this present moment but works is currently about start as it's been decided that a rewrite is required of East Lothian Council Records Management Plan which will coincide with the Launch of the new Records Management Plan.</p>	<p>The Keeper's Assessment Team note the Council intends to review and update their Records Management Plan (see element 13 below). This is apparent in the PUR text for several elements below and will be an important step going forward.</p> <p>The Act requires an authority to keep its Records Management Plan under review and this is a good indication that East Lothian Council is committed to complying with this aspect of the legislation. They look forward to being kept updated on this work in subsequent PURs.</p>	<p>Formal review of the Council's RMP has slowed since the activation of the Council's Business Continuity measures in March 2020, which limited activities to business-critical operations only. While these measures currently remain in effect, the Council is now looking toward recovery and we expect to progress toward our aim of developing and re-submitting a fresh RMP to the Keeper for assessment in the coming year. Formal review and approval of an up-to-date Information and Records Management Policy will be included in that process.</p> <p>The Council is also in the early stages of developing an Information Transformation Strategy to address the holistic management of Council information across formats, systems and platforms. The Strategy</p>	<p>Thank you for letting the Assessment Team know that that the Records Management Plan (RMP) review process has slowed down due to the impact of the pandemic and the prioritisation of business-critical operations.</p> <p>The receipt of evidence provided is acknowledged with thanks. The Report on the RMP progression, in particular, highlights East Lothian Council and LB's commitment to complying with PRSA, and it is hoped this results in a robust RMP submission for The Keeper's assessment. The Information</p>

						<p>The PUR notes that, because of this review, there has been some slippage in the review dates of other information governance documents (The Records Management Policy particularly). This is to be expected.</p> <p>The Keeper accepts that the current Records Management Policy is operational until superseded. However, if this were a formal re-submission under section 5 of the PRSA, the RM Policy would have to be 'in-date' to attain the Keeper's agreement.</p>	<p>will underpin the Council's Digital Strategy and Business Transformation agendas; we aim to complete this early in 2023, dependent on completion of the Digital Strategy, expected around the end of 2022.</p> <p>The Council's Information Governance team is also in the process of reviewing and updating its suite of Records Management and Archives guidance which is published on the Council Intranet.</p> <p>Supporting evidence:</p> <ul style="list-style-type: none"> <li>• Report presented to the Council's Policy and Performance Review Committee regarding progression of the RMP;</li> <li>• Briefing Note re: Information Transformation Strategy</li> </ul>	<p>Transformation Strategy and the review of guidance for staff will positively contribute to this process.</p> <p>See also Element 13.</p>
4. Business Classification	A	A	A	The Keeper would like to know when this survey is complete and potentially view	No change – work continues on the BCS but due to the RM manager leaving and other priorities but East Lothian Council	The BCS roll-out continues. The roll out of this major piece of work is bound to be incremental	The Council is currently undertaking an Asset Review project, addressing the consolidation of the	The Assessment Team thanks you for this update on the ongoing Asset Review project and

				<p>the 'targeted plan for implementation of classification scheme.'</p> <p>The Keeper requests that he is kept informed on the development of the proposal and that he may view the outcome of the "EDRMS Review" planned for 2015. He would be especially interested in information regarding any alternative solution should the CIVICA proposal be rejected.</p> <p>The RMP indicates that a restructuring of paper file store 'may' be undertaken. The Keeper will be</p>	<p>are committed to carrying on this work and implement the BCS standard throughout the council.</p> <p>EDRMS is still being looked into by East Lothian Council.</p> <p>No change to the paper filing system but as paper files are still generated and East Lothian Council still have legacy paper files this will form part of the EDRMS project which will look at options for the paper records going forward.</p> <p>No changes have been made to the naming guidance.</p>	<p>and further time must be allowed for it to bed in and become fully operational. This element remains at 'amber' for the moment as the work progresses.</p> <p>The Assessment Team notes the update of the EDRMS project and look forward to being kept updated on this work in subsequent PURs.</p>	<p>Council estate in line with changing ways of working. To support the closure and re-allocation of office space, the Council's Information Governance team is supporting individual Services via a series of mini-Record Audits, addressing the extent of paper records held in offices and identifying anticipated needs in terms of retention, storage and scanning. As part of this process, Services are also being encouraged to set up and enforce agreed File Plans in line with refreshed guidance and tied to the Council's BCS (see below).</p> <p>The Council has also continued to progress development of its Information Asset Register via an ongoing series of workshops with individual Service areas. As part of these workshops, Services are asked to review their record holdings against</p>	<p>the mini- Record Audits. It is also positive to hear that File Plan guidance has been updated and Services encouraged (although, it is noted, not required) to use these as they tie into the Council's Business Classification Scheme. <b>The Assessment Team would like to ask if this means the BCS has now been fully implemented and is operational.</b></p> <p>The development of the Information Asset Register, and how this ties up with the BCS, is also noted with thanks.</p> <p>Thank you for submitting supporting evidence, the receipt of which is acknowledged.</p>
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				<p>interested to know what decision is taken regarding this.</p>			<p>the BCS and Retention Schedule and link individual Information Assets to the appropriate entries on the BCS/Retention Schedule (and/or develop new entries/retention rules as required in conjunction with the Information Governance team).</p> <p>File Naming and File Planning guidance has recently been updated and distributed to Services which are currently participating in the Asset Review project. This will be made available to all staff via the Council Intranet shortly.</p> <p>Supporting evidence:</p> <ul style="list-style-type: none"> <li>• Sample Record Audit questionnaire;</li> <li>• Sample IAR entries;</li> <li>• File Naming Guidelines;</li> <li>• File Planning Principles</li> </ul> <p><b>Update in October 2022:</b> We would not characterise the BCS as fully implemented at this</p>	<p>Whilst progress has been made, this Element remains at Amber as the work continues. The Team look forward to a more comprehensive indication of the authority's position in the planned voluntary RMP resubmission.</p> <p><b>Comments on further update:</b> The Assessment Team is grateful for the clarification provided. It is good to hear of the changed approach to BCS.</p>
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							stage. Since our initial PUR submission in April, we have since taken a decision to replace use of the LGCS with use of the inherent BCS in the SCA BCS/RRS model Retention Schedules, and to update our Retention Schedule in line with revision schedule for the national model Schedules which are currently under review by the Scottish Council on Archives, with ongoing engagement with local authorities to be facilitated by a dedicated SCARRS Sub-group within the Archivists of Local Authorities Working Group (ASLAWG) which has been recently established. There will need to be updates made accordingly to the Council's existing Information Asset Register entries.	
5. Retention Schedule	A	A	A	The Keeper requires East Lothian Council to keep him up to date on	No change to the current status of destruction and the 2018 deadline has been missed, but as part of the rewrite of	The BCS/Retention Schedule roll-out continues. The roll out of this major piece of	Updates and revisions to the Retention Schedule continue, with particular focus on areas affected by the Asset Review over	Thank you for this update regarding ongoing work on updating and revising the

				<p>progress.</p>	<p>the Records Management Plan the retention schedule document will be reviewed.</p>	<p>work is bound to be incremental and further time must be allowed for it to bed in and become fully operational. This element remains at 'amber' for the moment as the work progresses. The PUR also notes that, because of the Records Management Plan review, and other issues affecting the Council in the last 12 months, there has been some slippage in the review dates of other information governance documents (The Retention Schedule). This is to be expected.</p>	<p>the next 6 months.</p> <p>Records disposal modules have been introduced in systems used by Revenues/Benefits, HR/Payroll and Housing, although further work continues to be required to address application of retention rules to digital records across Council systems.</p> <p>As the Information Asset Register develops, the Council is looking at use of the IAR as a tool for addressing regular review of information assets with reference to the Retention Schedule. It should be noted that this is currently in an exploratory phase and has not yet been formally adopted.</p>	<p>Retention Schedule. This is a key element in the practical implementation of records retention procedures, and allows for organisation-wide, consistent application of rules.</p> <p>The update mentions digital records retention rules and indicates that electronic records retention procedures are not fully in place. This is a cause for concern as the proportion of digital records over paper records has, as a general trend, been gradually increasing every year.</p> <p>Thank you also for informing the Assessment Team of the exploratory project of using the IAR as a tool to</p>
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								<p>address regular review of information assets.</p> <p>This Element will remain at Amber as the improvements requested by the Keeper have not yet been implemented. We look forward to hearing more about this in the upcoming voluntary RMP resubmission.</p>
6. Destruction Arrangements	A	A	A	<p>The Council is planning to set protocols for the use of internal shredders. The Keeper requests sight of these protocols when they are available.</p> <p>Electronic Records Destruction. The Keeper accepts that the Council has properly</p>	<p>No Change but will be consider during the rewrite of the Records Management Plan.</p>	<p>Along with many other Scottish public authorities the controlled, timely and secure destruction of digital records remains a potential weakness. East Lothian Council will be in a better position to address this when the BCS/Retention Schedule is fully implemented. This element remains at</p>	<p>The Council's arrangements for the destruction of paper records, including the engagement of external Suppliers of document management services, are currently under review. As part of the Information Transformation Strategy, we intend to set the future aims and direction for paper records management with consideration for the changing use of the Council estate and the</p>	<p>The Assessment Team thanks you for this update on records destruction arrangements. It is acknowledged that the Council's arrangements with regard to paper records are currently under review.</p> <p>It is noted that records destruction of electronic records remains unchanged.</p>

				identified a gap in provision and has appropriate mechanisms in place to close that gap.		'amber' for the moment as this work progresses.  The Assessment Team acknowledges the planned development of a new Records Management Plan. They look forward to being kept updated on record destruction provision in subsequent PURs.	recent introduction of a new Home Working Policy and associated provisions.  There have been no significant changes to the Council's provisions for electronic destructions, however work is planned regarding the implementation of EDRMS and exploring use of the Information Asset Register as another tool for managing destructions across formats.	The Team would like to remind East Lothian Council and Licensing Board that the implementation of EDRMS will also have major implications on the records destruction procedures, as well as Elements 4, 5 and 11.  It appears work continues. This Element will remain at Amber until this has been completed, but the implementation of EDRMS may require that approach to this Element's practical implementation is reconsidered.
7. Archiving and Transfer	<b>G</b>	<b>G</b>	<b>G</b>	The Keeper requests the two new documents (Acquisitions Policy & Transfer	No change but the policy will be reviewed during the re-write of the Records Management Plan.	No immediate action required. Update required on any future change. The Assessment Team	No change, but Digital Preservation will be included as a key component of the Information Transformation Strategy.	Thank you for letting the Assessment Team know that there have been no major changes to

				Procedures) planned relating to the management of archival material are forwarded to him when appropriate.		acknowledges the planned development of a new Records Management Plan.  They look forward to being kept updated on this work in subsequent PURs.		East Lothian Council and Licensing Board's archiving and transfer arrangements. That focus on digital preservation as a key component of the Information and Transformation Strategy is also noted with thanks.
8. Information Security	<b>G</b>	<b>G</b>	<b>G</b>	The Keeper requests that if any changes occur as part of the review of the Information Security Policy in December 2015 that he is provided with an updated version.	No change but the policy will be reviewed during the rewrite of the Records Management Plan.	No immediate action required. Update required on any future change.  The Assessment Team acknowledges the planned development of a new Records Management Plan. They look forward to being kept updated on this work in subsequent PURs.	Updates are in progress to the Council's IT Acceptable Use Policy, which is expected to be finalised and implemented imminently.	Thank you for this update on the IT Acceptable Use Policy review. This is one of a suite of documents that will assist East Lothian Council and LB keep adequate procedures in place to protect their records against unauthorised access, alteration, destruction, or removal of records, and the Team trusts that other policies, including the Information Security Policy, are regularly reviewed

								and kept up to date.
9. Data Protection  and  14. Shared Information	<b>G</b>	<b>G</b>	<b>G</b>	<p>The Keeper requests that he is provided with the Board's registration number when it becomes available.</p> <p><i>East Lothian Council and Licensing Board have opted to consider both of these Elements together under Element 9. On Shared Information (Element 14), update is required on any change.</i></p>	<p>A lot of change under this element due to the implementation of new Data Protection Legislation, so East Lothian Council have concentrated on updating guidance and this is evidence from E01-E07 and this information has been made available to staff and schools. We have also still been engaging with schools and attending meetings answering any relevant questions or concerns in relation to the new Data Protection Legislation. We are also midst drafting a Social Media policy for schools so they understand the rules in regards to social media in relation to children.</p> <p>We are also in the middle of renewing and updating our Data Sharing Agreements (E08) and Data Processing</p>	<p>As with all other Scottish public authorities East Lothian Council have been required to review and update their data protection procedures in light of the 2018 legislation. The Assessment Team acknowledge receipt of a suite of new GDPR compliant data protection policy and guidance documents. These will be stored to keep the East-Lothian Council submission up to date.</p> <p>The Assessment Team acknowledges the receipt of a screen-shot showing staff have access to the new GDPR staff guidance</p>	<p>Updates to policies, procedures and templates have been progressed to reflect that, following Brexit, personal data processing in the UK is now governed by the UK GDPR. Existing templates for Data Sharing Agreements, Data Protection Impact Assessments and wording within the Council's standard Terms and Conditions are also under review with reference to national and regional frameworks.</p> <p><b>Update in October 2022:</b> The Council's template Data Sharing Agreements have been updated as required since the approval of East Lothian Council's RMP in 2015. The most significant changes to existing templates were in 2018 to bring these in line with the requirements of the Data Protection Act 2018 and</p>	<p>Thank you for this update on ensuring that policies and templates reflect the most recent legislative framework in place. This is a key requirement under Element 9.</p> <p><b>Regarding Element 14, the Team assumes no changes to existing Data Sharing Agreements have taken place, and that these Agreements are being kept up to date and relevant for their purpose.</b></p> <p><b>Comments on further update:</b> Thank you for taking the time to confirm that Data Sharing Agreement templates have</p>

					<p>Agreements we have with suppliers and others so we are fully aware of who we are sharing information, ELC are also developing a register of these agreements which will hopefully linked to the Information Asset register and any relevant Data Protection Impact Assessments but all this is still in development but will be updated in rewrite of the Records Management Plan.</p>	<p>documents. The Assessment Team also note the updated information on the East Lothian Council website: <a href="https://www.eastlothian.gov.uk/info/2/10598/access_to_information/12340/privacy_and_cookies">https://www.eastlothian.gov.uk/info/2/10598/access_to_information/12340/privacy_and_cookies</a></p>	<p>the GDPR. Relevant updates have continued to be made, for example to reflect the implementation of the UK GDPR following the UK's withdrawal from the EU. The total number of Data Sharing Agreements in place for the Council's routine data sharing activities has significantly increased since 2015 and in particular since May 2018 when the Data Protection Act 2018 / GDPR came into effect.</p>	<p>been updated.</p>
10. Business Continuity and Vital Records	A	G	G	<p>The Keeper requires that the Council provide him with a redacted sample of a Service Business Continuity Plan when they are completed.</p>	<p>East Lothian Council have recently published an updated Business Continuity Plan and is evidenced at E09.</p>	<p>The Assessment Team acknowledge the receipt of the East Lothian Council Business Continuity Plan (v1.0) dated January 2019. As noted in previous PUR, the Assessment Team recognises the significant progress made in this area and the on-going initiative being undertaken</p>	<p>No change.</p> <p><b>Update in October 2022:</b> The current ongoing record audits are linked to the Council's Asset Review programme, through which Council buildings are being cleared and re-purposed as more flexible working spaces. While this programme was and is not directly driven by the Council's pandemic response, it has certainly</p>	<p>Thank you for letting the Assessment Team know there have been no major updates to Business Continuity arrangements. However, as this is the first update following the pandemic, the Team would have liked to hear how the authority's business continuity</p>



						<p>by the authority under this element. It is likely that if this were a formal re-submission under section 5 of the PRSA this element would gain a 'Green' RAG status.</p>	<p>grown and accelerated due to the changes to ways of working that were catalysed by the pandemic. A new Home Working Policy, for example, was introduced in April 2022, allowing employees to apply for contractual working-from-home arrangements, which has and will continue to reduce demand on office space, as well as introducing new challenges regarding records management and information security/data protection. Guidance on working safely from home while protecting personal information and managing records properly was developed near the start of the pandemic, and will continue to evolve in line with the preparation of the Council's second Records Management Plan.</p> <p>Our Business Continuity software was used throughout the pandemic as well as an ongoing spreadsheet detailing where each service was</p>	<p>processes fared during the disruption, and if any reviews to these are planned as a result.</p> <p>Under Element 4, the Council and Licensing Board noted that mini Record Audits were taking place, 'addressing the extent of paper records held in offices and identifying anticipated needs in terms of retention, storage and scanning.' <b>The Team would be interested to clarify if these records relate to changed ways of working during the pandemic, or if this action is taking place as business as usual.</b></p> <p><b>Comments on further update:</b></p>
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							at as regards BC. The BC software provide invaluable and was used by CMT to get a picture of the Council's BC response. Services which remain in BC mode remain invoked on the software. The only review would be to update all BC SPoCs [Single Points of Contact] on use of the software.	The Assessment Team is grateful for this clarification, and further information on Business Continuity Arrangements
11. Audit Trail	<b>A</b>	<b>A</b>	<b>A</b>	The Keeper requests that he is kept up to date with the project as it progresses.	No change.	No immediate action required. Update required on any future change. East Lothian Council will be in a better position to address this when the BCS/Retention Schedule is fully implemented.	As part of the Asset Review, the Council is taking steps to standardise the metadata applied to paper records and to enhance file tracking through the engagement of an external contractor.  Control of digital records is continuing to develop as staff identify information flows via the Information Asset Register.	The Keeper will expect authorities to maintain a complete and accurate representation of all changes that occur in relation to a particular records. This includes changes to the record's location, both in relation to analogue and digital records.
12. Competency Framework	<b>G</b>	<b>G</b>	<b>G</b>	Update Required on Any Change.	No change.	No immediate action required. Update required on any future change.	No change.	It is important that staff training requirements are reviewed regularly

								<p>as systems or way of working (e.g. working from home) change so that staff continue to be adequately supported in their adherence to the authority's RMP.</p> <p>Update required on any change.</p>
13. Assessment and Review	<b>G</b>	<b>G</b>	<b>A</b>	<p>The Keeper requests that if any changes result from the review he is provided with the updated version.</p> <p>The Keeper would be interested in the results of the Data Protection Health Check, if appropriate.</p>	<p>East Lothian Council have made the decision with the launch of the new Records Management Plan that they are going to do a re-write of the Records Management Plan this year.</p>	<p>Once the Records Management Plan has been revised and updated, the Council may choose to re-submit formally under section 5 of the Act. This would be welcomed.</p>	<p>No change.</p>	<p>East Lothian Council and Licensing Board should be commended for their regular participation in the PUR process (in 2016, 2017, 2019 and 2022).</p> <p>While no update has been given here regarding Element 13, Element 3 suggests that the pandemic-related delays have caused significant delay to the regular review and update process of the RMP</p>

								<p>and some adjacent policies.</p> <p>This Element has been changed from Green to Amber to indicate that the authority has not been able to keep focus on this Element while resource has been redeployed due to the pandemic. We acknowledge, however, that they are taking active steps to rectify this.</p>
14. Shared Information				<p><b>See element 9. East Lothian Council and Licensing Board have opted to consider both of these Elements together under Element 9.</b></p>				

## 7. The Public Records (Scotland) Act Assessment Team's Summary

### Version

The progress update submission which has been assessed is the one received by the Assessment Team on 18 May 2022. The progress update was submitted by Zarya Rathé, Team Manager and Information Governance and Data Protection Officer.

The progress update submission makes it clear that it is a submission for **East Lothian Council and Licensing Board**.

The Assessment Team has reviewed East Lothian Council and Licensing Board's Progress Update submission and agrees that the proper record management arrangements outlined by the various elements in the authority's plan continue to be properly considered. The Assessment Team commends this authority's efforts to keep its Records Management Plan under review.

### General Comments

East Lothian Council and Licensing Board continues to take its records management obligations seriously and is working to bring all elements into full compliance.

Section 5(2) of the Public Records (Scotland) Act 2011 provides the Keeper of the Records of Scotland (the Keeper) with authority to revisit an agreed plan only after five years has elapsed since the date of agreement. Section 5(6) allows authorities to revise their agreed plan at any time and resubmit this for the Keeper's agreement. The Act does not require authorities to provide regular updates against progress. The Keeper, however, encourages such updates.

The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

## 8. The Public Records (Scotland) Act Assessment Team's Evaluation

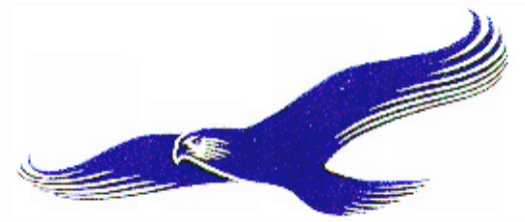
Based on the progress update assessment the Assessment Team considers that East Lothian Council and Licensing Board continue to take their statutory obligations seriously and are working hard to bring all the elements of their records management arrangements into full compliance with the Act and fulfil the Keeper's expectations.

The Assessment Team recommends authorities consider publishing PUR assessment reports on their websites as an example of continued good practice both within individual authorities and across the sector.

This report follows the Public Records (Scotland) Act Assessment Team's review carried out by



Iida Saarinen  
Public Records Officer



# East Lothian Council Data Protection November 2022

**Conclusion**

Reasonable Assurance

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# 1 Executive Summary: Data Protection

## Conclusion: Reasonable Assurance

The Council has a comprehensive set of policies, procedures and guidance covering Data Protection, together with clearly defined roles and responsibilities which seek to ensure compliance with General Data Protection Regulations (GDPR) and the Data Protection Act 2018. The Council has a Data Protection Policy in place, which was approved by Cabinet on 12 June 2018, and the Information Governance section of the Council's intranet provides employees with a wide range of documentation on Data Protection, including the GDPR Toolkit, which contains guidance, templates, training and tools to assist staff to understand and comply with their Data Protection obligations. The Council's website provides members of the public with details of individuals rights to access their own personal data, including making a "Subject Access Request". However progress on the development of Information Asset Registers has been slow and staffing challenges within the Information Governance Team have resulted in delays in the implementation of some new processes.

### Background

Data Protection is about safeguarding personal and sensitive information and empowering individuals to understand how and why we use their data. On 25 May 2018, the European General Data Protection Regulation (GDPR) came into effect, which in the UK was given effect by the Data Protection Act 2018 (DPA 2018). As of 1 January 2021, this is now underpinned by the UK General Data Protection Regulations (UK GDPR), which are distinct from the EU GDPR.

### Summary of findings & recommendations

The following key findings and recommendations are highlighted, which have all been **agreed by the Team Manager – Information Governance and Service Manager – Governance**:

- There is a backlog of Information Sharing Agreements (ISAs) that require to be put in place with organisations with whom personal data is shared. *Management have confirmed that following recruitment of new posts, processes for approving ISAs are to be simplified and streamlined by June 2023\*.*
- There has been limited progress on the development of Information Asset Registers for areas in the Council where data processing activities are undertaken. *Management have confirmed that there will be continuous development of the Information Asset Register, with four workshops being held with service areas per annum on an ongoing basis\*.*
- The Council has appropriate policies, procedures and guidance documents in place for all aspects of Data Protection, however in some cases these policies and procedures require to be reviewed and updated. *Management have confirmed that these will be reviewed and updated by April 2023.*
- Data Protection risks are recorded and reported as part of both the Corporate Support Risk Register and the Council's Corporate Risk Register, which detail both control measures currently in place and planned control measures, however there has been slippage to the timescales for implementing some of the planned control measures. *Management have agreed to progress implementation of existing planned risk control measures by June 2023\*.*
- Training for all staff on Data Protection is made available via e-learning, online and printed guidance, supplemented by person-to-person training where required, however roll-out of the Communications Plan is required to reinforce the importance of Data Protection compliance. *Management have agreed that the Communications Plan will be rolled-out, with support from IT Infrastructure & Security and Communications Teams by June 2023\*.*

### Recommendation Summary

Recommendations Grade	High	Medium	Low	Total
Current Report	-	5	-	5
Prior Report	n/a	n/a	n/a	n/a

### Materiality

Personal data is defined as any information relating to a person who can be directly or indirectly identified. This includes identifiers including names, identification numbers, location data, online identifiers or any other information that identifies an individual. Special category/sensitive personal data is information which falls under specific definitions under GDPR. This includes racial or ethnic origin; political opinions; religious or philosophical beliefs; genetic data; biometric data; health data; sex/gender or sexual orientation.

\*Dates agreed are contingent on capacity within other Council Services.

## 2 Headlines

Objectives	Conclusion	Comment
1. The Council has clear and appropriate policies, procedures and guidance documents in place for all aspects of Data Protection, together with clearly defined roles and responsibilities.	Reasonable	The Council has a comprehensive set of policies, procedures and guidance in place for Data Protection, although in some cases these require to be reviewed and updated. The Council's intranet contains guidance, templates, training and tools to assist staff to understand and comply with their data protection obligations, while the Council's website provides details of what kinds of personal data we collect and individuals rights to access their own personal data.
2. Appropriate arrangements are in place for the fair collection and use of personal data, through the use of Privacy Notices.	Reasonable	Arrangements are in place to ensure that personal data is processed in accordance with Privacy Notices issued to individuals by the relevant Council service at the point of data collection. Guidance for staff and a standard Privacy Notice template is available on the Council's intranet.
3. Appropriate arrangements are in place for sharing personal data, including Information Sharing Agreements (ISAs) with organisations with whom personal data is shared.	Reasonable	Appropriate arrangements are in place for sharing data, including Information Sharing Agreements (ISAs) with organisations with whom personal data is shared, to ensure that data sharing is in compliance with legislation and the Council's Data Protection Policy, however staffing challenges have resulted in a backlog of ISAs that require to be put in place.
4. The Council is making appropriate progress in the development of an Information Asset Register, to enable compliance with GDPR and the DPA 2018.	Limited	The Council's Data Protection Policy states that a record of data processing activities will be maintained in an Information Asset Register (IAR), which will identify staff members responsible for overseeing compliance with each processing activity (Information Asset Owners), however progress to date has been slow and IARs are not currently in place for many areas of the Council.
5. The Council has appropriate procedures in place for responding to, documenting and, where appropriate, reporting Data Breaches/Near Misses.	Reasonable	Appropriate arrangements are in place for responding to, documenting and, where appropriate, reporting Data Breaches/Near Misses. Guidance is available to employees on the intranet, and a Data Breach Procedure and management procedures for Information Governance staff are both in place. A detailed Data Breach Register is maintained, together with appropriate case files.
6. Arrangements are in place to ensure that risks regarding Data Protection are regularly reported to a senior level, and there is appropriate reporting to Members on Data Protection matters.	Reasonable	Data Protection is a standing item at the Corporate Risk Working Group and risks are recorded on both the Corporate Support Risk Register and the Council's Corporate Risk Register. The Council's Corporate Risk Register, includes a combined risk (ELC CR4) on Information Security and Data Protection. Planned control measures have been identified to reduce the current risk, and while there has been slippage to the timescales for implementing some of these control measures, there has been ongoing progress on the DSA process review and the new DPIA forms.
7. Appropriate Data Protection training is made available to staff via e-learning, online and printed guidance.	Reasonable	Data Protection training is made available to staff via e-learning, online and printed guidance, supplemented by person-to-person training where required, and work is ongoing on developing a Communications Plan to reinforce awareness of Data Protection across the Council.
8. Appropriate Data Protection consideration and input has been provided as part of the response to the Covid-19 pandemic.	Reasonable	The Information Governance Team were heavily involved in Data Protection aspects of the Council's response to the Covid-19 pandemic, including advising Connected Communities, ensuring that volunteers understood their Data Protection obligations, preparing a Test and Protect attendance sheet and developing a Privacy Notice Covid-19 contact tracing template.

### 3 Areas where expected controls are met/good practice

No	Areas of Positive Assurance
1.	<p>The Council has a Data Protection Policy in place, which was approved by Cabinet on 12 June 2018, and includes the following:</p> <ul style="list-style-type: none"> <li>• Definitions of personal data, special category data, records, processing, Data Controller (the Council), Data Processor and Data Subject.</li> <li>• Key roles and responsibilities – including the Senior Information Risk Owner (Head of Corporate Support) and the Data Protection Officer (DPO). The DPO is a statutory role under GDPR and the Council’s DPO is the Team Manager – Information Governance.</li> <li>• The Data Protection principles and how the Council will ensure compliance with the principles.</li> <li>• The rights of individuals regarding their personal information.</li> <li>• Processes for information handling, collection, security, records management, complaints, enforcement and dealing with breaches.</li> <li>• Details of related policies and procedures, including GDPR Toolkit, Data Breach Procedure, IT Acceptable Use Policy, Information and Records Management Policy and ELC Retention Schedule.</li> </ul>
2.	<p>The Information Governance section of the Council’s intranet provides employees with a wide range of documentation on Data Protection, including the GDPR Toolkit, which contains guidance, templates, training and tools to assist staff to understand and comply with their Data Protection obligations. The Access to Information section of the Council’s website provides members of the public with information on Data Protection, including Our Privacy promise; What kinds of personal data do we collect; How do we collect your personal data; and How do we use your personal data. The website provides details of individuals rights to access their own personal data, including making a “Subject Access Request” and provides a link to the Information Commissioner’s website.</p>
3.	<p>Individuals have new and enhanced rights under GDPR, including the right to request the erasure of their personal information, the right to restrict processing of their data, the right to data portability, and the enhanced right to be informed about how their information will be used. The Council has appropriate documentation, processes and templates in place for recording and responding to requests received from individuals, including Subject Access Requests and Individual Rights Requests.</p>

## 4 Detailed Recommendations

Policies, Procedures and Guidance			
Objective 1	Finding & Risk 1	Grade	Recommendation
	<p>We sought to ensure that the Council has clear and appropriate policies, procedures and guidance documents in place for all aspects of Data Protection, together with clearly defined roles and responsibilities. The Council has a Data Protection Policy in place, which was approved by Cabinet on 12 June 2018, and includes the following:</p> <ul style="list-style-type: none"> <li>• Definitions of personal data, special category data, records, processing, Data Controller (the Council), Data Processor and Data Subject.</li> <li>• Key roles and responsibilities – including the Senior Information Risk Owner (Head of Corporate Support) and the Data Protection Officer (DPO). The DPO is a statutory role under GDPR and the Council’s DPO is the Team Manager – Information Governance.</li> <li>• The Data Protection principles and how the Council will ensure compliance with the principles.</li> <li>• The rights of individuals regarding their personal information.</li> <li>• Processes for information handling, collection, security, records management, complaints, enforcement and dealing with breaches.</li> <li>• Details of related policies and procedures, including the GDPR Toolkit, Data Breach Procedure, IT Acceptable Use Policy, Information and Records Management Policy and ELC Retention Schedule.</li> </ul> <p>The Information Governance section of the Council’s intranet provides employees with a wide range of documentation on Data Protection, including the GDPR Toolkit, which contains guidance, templates, training and tools to assist staff to understand and comply with their Data Protection obligations. The Access to Information section of the Council’s website provides members of the public with information on Data Protection, including Our Privacy promise; What kinds of personal data do we collect, How do we collect your personal data; and How do we use your personal data. The website provides details of individuals rights to access their own personal data, including making a “Subject Access Request” and provides a link to the Information Commissioner’s website.</p> <p>In summary, the Council has a comprehensive set of policies, procedures and guidance, however in some cases we found that these require to be updated, including for example the Records Management Plan which is for the period 2014-2019 (although we note that an action plan is in place in line with previous audit recommendations, which was reported to Cabinet in March 2022) and the IT Acceptable Use Policy, for which the version that is currently available on the Council’s intranet was last updated in July 2015.</p>	<b>Medium</b>	<b>1.1 Management should seek to ensure that relevant policies and procedures are reviewed and updated on a regular basis.</b>
Management response		Responsible officer & target date	
1.1 Agreed – relevant policies, procedures and guidance will be reviewed and updated, in conjunction with colleagues in other areas of the Council.		Team Manager – Information Governance April 2023	

# 4 Detailed Recommendations

## Information Sharing Agreements

Objective 3	Finding & Risk 1	Grade	Recommendation
	<p>We sought to ensure that appropriate arrangements are in place for sharing data, including Information Sharing Agreements being in place with organisations with whom personal data is shared. The Council’s Data Protection Policy (Section 14.3) states that “in order to improve service delivery and to meet its responsibilities, the Council may enter into data sharing agreements with other organisations where data sharing is allowed by law. Where this is the case, the Council will ensure that an Information Sharing Agreement with that organisation is in place which ensures that data sharing is in compliance with the law and this policy”.</p> <p>The Information Governance section of the Council’s intranet contains a section on Sharing Personal Data, which includes a detailed Information Sharing Agreement template. In addition, the Information Governance Team have a number of other documents, including a:</p> <ul style="list-style-type: none"> <li>• Data Sharing Agreement (DSA) Approval Procedure;</li> <li>• DSA Approval Process Diagram;</li> <li>• DSA Approval Request Form – Email Template;</li> <li>• DSA Assessment Checklist; and</li> <li>• DSA Assessment Checklist Guidance.</li> </ul> <p>The DSA Approval Process Diagram clearly outlines the process in place, which starts with a service user request to the IT Service Desk, the service user is asked to complete the DSA Approval Request Form, it is then allocated to the Information Governance Team who create a case file, pass it to the Information Security Team for review, undertake appropriate assessments and reviews (with internal sign-off) and discuss the DSA with the service user and supplier/external organisation. The DSA is then sent to the supplier/external organisation for signature and on return is signed on behalf of the Council, stored and updated on the Data Sharing Register.</p> <p>As part of the audit, we reviewed the Data Sharing Register and found that it records the reference, Title/Organisation the DSA is with, the owning service area, the data received, the date of response and the Data Protection Impact Assessment (DPIA) if appropriate. We note however that staffing challenges within the Information Governance Team have resulted in there currently being a backlog of Information Sharing Agreements that require to be put in place.</p>	<b>Medium</b>	<b>3.1 Management should ensure that Information Sharing Agreements are put in place on a timely basis.</b>

Management response	Responsible officer & target date
<p><b>3.1 Agreed – the processes for approving Information Sharing Agreements are being simplified and streamlined. Full roll-out of the new processes to be completed following recruitment of the new Team Leader – Information Governance.</b></p>	<p><b>Team Manager – Information Governance June 2023 contingent on capacity within other Council Services.</b></p>

# 4 Detailed Recommendations

Information Asset Register			
Objective 4	Finding & Risk 1	Grade	Recommendation
<p>The Council's Data Protection Policy (Section 12.3) states that a record of data processing activities will be maintained by the Council in an Information Asset Register, which will identify the members of staff responsible for overseeing compliance with each processing activity (Information Asset Owners).</p> <p>The Information Governance section of the Council's intranet contains a section on Information Asset Registers, which includes details of:</p> <ul style="list-style-type: none"> <li>• An Information Asset Register (IAR) template.</li> <li>• How to fill out the Information Asset Register.</li> <li>• Example Workflows.</li> <li>• Beginners Guide to Information Asset Registers.</li> </ul> <p>An Information Asset is defined by the National Archives as "a body of information defined and managed as a single unit". Information Assets are defined by the activity that produces them, not by the system that stores them. The Beginners Guide to Information Asset Registers defines an IAR as "a mechanism for understanding and managing an organisation's information assets and the risks to them, including the links between the information assets, their business requirements and technical dependencies". An important part of developing an IAR is identifying information flows from the point information enters the Council, through internal management and out to both internal and external stakeholders. There are some minimum requirements for an IAR, as defined by the UK Information Commissioners Office (ICO):</p> <ul style="list-style-type: none"> <li>• Is there an identified owner for the IAR itself?</li> <li>• Is the IAR regularly reviewed and updated?</li> <li>• Is the IAR linked to corporate retention schedules and risk registers?</li> </ul> <p>The Beginners Guide to Information Asset Registers further states that an Information Asset Owner (IAO) is responsible for ensuring that the information is managed appropriately, and at ELC, IAOs should be designated at Service Manager level or above. The Guide further states that ELC is currently developing an IAR and is beginning to collect basic information to enable compliance with GDPR and the Data Protection Act 2018. As a first step, IAOs are asked to complete a spreadsheet regarding their information assets, which should assist in the recording and managing of information assets consistently across the Council.</p> <p>We note that the Council has detailed retention schedules in place as part of Records Management processes, however progress in respect of the IARs has been slow. IARs are in place for the Feedback Team and for Public Protection, but IARs are not currently being maintained for other areas within the Council which undertake data processing activities.</p>		<b>Medium</b>	<p><b>4.1. Management should ensure that appropriate progress is being made in the development of Information Asset Registers for all areas in the Council where data processing activities are undertaken.</b></p>
Management response		Responsible officer & target date	
<p><b>4.1 Agreed – there will be continuous development of the Information Asset Register, with four workshops being held with service areas per annum.</b></p>		<p><b>Team Manager – Information Governance Ongoing</b></p>	

## 4 Detailed Recommendations

Reporting of Risks			
Objective 6	Finding & Risk 1	Grade	Recommendation
<p>We sought to ensure that information regarding Data Protection is regularly reported at a senior level, and that there is appropriate reporting to Members on Data Protection matters. Data Protection is a standing item at the Corporate Risk Working Group and risks are recorded on both the Corporate Support Risk Register and the Council’s Corporate Risk Register, which are both reported to the Audit and Governance Committee on an annual basis. In particular we note that:</p> <ul style="list-style-type: none"> <li>• The Corporate Support Risk Register (as at September 2022) has a dedicated risk covering Data Breaches/Compliance which highlights the risk of breaches of personal data through accidental disclosure or loss of data in transmission, lack of staff awareness, intentional or malicious misuse of personal data and lack of appropriate provisions for storage or disposal of personal data. The Corporate Support Risk Register identifies risk control measures currently in place, and planned control measures, which when implemented will reduce the risk from High to Medium. Target dates of implementation are identified for each of the planned risk control measures.</li> <li>• The Council’s Corporate Risk Register was presented to Council in March 2022 and to the Audit and Governance Committee in June 2022, although it is updated on an ongoing basis. The most recent version of the Risk Register (September 2022) includes a combined risk (ELC CR4) on Information Security and Data Protection. The assessment of current risk is Very High, although this is primarily due to the elevated risk of external information security threats due to global events, rather than governance controls. In respect of Data Protection, the risk highlights the consequences of breaches of the Data Protection Act 2018/GDPR, emphasises the importance of good records management and the most recent Risk Register reported (June 2022) noted that Subject Access Requests have increased both in number and complexity and that with FOI requests also increasing, combined with staffing challenges, there was a higher risk of missing statutory response timescales. A number of planned risk control measures have been identified covering Training and Awareness, Information Transformation Strategy, Records Management Plan, DSA/DSIA Process Reviews, and Dunbar Road Options Paper. The assessment of current risk (with the proposed planned control measures) is reduced from Very High to High. We note however that there has been slippage to the timescales for implementing some of these control measures, between the June 2022 and September 2022 versions of the Corporate Risk Register, in particular the timescale for the Training and Awareness Communications Plan has moved from June 2022 to January 2023 and the timescale for completion of DSA/DPIA Process Reviews has moved from December 2022 to April 2023. We are advised however that although completion dates have extended there has been ongoing progress, for example the DSA process review is complete with new procedures in place and training delivered to the team, while there is a new rapid DPIA form which is now in use and a completed draft of a new long form.</li> </ul>		<p><b>Medium</b></p>	<p><b>6.1 Management should ensure that timescales for planned risk control measures are realistic and are implemented on a timely basis.</b></p>
Management response		Responsible officer & target date	
<p><b>6.1 Agreed – implementation of existing planned control measures will be progressed. Full roll-out of all planned risk control measures following recruitment of the new Team Leader – Information Governance.</b></p>		<p><b>Team Manager – Information Governance June 2023 contingent on capacity within other Council Services.</b></p>	

## 4 Detailed Recommendations

Training			
Objective 7	Finding & Risk 1	Grade	Recommendation
<p>The Council’s Data Protection Policy (section 1.3) states “the Council is fully committed to data protection compliance and will follow procedures that aim to ensure that all employees, elected members, contractors, agents, consultants, volunteers and any other partners of the Council who have access to any personal data held by or on behalf of the Council, are fully aware of and comply with their duties and responsibilities under GDPR and the Data Protection Act 2018”. The Policy further states:</p> <ul style="list-style-type: none"> <li>• Individual members of staff and elected members are responsible for protecting personal information held or processed on computer, or held in paper records, within their care.</li> <li>• Heads of Service and Service Managers will ensure that all staff have access to the Data Protection Policy and that they receive relevant training.</li> <li>• Training for all staff will be made available via e-learning, online and printed guidance, supplemented by person-to-person training where required.</li> </ul> <p>Data Protection awareness training is a mandatory part of induction and must be refreshed every two years. The Council’s intranet pages for Information Governance also include templates, guidance and information to support corporate compliance. Training is refreshed and reviewed on a regular basis and includes:</p> <ul style="list-style-type: none"> <li>• The module content for the mandatory e-learning module on Data Protection, which was refreshed and redesigned in May 2022.</li> <li>• The Council’s intranet contains “GDPR Training: offline training” which can be provided to those individuals who do not have access to the e-learning module, together with guidance on “Data Protection Principles” and “Data Protection Do’s and Don’ts”.</li> </ul> <p>As part of our review it was identified that 2,981 (58%) out of 5,158 LearnPro users were up to date with their mandatory Data Protection module. This indicates that there is scope for improvement in the uptake of this module and we note that line managers have access to the LearnPro scorecard to enable them to check who in their team has completed the training. Key risks to the Council in respect of data breaches/compliance have been identified as lack of staff awareness and the accidental disclosure or loss of personal data in transmission. The Team Manager – Information Governance, Team Manager – IT Infrastructure &amp; Security and Communications Teams are progressing a Communications Plan, including Inform briefings, email updates and other training and briefings to reinforce awareness of data protection and information security across the Council. There has been slippage in the proposed timescales and we are advised that the ability to undertake this work is currently limited by capacity within the Information Governance Team.</p>		<b>Medium</b>	<p><b>7.1 Management should seek to progress the roll-out of the Communications Plan across the Council to reinforce the importance of Data Protection compliance.</b></p>
Management response		Responsible officer & target date	
<p><b>7.1 Agreed – the Communications Plan will be rolled-out, with support from IT Infrastructure &amp; Security and Communications Teams.</b></p>		<p><b>Team Manager – Information Governance June 2023 contingent on capacity within other Council Services.</b></p>	



# A Recommendation Grading/Overall opinion definitions

Recommendation	Definition
<b>High</b>	Recommendations relating to factors fundamental to the success of the control objectives of the system. The weaknesses may give rise to significant financial loss/misstatement or failure of business processes.
<b>Medium</b>	Recommendations which will improve the efficiency and effectiveness of the existing controls.
<b>Low</b>	Recommendations concerning minor issues that are not critical, but which may prevent attainment of best practice and/or operational efficiency.

Levels of Assurance	Definition
<b>Substantial Assurance</b>	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
<b>Reasonable Assurance</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
<b>Limited Assurance</b>	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
<b>No Assurance</b>	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

# B Resource, acknowledgements & distribution list

Internal Audit	
Service Manager, Internal Audit: Duncan Stainbank	Senior Auditor: Stuart Allan
Review Dates	Completed By Date
Internal Audit Draft Report Submission	07 November 2022
Management Review Completion	17 November 2022
Final Report Issue	23 November 2022
Report Distribution	
Chief Executive	Executive Director for Council Resources
Head of Corporate Support	Service Manager – Governance
Team Manager – Information Governance	External Audit

## Acknowledgements:

The weaknesses identified during the course of our audit have been brought to the attention of Management. The weaknesses outlined are those, which have come to our attention during the course of our normal audit work and are not necessarily all of the weaknesses, which may exist.

Although we include a number of specific recommendations, it is the responsibility of Management to determine the extent of the internal control systems appropriate to Data Protection.

The contents of this report have been discussed with the Team Manager – Information Governance and Service Manager – Governance. The assistance and cooperation received during the course of our audit is gratefully acknowledged.



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Haddington  
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8 March 2022

Dear Chief Executive,

### **IPCO CHIS and Surveillance Inspection of East Lothian Council**

*Please be aware that IPCO is not a “public authority” for the purpose of the Freedom of Information (Scotland) Act (FOISA) and therefore falls outside the reach of the FOISA. It is appreciated that local authorities are subject to the FOISA and that they may receive requests for disclosure of our reports. In the first instance the SRO should bring the matter to the attention of the IPCO Data Protection Officer (at: [info@ipco.org.uk](mailto:info@ipco.org.uk)), before making any disclosure. This is also the case if you wish to make the content of this letter publicly available.*

Your authority was recently subject to a remote inspection by one of my Inspectors, Mr. Paul Donaldson. The documentation and arrangements necessary for my Inspector to carry out the process was provided by Ms. Zarya Rathe, Team Manager, Information Governance and Data Protection Officer, who now acts as your RIPSAs Coordinator/Gatekeeper. This enabled an examination of relevant policies, ten directed surveillance authorisations granted since the last inspection in January 2019, along with two applications which had been refused by your Authorising Officer (AO). Ms. Rathe, along with Ms. Morag Ferguson, Head of Corporate Support, who is relatively new to the role of Senior Responsible Officer (SRO), and Mr. Carlo Grilli, Head of Governance, made themselves available to be interviewed via video conferencing. From the documentation examined and the information provided during the interview, the level of compliance shown by your authority removes, for the present, the requirement for a physical inspection.

At the last inspection your authority was subject to five recommendations, and I note there being a comprehensive action tracker developed to monitor progress in addressing those. In terms of Recommendation 1, my Inspector is satisfied the practice of backdating cancellations no longer exists and can be discharged. Recommendation 2 related to reporting RIPSAs matters to Elected Members, and I note that the initial plan to institute this practice was placed on hold due to the pandemic. I understand that a new process to ensure Elected Members are briefed on RIPSAs issues as per paragraphs 4.43<sup>1</sup> and 3.27<sup>2</sup> will be introduced once the new committee structure is established after the upcoming local government elections. In view of these matters, Recommendation 2 will remain extant until the process is embedded.

<sup>1</sup> Scottish Government Code of Practice on Covert Surveillance and Property Interference, December 2017

<sup>2</sup> Scottish Government Code of Practice on Covert Human Intelligence Sources, December 2017

Recommendation 3 related to AOs stipulating incorrect duration periods within directed surveillance authorisations. I note from the observations outlined below by my Inspector that this practice was still evident, and therefore this recommendation will also remain extant. I appreciate that the nominated AOs within the Council have also changed recently and that there is a plan in place to deliver appropriate training to them, to ensure they are fully aware of their RIPSAs responsibilities. It is worth highlighting that your RIPSAs Coordinator has developed very useful *Guidance for Authorising Officers* documents which cover the key elements within the authorisation process very well.

Recommendation 4 suggested a review of the practice of authorising directed surveillance under RIPSAs for monitoring noise levels where anti-social behaviour complaints were made. Where it is decibel levels being recorded, there is little chance of any private information being obtained and I note that, whilst no longer a widespread practice, one such authorisation was granted (2019/004). This was discussed with current staff, who have a clear understanding of the guidance and the recommendation is therefore discharged. I understand situations can arise where the full capability of the equipment may not be understood, and a doubt may exist as to whether voices are being recorded. Where such uncertainty does exist, it is essential that AOs understand the full capabilities of the equipment, to assess the necessity of authorising its deployment as directed surveillance. For ease of reference, paragraph 3.37<sup>3</sup> provides some additional guidance on the matter.

Recommendation 5 outlined adjustments to be made to your policies, and my Inspector has intimated that those have been made and that the RIPSAs policy and the accompanying appendices covering the use of CHIS and covert surveillance, including the *Surveillance through Social Media Policy*, are currently being reviewed further. I am aware that he has offered specific guidance in respect of the contents of each of the policies mentioned, in particular the guidance offered in section 8 (*Utilisation of Social Media*) of the *Surveillance through Social Media Policy*. I direct you to the contents of paragraphs 3.5 to 3.7<sup>4</sup>, 3.11 to 3.16<sup>5</sup>, and 4.7 to 4.14<sup>6</sup> and of the need for your guidance to reflect the principles contained within these sections.

The use of the internet and social media is a valuable investigative resource and oversight and auditing of its use is critical within all public authorities, whether authorised under RIPSAs or not. In that regard my Inspector discussed The Investigatory Powers Tribunal's (IPT) decision in *BA & others v Chief Constable of Cleveland IPT/11/129/CH (13 July 2012)*, where the IPT commended the adoption in non-RIPAs (RIPSAs) cases "a procedure as close as possible" to that required by the legislation. Records being maintained of online activity in investigations allows for appropriate auditing and serves to reduce the risk of there being any disproportionate use of social media. I note that there is an intention when further training is delivered, for there to be relevant content included to ensure these principles can be introduced.

Mr. Donaldson examined ten directed surveillance authorisations granted since the last inspection, and two rejected applications, and makes the following points:

1. The applicants provided sufficient and specific background information on investigations to enable the requisite elements of necessity, proportionality, and collateral intrusion to be considered, as per paragraph 5.4<sup>7</sup>.
2. Whilst the relevant content is present, it seems applicants at times conflate considerations of necessity and proportionality. Applicants should focus on the elements contained within paragraph 4.7<sup>8</sup>.

<sup>3</sup> Scottish Government Code of Practice on Covert Human Intelligence Sources, December 2017

<sup>4</sup> Scottish Government Code of Practice on Covert Surveillance and Property Interference, December 2017

<sup>5</sup> Ibid

<sup>6</sup> Scottish Government Code of Practice on Covert Human Intelligence Sources, December 2017

<sup>7</sup> Ibid

<sup>8</sup> Ibid

3. There were insufficient considerations attached to collateral intrusion by the applicants and AOs where the deployment of covert cameras had been authorised. It is essential that there is a clear understanding of the capabilities of the equipment, the impact on collateral intrusion, or how the risks can be controlled and managed (2019/003).
4. AOs continue to set expiry dates which do not comply with the legislation, i.e. a duration of three months. AOs can set review dates to allow them to assess the continued necessity and proportionality of the authorised activity as per paragraph 8.11<sup>9</sup>, but cannot shorten the authorisation period.
5. AOs should ensure their authorisations are maintained in accordance with paragraphs 5.19 to 5.21<sup>10</sup> and Chapter 8 of the Code of Practice. Cancellations should provide detail on what activity has been undertaken, the type and extent of the product and material obtained, and how it is to be managed, with the AO providing some direction or instruction for its management.

Mr. Donaldson has highlighted that the new SRO and RIPSAs Coordinator are in the process of developing a programme of training which will include an input from an external provider, as well as the introduction of an e-learning module to be made available to all staff. I view the provision of training and availability of RIPSAs awareness material as being critical to ensuring that staff are suitably equipped should they contemplate covert activity in the course of their investigations. I was also pleased to learn that the RIPSAs Coordinator intends to introduce a quality assurance process where applications and authorisations will be reviewed prior to submission to the AO and to offer guidance where appropriate.

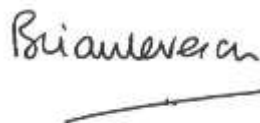
I am aware that since the last inspection you have received my letter outlining IPCO's recent Data Assurance Programme and that you have in place an *Information and Records Management Policy*, as well as a *Business Classification Scheme and Retention Schedule*. Whilst these policies cater for material obtained from CCTV, they do not explicitly cater for material collected through the use of covert powers under RIPSAs. It was highlighted that this is being addressed as part of the review of the relevant policies, and I would encourage you to ensure the guidance is aligned with the content of the relevant Codes of Practice and with the principles outlined in my aforementioned letter.

I am conscious of the period of change within your Council in respect of those who occupy the roles associated to RIPSAs governance, and within time the revised policies and processes will be established. On the whole, I am satisfied that there is a clear direction of travel to maintain compliance with the legislation and Codes of Practice and I would highlight that the observations made herein will assist your staff in their respective roles should they need to utilise covert investigative techniques.

I hope that you find the outcome of this remote inspection helpful and constructive, and my Office is available should you have any queries following the receipt of this letter, or at any point in the future. Contact details are provided below. I shall in any case, be very interested to learn of your proposed response to the observations made within this letter, and of the progress being made, within the next two months.

The Inspector would like to thank your staff for their very positive engagement and transparency throughout this remote inspection process, and for providing the necessary documentation to enable it to be achieved.

Yours sincerely,



**The Rt. Hon. Sir Brian Leveson**  
The Investigatory Powers Commissioner

<sup>9</sup> Scottish Government Code of Practice on Covert Human Intelligence Sources, December 2017

<sup>10</sup> Ibid



**REPORT TO:** AUDIT AND GOVERNANCE COMMITTEE

**MEETING DATE:** 14 February 2023

**BY:** Chief Executive

**SUBJECT:** Health & Social Care Partnership Risk Register

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**8**

## **1 PURPOSE**

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

## **2 RECOMMENDATIONS**

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

## **3 BACKGROUND**

- 3.1 The Risk Register has been compiled by the Health & Social Care Partnership LRWG. All risks have been evaluated using the standard (5x5) risk matrix (Appendix 2) producing an evaluation of risk as either 'low (1-4)', 'medium' (5-9), 'high' (10-19) or 'very high' (20-25).
- 3.2 The Council's response in relation to adverse risk or its risk appetite is such that:

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

3.3 The current Health & Social Care Partnership Risk Register includes 8 High and 6 Medium risks. As per the Council’s Risk Strategy, only the Very High and High risks are being reported to the Committee.

#### **4 POLICY IMPLICATIONS**

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

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

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

#### **6 RESOURCE IMPLICATIONS**

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

6.2 Personnel - There are no immediate implications.

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

#### **7 BACKGROUND PAPERS**

7.1 Appendix 1 – Health & Social Care Partnership Risk Register 2023

7.2 Appendix 2 – Risk Matrix

<b>AUTHOR’S NAME</b>	Scott Kennedy	
<b>DESIGNATION</b>	Emergency Planning, Risk and Resilience Officer	
<b>CONTACT INFO</b>	skennedy@eastlothian.gov.uk	01620 827900
<b>DATE</b>	02 February 2023	



ID	Title	Description	Controls in place	Risk level (current)	Rating (current)	Risk level (Target)	Rating (Target)	Date Risk Reviewed	Description	Progress	Due date
5514	<b>Communicable Disease Outbreaks of Public Health Significance</b>	East Lothian Council continue to have the appropriate business continuity plans/contingency in place to ensure continued delivery of business critical services during the COVID19 outbreak.	Processes in place to establish proactive communicating, and encouraging compliance with all government and public health authorities' advice and reducing the impact/spread of misinformation by relying on information from trusted sources.	High	12	Medium	8	19/01/2023	Ongoing deployment of JCVI vaccine and booster programme and monitoring of COVID case prevalence across East Lothian to inform service interventions and timely community information and updates re service delivery and ongoing safety measures.	Spring programme under development	30/06/2023
		The Council will continue to carry out close ongoing monitoring of COVID and continues to be prepared for any future waves of the virus or alternate long term health issues.	Established mechanism to stand up the Council Management Team (Critical Incident Response Team) to oversee and direct the Council's response.								
		While as the situation continues to improve the Council will make itself ready to come out of Response and Business Continuity mode and to move towards Recovery.	COVID19 Recovery and Renewal Coordination Group is deployed overseeing planning for recovery and renewal across East Lothian.								
		The risk will remain at the current level until the end of the 22/23 winter period.	The Council has had to adapt is delivery of services beyond the COVID pandemic and now subsequent concurrent challenges including the cost of living crisis and ensuing economic volatility. The Recovery & Renewal Plan interventions remain valid and under constant review. ELC will continue to lead recovery supported by our partner agencies context of the Civil Contingencies Act 2004.								
			Resilience Direct continues to be available for use to share information on a multi-agency basis.								
			Business Continuity Plans in place in all services leading to staff continuing to work from home unless it is essential for them to be in their place of work.								
			Public Health Scotland has published (September 2022) National Respiratory Surveillance Plan and also Plan for Monitoring and Responding to New SARS-Cov-2 Variants and Mutations. These plans detail how an effective and efficient surveillance service will be delivered in Scotland and sets out how the identification, investigation, risk assessment and response in relation to COVID19 variants and mutations will be carried out.								
			The document recommends local authorities to stand ready to support any operational roll out of a VAM response.						The Council will follow the updated SG Framework to ensure that sick pay and staffing practices are aligned with public health aims, adapting premises to make them safer for customers and staff, and enabling hybrid working where that makes sense and supp	HSCP are following NHS and ELC guidance on staffing. Using JPF to monitor the situation	30/06/2023
			Protective Services continue to have regular engagement with NHS Lothian Health Protection Team and are ready to work in partnership with NHS Lothian in relation to standing up a response where required.								
			HSCP continues to support delivery of the COVID19 vaccination programme.								
			Resilient Communities Groups exist in each Community Council area and Groups are ready to stand-up when required.								
			Volunteer Centre East Lothian collaboration over support for local Third and Voluntary sector organisations able to respond to consequences across communities.								
			The Council provides a prime source of local EL public information, constantly updated, in the Council Website as well as regular updates on Social Media platforms.								
3912	<b>Duty of Care</b>	The Council has a responsibility to provide care and support	Prioritise maintenance of safe staffing levels for all statutory services	High	12	Medium	8	19/01/2023			

		<p>for the people of East Lothian and East Lothian's environment. Any breach of this duty of care may compromise legislative duties, health, safety and wellbeing, impacting on, for example, the protection of children and adults.</p> <p>Failure to fulfil the duty of care could also result in serious harm/death to an individual/s, prosecution, having to pay compensation and have a negative impact on the reputation of the Council.</p> <p>Additional pressure within this area caused by external providers struggling to deliver through staffing issues.</p>	<p>the partnership delivers.</p> <p>Briefing sessions, specialist training and supports are in place.</p> <p>Regular formal supervision in place for all staff including completion of PRD's and e-KSF, focusing on specific and agreed development needs.</p> <p>Clinical &amp; Care Governance Committee established which is to provide strategic oversight within the Partnership. Chief Social Work Officer, Chief Nurse, Clinical Director, AHP Lead oversight and review of practice to assess workload allocation and risk management.</p> <p>Specific oversight groups established for example Care Home, Health &amp; Safety and Risk Management.</p> <p>Services comply with required professional registration standards for all staff, e.g. SSSC, HCPC, NMC etc.</p> <p>"Safer Recruitment" practices and PVG checks embedded.</p> <p>LSI mechanism in place with reporting structure through PPC.</p> <p>Regular engagement with the Care Inspectorate reviewing services in place</p> <p>Risk assessment documentation shared with providers with client RAG in place to ensure services are prioritised for those most at risk.</p>					<p>Alteration of the workforce model for delivery of care a home services including expansion of internal delivery.</p> <p>Review of oversight and governance arrangements for assessment.</p>	<p>Review ongoing through bi-weekly Care at home meetings chaired by GMs</p> <p>Comprehensive pathway modelling underway lead by Head of Operations</p>	<p>30/09/2023</p> <p>30/06/2023</p>	
5356	<b>ELHSCP Workforce Risk</b>	<p>There is a risk that we will not have sufficient workforce to deliver services.</p> <p>Recruitment &amp; Retention.</p> <ul style="list-style-type: none"> <li>- Challenges in recruiting staff.</li> <li>- Failure to retain current staff within ELHSCP.</li> <li>- Lack of resource to deliver mandatory training.</li> </ul> <p>Difficulty attracting nursing staff from acute services to community services.</p> <p>Failure to deliver safe, effective &amp; sustainable health &amp; social care services.</p> <p>Accommodation.</p> <ul style="list-style-type: none"> <li>- Challenge of moving to home working and the closing of office space doesn't support a reactive service or peer support.</li> <li>- Consolidation of building space to increase overall service delivery.</li> </ul> <p>Resulting in staff becoming disengaged with the Partnership and services it delivers.</p> <p>IT</p> <ul style="list-style-type: none"> <li>- Continued divide between employers IT systems.</li> </ul> <p>Resulting in:</p> <ul style="list-style-type: none"> <li>- Potential for unsafe practice.</li> <li>- Inefficient use of time / duplicate workload.</li> <li>- AHPs in Health experiencing repeated incorrect / late advice from recruitment, especially around overseas candidates.</li> </ul> <p>Exacerbates post gapping</p>	<p>-Development of the workforce &amp; action plan.</p> <ul style="list-style-type: none"> <li>-Workforce Steering group have regular meetings to monitor workforce challenges.</li> <li>-Rolling recruitment processes for some posts i.e home care / nursing.</li> <li>-Recruitment initiatives being developed.</li> <li>-Accommodation home working asset review.</li> <li>-Continued work with IT partners.</li> <li>-Further development of the ELHSCP organisation workforce development team.</li> <li>- AHP recruitment issue improving.</li> <li>- Nursing service developing video to be shared on social media to attract new staff and aid recruitment.</li> <li>-Adult SW operating hybrid 50% office based approach model - limited to accommodation.</li> <li>- Implementation of workforce action plan ( 3 yr plan ) reliant on fair working practices.</li> </ul>	High	15	Medium	6	19/01/2023	<p>Recruitment &amp; Retention</p> <p>Implementation of workforce plan</p>	<p>update from IG 15/8/22 - huddles in place for each service and recruitment programs ongoing.</p> <p>JPF used to monitor recruitment with feedback from partner agencies.</p> <p>Sites continue to be closed to support workforce issues</p> <p>Discussion on workforce plan implementation being progressed with all GM. Plans will be reviewed at the workforce planning group</p>	<p>01/10/2023</p> <p>30/09/2023</p>

4695	<b>Mental Health and Substance Use Services</b>	<p>Due to the impact of Covid-19 on individuals and their mental health, demand on services and staffing, could result in an increase in physical and mental health related issues, which could lead to deaths or serious harm as a result of attempted or completed suicides or drug related incidents.</p> <p>Creates risk in relation to client's safety and ability to manage risk and creates reputational risk for the East Lothian Health and Social Care Partnership, Council and NHS.</p>	<p>Programme of meetings to monitor performance, quality improvement and compliance with national standards.</p> <p>Multi agency working across stakeholders within Police, third sector, housing, Social Work and NHS.</p> <p>Increase in Scottish Government funding to specifically support MH and Substance use services/work streams.</p> <p>Monitoring and learning from Significant adverse events.</p> <p>Review of adult MH services to improve access to services.</p> <p>Implementation of Medication Assisted Treatment Standards (MAT) to improve access and retention in treatment and to enable to make an informed choice about care.</p> <p>Assertive outreach - Primary care substance use nurses are now embed within the majority of GP practices and this service is currently being evaluated. We also have recruited to an assertive outreach post who is progressing non fatal overdose pathway and working with patients to introduce them or re-engage them in to services with the view to reduce drug and alcohol deaths. This role also supports with roll out of take home naloxone to higher risk groups and supports training.</p> <p>Contact centre - Pilot service provided by MELD available five days a week to offer direct support for drug and alcohol issues. Seeing an increase in contacts and following triage, individuals are giving advice/support or signposted to most appropriate service.</p> <p>DRD group members to review current process of analysis of case reviews - August 2022 - all unexpected deaths/DRD's are discussed at the PSAEG group that has been set up following a review of all SAE processes within MH services across Lothian. Backlog has now been cleared and all learning/themes has been collated and shared with teams and relevant services. This meeting provides clear governance and oversees risk and learning. Regular meetings are also held with DRD coordinator and MELDAP . Following publication of NRS DRD figures, presentations to be made to IJB and CSOG.</p> <p>The MH and SU business meetings are well established and themes and learning with local action plans in place. GN update November 2022</p>	High	12	Medium	6	19/01/2023			
										<p>Implementation of MAT standards</p> <p>August 2022 - Requirement to implement standards 1-5 and Implementation Group in place to monitor and to liaise with MIST. Money received from Scottish Govt to implement standards, which was matched by MELDAP and band &amp; now recruited to to support same day prescribing model. Also recruiting band 5, admin and peer support staff to support implementation. MIST to support with workshop to allow us plan and embed standards within day to day practice and to support how we collate data and complete QI methodology. Workshop set for late August.</p> <p>Local action plans in place and updates to Scottish Government are on track for March 2023 - GN November 2022 update</p>	31/03/2023
5478	<b>Partner agency delivery challenges</b>	<p>Each Partner agency has arrangements in place, with challenges with resources subject to ongoing operational issues.</p> <p>East Lothian Council has a range of back office departments which support the HSCP; a number of these departments are declaring business continuity status.</p> <p>NHS Lothian is escalating significant risk regarding hospital flow and occupancy. The HSCP is required to ensure an ongoing response to the crisis. This is diverting resources.</p>	<p>NHS is managing through quarterly performance meetings, CMT bi-weekly meetings and CMT system pressures</p> <p>ELC is managing through CMT and the discussions of of risk registers</p>	High	16	Medium	9	19/01/2023	Influence of risk	<p>Whilst the partnership cannot influence the return to normal business of partner agencies it meets regularly with those in BC mode for updates on the impact on the partnership.</p>	31/03/2023
5479	<b>PCIA</b>	<p>Risk that the primary care infrastructure and real estate wont be developed because of the lack of funding.</p> <p>It impacts on the partnership in 3 ways</p> <ol style="list-style-type: none"> <li>1- It presents a risk that patients will not receive GMS care</li> <li>2- It may limit the HSCP to implement the PCIP or provide services accessible across East Lothian</li> <li>3- It may limit the opportunities to provide primary and community care to respond to a growing and ageing population</li> </ol>	<p>HSCP highlight risks to NHS as capital funding is not delegated to the HSCP.</p> <p>Strategic assessments reviewed and updated annually to inform prioritisation process.</p> <p>We can argue that the risk has fallen slightly because NHS Lothian has now competed the prioritisation exercise for all primary care developments identified across Lothian but the risk still remains because of the significant uncertainty over the capital funding from Scottish Government</p>	High	12	Medium	9		<p>Annual assessment of future population growth by HSCP to re-evaluate impact on General Practice premises</p> <p>Reduce demand for clinical space within practice buildings through development of remote service provision (digital and by telephone) for some elements of PCIP services.</p>	<p>Assessment last reported to IJB in 2020. Assessment against 2021 Housing Land Audit has been completed. Update due to SPG - JM 26/1/23</p> <p>Some PCIP services already provide remote service. Alternative venues to practice buildings used for most of the vaccination programme - JM 26/1/23</p>	01/06/2023
											01/01/2024

									Develop use of non-general practice buildings to provide PCIP services where possible.	Corn Exchange used for vaccinations with scope for other service provision. Lease due to end April 2024 and cost benefit needs assessment re extending the lease further - JM 26/1/23	01/03/2023
									Consider how existing facilities can be used at evenings and weekends to provide primary care services.	In progress with vaccinations. Further work not started - JM 26/1/23	31/03/2024
3915	Public Protection - Risk of Harm	<p>The Council has a legal responsibility to address concerns that may require a Child or Adult protection response. The Council also has an obligation to manage offenders through the Justice Social Work service and contribute to MAPPA arrangements.</p> <p>It should be noted that by the very nature of the work involved in Child Protection, Adult Protection, management of offenders and people experiencing domestic abuse this is a high risk business even with all the controls and measures in place.</p> <p>Any failure to adequately respond to concerns may negatively impact on children and adults, who may be at risk of harm. This could also result in serious harm/death to an individual/s, prosecution, having to pay compensation and have a negative impact on the reputation of the Council.</p> <p>A failure to secure efficient and effective Public Protection arrangements, covering Child Protection, Adult Support and Protection, local MAPPAs arrangements, Violence against Women and Girls (VAWG) and Substance Misuse services, may see the Council being unable to fulfil its statutory duties/duty of care which could contribute to a service user suffering harm/death or detriment. This would in turn result in reputational damage to and increased scrutiny of the Social Work services.</p> <p>There are continuing issues with the delivery of Social Care Services within the Care Home and Care at Home sector. There is the potential for a service failure which could place vulnerable adults at risk of harm.</p> <p>There has been a long standing waiting list for an Outreach Service from Women's Aid Mid and East Lothian which is the specialist service provider for Women experiencing or having experienced domestic abuse. There is a funding gap created by non-recurring revenue streams and increased demand.</p> <p>In the context of rising demand for domestic abuse supports in the county, the council's arrangements for delivering Equally Safe, the national strategy to eradicate violence against women and girls requires a strategic and</p>	<p>Strategic Structure</p> <p>The East and Midlothian Public Protection Committee (EMPPC) is the local strategic partnership responsible for the overview of policy and practice in relation to Adult Protection, Child Protection, Offender Management and Violence Against Women and Girls. The primary aim of the Committee is to provide leadership and strategic oversight of Public Protection activity and performance across East Lothian and Midlothian. It discharges its functions through four sub-groups which meet quarterly:</p> <ul style="list-style-type: none"> <li>• Performance and Quality Improvement sub-group maintains overview of work through the door and performance in relation to CP and ASP work</li> <li>• Learning and Practice Development sub-group takes forward our 2021-23 strategy for Multi-agency training, and oversees our training programme. Training needs on aspects of Public Protection are considered by this group and are informed by Training Needs Analyses undertaken by the East Lothian Workforce Development Officers in Children's Services and the HSCP.</li> <li>• VAWG delivery group keeps oversight of services for gender based violence</li> <li>• East and Midlothian MAPPAs Group (EMMG) oversees MAPPAs arrangements.</li> </ul> <p>Critical Services Oversight Group (CSOG), Provides governance and leadership of EMPPC on a quarterly basis</p> <p>Marac (Multi-agency risk assessment conferences) continues to operate on a four weekly basis, by Microsoft Teams, with additional meetings scheduled to respond to increase in demand, ensuring that the needs of and supports to highest risk victims of domestic abuse are planned for on a multi-agency basis.</p> <p>East Lothian S&amp;T implementation group will continue to meet to review and maintain oversight of training and embedding S&amp;T in practice in East Lothian. This will also be monitored via EMPPC Learning and Development Sub-group.</p> <p>A Joint Strategic Needs Assessment for Public Protection has been developed and is being reviewed by CSOG. This projects increased demand for services and makes a number of recommendations for the future delivery of Public Protection services.</p>	High	12	Medium	8	19/01/2023			
									A Joint Strategic Needs Assessment for Public Protection is being taken forward by CSOG.	Awaiting outcome though PPC	30/06/2023
									The Council Management Team and EMPPC learning and development sub-group will seek assurance that arrangements are in place for completion of Level 1 training.	HSCP leads linking in with work through PPC	30/06/2023
									The CSWO remains actively engaged in national meetings aimed at achieving a long-term solution to the MAPPAs information sharing / VISOR issue ahead of the implementation of the replacement system MAPPAS. The CSWO will continue to provide regular assurance	Awaiting feedback from SG.	30/06/2023
									Under the new East Lothian Safety and Justice Strategic Partnership, the national strategy Equally Safe will be progressed through its own dedicated sub-group.	Review of CIP function underway.	30/09/2023
3914	Service Activity	There is a risk that demographic pressures see demand for	1. New planning structure established which will support an overall	High	12	Medium	9	19/01/2023			

<p><b>Pressures</b></p>	<p>services outstrip available budgetary and staffing resources leading to unmet client need and risk to client safety and independence, potentially generating reputational risk for East Lothian Council.</p> <p>Service Activity pressures see demand for services outstrip available budgetary and staffing resources leading to unmet client need and risk to clients safety and independence, potentially generating reputational risk for the Council as well as failing to meet statutory responsibilities.</p> <p>COVID impacting service capacity by causing significant ongoing staffing pressures.</p> <p>This risk is managed by the IJB</p> <p>Care at home external provision remain static at significantly lower levels which impacts on risks and hospital discharges.</p>	<p>programme of change and include a number of change boards to which all projects will report. Changes boards reflect agreed priorities of the IJB and include Primary Care, Shifting the Balance of Care, Adults with Complex Needs, Mental Health, Carers and Rehousing.</p> <p>2. New planning structure includes Reference Groups as well as Change Boards. Reference groups are multi-stakeholder and include service users, carers, voluntary sector organisations, practitioners, community planning partners, housing colleagues and other groups.</p> <p>3. Resource Allocation System (RAS) established with additional short term practitioner capacity to accelerate pace of reviews to ensure resources are allocated according to need within financial constraints.</p> <p>4. Application of the Eligibility criteria has been reviewed and delegated authority implemented. Scrutiny of budget authorisations and analysis of trends through delegated authority.</p> <p>5. Self Directed Support (SDS) implemented and audited with action plan in place.</p> <p>6. Currently commission a range of services which fulfil an early intervention and prevention role. As part of continual planning and service redesign. Mandatory "Golden Threads" have been established which all change programmes and projects must evidence as having achieved as part of the proposed change. These include early intervention and prevention.</p> <p>7. Strong relations with third sector organisations etc.</p> <p>8. A three year increased investment plan was agreed at the IJB in early 2017. April 2019 will see the third year of this agreement start where day centres will be operating to a new Service Level Agreement.</p> <p>9. All funding of commissioned provision has undergone a Strategic Fit and Best Value review. This includes integrated Care Fund funding and services.</p> <p>10. Three year budget efficiency plans developed for implementation from 2019 - 2022.</p> <p>11. Services forecast trajectory of need across all Care Groups to inform service development and financial planning.</p> <p>12. Recovery Plan is in place.</p> <p>13. Financial overview regularly considered short, medium and long term measures for resourcing.</p> <p>14. Resource allocation system - delegated authority is in place.</p> <p>15. Community transformation approved at IJB summer 2021 - adults of carers change board overseeing.</p> <p>16. iCAT forum continues to ensure resources are deployed effectively as possible.</p> <p>Care home placements for older people restricted by thirs sector recruitment and retention.</p>				<p>SDS Action Plan</p>	<p>02/07/19: Report feedback 4/7/19. Action plan implemented and to be reviewed 6 monthly.</p> <p>8/1/20: Will be reviewed by end January 20 and updates communicated.</p> <p>22/09/21: Review of SDS - met some level of need. Progress of SDS put on hold to mitigate risk - not completed due to Covid &amp; agreement of realistic resources.</p> <p>10/8/22 - SDS Action plan requires re-visiting to identify outstanding and new actions. MK</p>	<p>31/03/2023</p>
					<p>Community Transformation Programme</p>	<p>August 2022 - papers presented to IJB in June 2021 and a set of principles were agreed. Update on progress to be presented to SPG in August 2022 and then to IJB.</p> <p>Update on progress presented to SPG in September 2022 - IG 1/11/22</p>	<p>31/03/2023</p>	
					<p>IRIS programme is developing a new assessment document and process which should be implemented by August 2022 and will factor in SDS an an immediate option.</p>	<p>10/8/22 - IRISS will provide report covering summary of activity with the service over past 12 months. Revisions to process and paperwork are at an advanced stage. The intention is that a 'test' phase will commence in October 2022. MK</p> <p>Test phase commence in line with new MOSAIC developments - IG 1/11/22</p>	<p>31/03/2023</p>	



## East Lothian Council Risk Matrix

### Likelihood Description

Likelihood of Occurrence	Score	Description
Almost Certain	5	>90% chance of occurring
Probable	4	70%-90% chance of occurrence
Possible	3	30-70% chance of occurring
Unlikely	2	10-30% chance of occurring
Rare	1	<10% chance of occurring

### Impact Description

Impact of Occurrence	Score	Description							
		Impact on Service Objectives	Financial Impact	Physical and/or Psychological Impact on People	Impact on Time	Impact on Reputation	Impact on Assets	Business Continuity	Legal & Regulatory
Catastrophic	5	Catastrophic failure in service delivery and key service standards are not met, long-term catastrophic interruption to operations, several major partnerships are affected	Severe impacts on budgets (emergency Corporate measures to be taken to stabilise Council Finances. Consideration should be given as to whether this is an insured or uninsured risk and whether there may be reliance on reserves. The Council is expected to hold a reserve to budget ratio of 2%.	Single or Multiple fatality and or physiological impact, within council control, leading to fatal accident enquiry.	Serious - in excess of 2 years to recover pre-event position.	Highly damaging, severe loss of public confidence, Scottish Government or Audit Scotland involved. Prolonged regional and national condemnation.	Significant disruption to building, facilities, vehicles or equipment (Loss of building, vehicles, rebuilding required, temporary accommodation required, vital equipment lost without replacement capability available resulting in services being unable to be delivered).	Complete inability to provide service/system, prolonged downtime with no back-up in place.	Catastrophic legal, regulatory, or contractual breach likely to result in substantial fines or other sanctions, including substantial involvement from regulators.
Major	4	Major impact to service quality, multiple service standards are not met, long-term disruption to operations, multiple partnerships affected.	Major impact on budgets (need for Corporate solution to be identified to resolve funding difficulty). Consideration should be given as to whether this is an insured or uninsured risk and whether there may be reliance on reserves.	Number of extensive injuries (major permanent harm) or major physiological impact to employees, service users or public.	Major - between 1 & 2 years to recover pre-event position.	Serious negative national or regional criticism and publicity.	Major disruption to building, facilities, vehicles or equipment (Significant part of building unusable for prolonged period of time, alternative accommodation required, equipment or vehicles unavailable to provide significant elements of service delivery and no appropriate contingency arrangements in place).	Significant impact on service provision or loss of service.	Legal, regulatory, or contractual breach, severe impact to Council, fines and regulatory action publicly enforced.
Moderate	3	Significant fall in service quality, major partnership relationships strained, serious disruption in service standards.	Moderate impact on budgets (can be contained within overall directorate budget).	Serious injury requiring medical treatment or moderate physiological impact to employee, service user or public (semi-permanent harm up to 1yr), council liable.	Considerable - between 6 months and 1 year to recover pre-event position.	Adverse national media public attention with elected members becoming involved.	Moderate disruption to building, facilities, vehicles or equipment (loss of use of building for medium period, loss of equipment or vehicles requires contingency arrangements to be employed and has moderate impact on overall service delivery).	Security support and performance of service/system borderline.	Legal, regulatory, or contractual breach, moderate impact to Council, regulator action and or improvement required of the Council .
Minor	2	Minor impact to service quality, minor service standards are not met, short-term disruption to operations, minor impact on a partnerships	Minor impact on budgets (can be contained within service head's budget).	Non life changing injury or physiological impact to staff or member of the public requiring treatment.	Some - between 2 and 6 months to recover.	Minor adverse local, public or media attention and complaints.	Minor disruption to building, facilities, vehicles or equipment (alternative arrangements in place and covered by insurance, equipment or vehicles unavailable for small period of time minor impact on service).	Reasonable back-up arrangements, minor downtime of service/system.	Legal, regulatory, or contractual breach, minor impact to Council, regulator advice and improvement requested of the Council.
Minimal	1	No impact to service quality, limited disruption to operations.	Minimal impact on budgets (can be contained within unit's budget).	Minor injury or minor physiological impact to employee, service user or public.	Minimal - Up to 2 months to recover.	Public concern restricted to local complaints and of no interest to the media.	Minimal disruption to building, facilities, vehicles or equipment (alternative arrangements in place, equipment or vehicles alternative quickly available to replace or substitute).	No operational difficulties, back-up support in place and security level acceptable.	Legal, regulatory, or contractual breach, negligible impact to Council, regulator suggested improvements requested.

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

### Key

Risk	Low	Medium	High	Very High
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**REPORT TO:** AUDIT AND GOVERNANCE COMMITTEE

**MEETING DATE:** 14 February 2023

**BY:** Chief Executive

**SUBJECT:** Education Risk Register

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## **1 PURPOSE**

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

## **2 RECOMMENDATIONS**

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

## **3 BACKGROUND**

- 3.1 The Risk Register has been compiled by the Education LRWG. All risks have been evaluated using the standard (5x5) risk matrix (Appendix 2) producing an evaluation of risk as either 'low (1-4)', 'medium' (5-9), 'high' (10-19) or 'very high' (20-25).
- 3.2 The Council's response in relation to adverse risk or its risk appetite is such that:

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

3.3 The current Education Risk Register includes 1 Very High, 5 High, 8 Medium and 1 Low risks. As per the Council’s Risk Strategy, only the Very High and High risks are being reported to the Committee.

#### **4 POLICY IMPLICATIONS**

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

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

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

#### **6 RESOURCE IMPLICATIONS**

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

6.2 Personnel - There are no immediate implications.

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

#### **7 BACKGROUND PAPERS**

7.1 Appendix 1 – Education Risk Register 2023

7.2 Appendix 2 – Risk Matrix

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<b>DATE</b>	02 February 2023	

**Education Service Risk Register 2023**

Date reviewed: 02 February 2023

Risk ID	Risk Category	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Planned Control Target Date	Evidence held of Regular Review
				Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating		
				L	I	L x I		L	I	L x I		
E1	Reputation  Finance	<p><b>Additional Support Needs</b></p> <p>Increased pressure on specialist provision due to a rise in the numbers of children and young people with Additional Support Needs and an increase in numbers of children and young people through housing developments and growth will impact on increased service demand and have resource implications for Education. This has led to limited capacity within current specialist resources.</p> <p>Increased pressure on specialist provision has led to limited capacity within current specialist resources. This could lead to an increase in references to the ASN tribunal and increased financial pressures through the need for enhanced packaged of support and the use of external provision.</p> <p>Applications for Exceptional Needs has increased significantly over the past five years in line with national trends whilst the budget available to the service has not increased at the same rate. This has an impact on the learning and progression of young people with ASN.</p> <p>This is contributing to the need to place children out with East Lothian for care and education resulting in significant financial pressures in the External Residential Care and Education budget.</p>	<p>The Council continues to monitor and track the nature and level of need across all establishments in order to target resources effectively.</p> <p>Regular budget monitoring meetings with Education and Finance managers as well as school reviews to monitor and review compliance with policies and guidance.</p> <p>Key policies in place to reflect national guidance &amp; statutory duties in line with ASL Act 2009 and Equality Act 2010 and training in place to support the implementation of all new policies and guidance.</p> <p>The Educational Psychology Service resource allocation model operates across all educational establishments and is targeted at the children and young people with the greatest need.</p> <p>Monthly monitoring of attendance, exclusion and physical restraint data at school level.</p> <p>Senior officer resource group (SORG) has been established.</p> <p>Early Intervention Support Team (EIST) in place. This team will offer enhanced support to mainstream placements and mitigate against children and young people requiring to be placed externally at a later date.</p> <p>Revised multi-agency GIRFEC Pathway in place to ensure children's needs are identified at an early stage and intervention is effective in reducing risk and need.</p>	3	4	12	<p>Significant increase in capacity for severe and complex needs within the Secondary sector will be addressed through the new Wallyford Secondary school provision.</p> <p>Produce ASN projections data to help inform future estate planning.</p> <p>As part of the review of Devolved School Management the methodology for the allocation of Predictable Needs funding will be reviewed and consideration given to amending the process in order to achieve equity and fairness of distribution of resources.</p>	2	4	8	<p>August 2023</p> <p>August 2023</p> <p>April 2023</p>	<p>Risk reviewed by Head of Service, January 2023 with no changes to risk scores.</p> <p>Risk Reviewed by Principal Educational Psychologist, September 2022 with no change to risk scores.</p> <p>Risk reviewed December 2020 with current score reduced from 16 to 12 and residual score from 12 to 8.</p>
E2	Reputation  Financial	<p><b>East Lothian Works (ELW) – Impact of Brexit, changes to ESF (European Social Fund) and potential reductions in Scottish Government Employability Funding</b></p> <p>There is currently a challenging labour market in terms of recruitment and selection. Temporary funding is creating instability within the service, which in turn generates risk to the maintenance of services that we provide for the vulnerable cohorts that we serve.</p> <p>The Scottish Government grant offers and budget allocation for 2023/24, including details of the grant conditions, have not yet been received. This has a direct effect on our ability to sustain morale and momentum, as many of our temporary contracts end in March 2023.</p>	<p>UK government have progressed on to the UK Shared Prosperity Fund agenda, but the total amount of funding for employability (People &amp; Skills) carries a lower total investment than the previous ESF fund. UKSPF comes with additional responsibilities and KPI's, which is in addition to the existing ESF workload.</p> <p>Whilst the free bus pass is available for young people, this doesn't entirely meet the geographical needs of those participating in</p>	3	4	10	<p>The UK Government have transitioned from the European Social Fund to the Shared Prosperity Fund. This fund comprises of 3 work streams. The employability element comes under People &amp; Skills.</p> <p>No One Left Behind phase 3 devolvement has been postponed until 2024-25. This again comes with additional devolved responsibilities.</p>	2	4	8	<p>June 2023</p> <p>April 2025</p>	<p>Risk Reviewed by ELW Management Team and Head of Service, January 2023 with current risk score reduced from 16 to 12 and residual score from 12 to 8.</p>

Risk ID	Risk Category	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Planned Control Target Date	Evidence held of Regular Review
				Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating		
				L	I	L x I		L	I	L x I		
		<p>Indicative grant allocations suggest an overall reduction in funding levels.</p> <p>There is significant risk of losing key staff and being unable to recruit, due to an exceptionally challenging and shallow labour pool.</p> <p>An inability to deal with a major redundancy and job losses at key local employer could result in negative perception of Council input and impact on the reputation of the Council.</p>	<p>vocational courses. We will be transitioning to blended models of delivery, in partnership.</p> <p>There is ongoing monitoring of the implications of BREXIT/ESF funding via the Connected Economy Group. We continue to experience staffing shortages.</p> <p>Workforce for the Future was funded using Young Person's Guarantee. This funding stream is expected to be reduced.</p> <p>Agreement made with Finance to issue 3 month contract extensions beyond current March deadline. This mitigates the likelihood of staff leaving ELW.</p> <p>We are monitoring the impact of BREXIT on local businesses, through ongoing engagement and intelligence-gathering.</p> <p>Our early warning intelligence of potential redundancies through the PACE programme, led by Skills Development Scotland. Strong links between ELW and SDS to respond to business need inc recruitment, training and skills development advice and Business Gateway for start-up option.</p> <p>If redundancies become inevitable, support through PACE will be provided to enable individuals to seek and find alternative employment/training.</p>				<p>There is a requirement for increased levels of staffing capacity to manage the significantly increased number of contracts.</p> <p>Communication with Scottish Government, COSLA and SLAED in relation to funding and workload.</p> <p>Plans to utilise LACER funding to further support the delivery of Workforce for the Future.</p>				<p>February 2023</p> <p>March 2023</p> <p>March 2023</p>	
E3	Legislation & Regulatory	<p><b>Statutory Requirements - Education</b></p> <p>Failure to deliver legislative requirements may put a child at significant risk or result in children and young people not receiving their entitlement to early learning and childcare/ school education.</p> <p>There would be an associated risk to reputation.</p> <p>This failure could be due to:</p> <ul style="list-style-type: none"> <li>Scottish Government requirements e.g. ASL, pupil/ teacher ratio, delivery of 1140 hours early learning and childcare</li> <li>to a lack of resources (financial, services or staffing)</li> <li>poor practice</li> <li>lack of training</li> <li>failure to prioritise</li> <li>non-compliance with procedures/guidance</li> <li>failing to intervene early enough.</li> </ul>	<p>Annual budget allocation is prioritised and monitored, while the Scheme of Devolved School Management determines allocation at school level.</p> <p>Detailed budget planning measures are in place together with monthly monitoring and validation in collaboration with finance colleagues and Head Teachers.</p> <p>Staffing is continually monitored to ensure the required pupil/teacher ratio at September Census point is met.</p> <p>Continual updating of SEEMIS records to ensure accurate and up to date information is held</p> <p>Ongoing budgetary work continues in relation to the cost of delivering Early Learning and Childcare.</p> <p>Additional Support Needs, Inclusion Policy, External Placement and GIRFEC processes are all in place and regularly monitored and reviewed by Education and Children's Services.</p>	3	4	12	<p>A review of all Education policies is planned to ensure compliance with all appropriate legislation. This will be a priority in the Education Service Plan and will be prioritised by level of risk, volume and subject of upheld complaints and compliance with new legislation.</p> <p>Two short life working groups have looked at primary management structures and ASN allocations as part of the recent review of DSM and will report the findings to the Education Committee in March 2023.</p> <p>Current work between the Early Years Team and the Scottish Government Improvement Service to assess supply and demand for Early Learning and Childcare is underway.</p>	3	3	9	<p>June 2023</p> <p>March 2023</p> <p>February 2023</p>	<p>Risk reviewed by Head of Service, January 2023 with no changes to risk scores.</p>

Risk ID	Risk Category	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Planned Control Target Date	Evidence held of Regular Review
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				L	I	L x I		L	I	L x I		
E4	Legislation & Regulatory	<p><b>Raising Attainment and Achievement</b></p> <p>Failure to raise attainment and achievement for all, increase attendance and reduce exclusions will lead to a reduction in opportunities for young people to progress to a sustained positive destination.</p> <p>There would also be a risk of parental dissatisfaction and damage to reputation of individual schools and the Education service.</p> <p>A failure to report positive findings in relation to the five national priorities set out within the national improvement framework will lead to further scrutiny by external organisations such as Audit Scotland, Education Scotland and Scottish Government.</p> <p>There is a risk to the outcomes for learners living in Quintiles 1 and 2 through failure to close the poverty related attainment gap, and appropriately utilising Pupil and Strategic Equity Funding.</p> <p>Risk of not receiving positive inspections as there is insufficient evidence of impact on closing the attainment gap evaluated under QI 3.1 – Ensuring wellbeing, equality and inclusion. This could lead to increased scrutiny by external scrutiny bodies such as Education Scotland.</p>	<p>Each school has a School Improvement Plan, guided by the revised annual Education Progress and Improvement Plan with stretch aims set for raising attainment at authority and individual school level.</p> <p>More rigorous and robust approaches for quality assuring school performance have been implemented and take into account new national guidance e.g. Pupil Equity Fund and National Improvement Framework. This has been further strengthened in school session 2022/23, with a proportionate level of challenge in school service level agreements based on attainment/ achievement/ PEF impact/ attendance/ engagement</p> <p>Raising Attainment Strategy has been updated to align with Core and Core Plus Stretch Aims.</p> <p>The Aspire S2 Pilot Project is now live. This early intervention targets support towards pupils who are at greatest risk of disengagement from education.</p> <p>Continue to improve the transition of young people from mainstream education to work, training, further and higher education through working with secondary schools and East Lothian Works who are now part of the Education service.</p>			12	<p>Continue to develop an authority wide model for the Senior Phase that incorporates all elements of the curriculum.</p> <p>Continue to develop partnership arrangements with QMU and Edinburgh College to broaden the curriculum as part of the Developing Young Workforce recommendations.</p> <p>East Lothian Works to work with Early Learning and Childcare Team to develop a career path for potential future Early Years Practitioners.</p> <p>Recruitment is underway for a PT Equity for every secondary schools to ensure robust challenge in raising attainment and achievement for our most vulnerable young people.</p> <p>Recruitment is underway for four Family Support Workers for the four primary schools with the highest number of children living in Quintile 1, to ensure removal of barriers to attending school and holistic support for these children and their families.</p>	3	3	9	<p>June 2024</p> <p>February 2023</p> <p>August 2023</p> <p>August 2023</p>	Risk reviewed by Head of Service, January 2023 with no changes to risk scores.
E5	Reputation	<p><b>Impact of Changing Demographic on School Estate</b></p> <p>Proposed LDP housing development, population growth and subsequent need to expand the schools' estate risks failure to provide suitable school provision or sufficient capacity available in the short term.</p> <p>Risk to uncertainty with forward planning for new establishments where house development completion rates are slower than expected delaying the start date for new school buildings.</p>	<p>Strategic Asset and Capital Plan Management (SACPM) is responsible for the managing and planning for the Learning Estate and has recently made an appointment to the Schools' Estate Planning Officer to support this responsibility. Education feed into this activity by preparing pupil roll projections and class organisation profiles.</p> <p>Regular monitoring in place via the Learning Estate Implementation Board and in SACPM to review programme for school requirements. Changes which may impact on capital investment escalated to Education &amp; Finance to consider.</p> <p>Strong communication links with parent councils and wider parent forums.</p> <p>Regular Education Asset Management meetings are held to manage the impact of potential housing development on the schools' estate.</p>			12	<p>The Council is making provision for significant capital expenditure to provide sufficient capacity for the expansion of the schools estate. A capital programme of circa. £150 Million is identified for the period to 2024, substantially funded by S75 contributions from new housing development.</p> <p>A Learning Estate Strategy was created to reflect the Council's aspirations with a resulting improvement plan being created to set out a plan for the future sustainability and management of the whole School Estate. The strategy was approved at Council in December 2022.</p> <p>Additional specialist provision capacity is a key part of the learning estate review. Significant increase in capacity for severe and complex needs is included in the Wallyford Secondary school provision. The strategy for specialist provision is to be confirmed to stakeholders, including Strategic Asset &amp; Capital Plan</p>	3	3	9	<p>April 2024</p> <p>April 2023</p> <p>June 2023</p>	Risk refreshed by Service Manager – Strategic Asset & Capital Plan Management January 2023 with current risk score remaining high until Learning Estate Review concluded and approved by Council.

Risk ID	Risk Category	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Planned Control Target Date	Evidence held of Regular Review
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			Revised pupil roll projections were prepared by Education and issued to the relevant stakeholders in November 2022. The effect on the capital programme has been assessed.				Management, in order to plan the required infrastructure accordingly.					
E6	Assets	<p><b>School Premises Security</b></p> <p>If our School Premises are not properly safeguarded there is a risk that unauthorised persons could gain entry and cause damage to children, young people and staff as well as property. This could lead to loss of lie in the most extreme cases. There is also a risk of assets being unavailable for use, facing potential closure and re-provision of care/teaching in alternative locations at increased cost to the Council and/or in need of repair in turn leading to adverse publicity.</p> <p>There are currently significant issues regarding school boundaries which require to be addressed.</p>	<p>Security and safety risk assessments are carried out regularly at all Education premises while each school has its own individual security arrangements such as fencing, building access, CCTV etc.</p> <p>Business Continuity Plans in place.</p> <p>Insurance Renewal Programme in place.</p> <p>Head Teachers briefed on importance of their role as Head of Establishment to ensure security of buildings and that business continuity plans are up-to-date.</p> <p>Finance approval received to make temporary staff permanent and to enhance the PPP team. Appointments to posts in the PPP Project team have progressed to enhance capacity.</p>	3	4	12	<p>School building security plans are under review by Education.</p> <p>Recruitment underway for Learning Estate Manager</p>	2	4	8	<p>April 2023</p> <p>March 2023</p>	Risk reviewed by Head of Service - Education, Head of Service - Infrastructure and Service Manager – SA & CPM, January 2023 with no changes to risk scores.

## East Lothian Council Risk Matrix

### Likelihood Description

Likelihood of Occurrence	Score	Description
Almost Certain	5	>90% chance of occurring
Probable	4	70%-90% chance of occurrence
Possible	3	30-70% chance of occurring
Unlikely	2	10-30% chance of occurring
Rare	1	<10% chance of occurring

### Impact Description

Impact of Occurrence	Score	Description							
		Impact on Service Objectives	Financial Impact	Physical and/or Psychological Impact on People	Impact on Time	Impact on Reputation	Impact on Assets	Business Continuity	Legal & Regulatory
Catastrophic	5	Catastrophic failure in service delivery and key service standards are not met, long-term catastrophic interruption to operations, several major partnerships are affected	Severe impacts on budgets (emergency Corporate measures to be taken to stabilise Council Finances. Consideration should be given as to whether this is an insured or uninsured risk and whether there may be reliance on reserves. The Council is expected to hold a reserve to budget ratio of 2%.	Single or Multiple fatality and or physiological impact, within council control, leading to fatal accident enquiry.	Serious - in excess of 2 years to recover pre-event position.	Highly damaging, severe loss of public confidence, Scottish Government or Audit Scotland involved. Prolonged regional and national condemnation.	Significant disruption to building, facilities, vehicles or equipment (Loss of building, vehicles, rebuilding required, temporary accommodation required, vital equipment lost without replacement capability available resulting in services being unable to be delivered).	Complete inability to provide service/system, prolonged downtime with no back-up in place.	Catastrophic legal, regulatory, or contractual breach likely to result in substantial fines or other sanctions, including substantial involvement from regulators.
Major	4	Major impact to service quality, multiple service standards are not met, long-term disruption to operations, multiple partnerships affected.	Major impact on budgets (need for Corporate solution to be identified to resolve funding difficulty). Consideration should be given as to whether this is an insured or uninsured risk and whether there may be reliance on reserves.	Number of extensive injuries (major permanent harm) or major physiological impact to employees, service users or public.	Major - between 1 & 2 years to recover pre-event position.	Serious negative national or regional criticism and publicity.	Major disruption to building, facilities, vehicles or equipment (Significant part of building unusable for prolonged period of time, alternative accommodation required, equipment or vehicles unavailable to provide significant elements of service delivery and no appropriate contingency arrangements in place).	Significant impact on service provision or loss of service.	Legal, regulatory, or contractual breach, severe impact to Council, fines and regulatory action publicly enforced.
Moderate	3	Significant fall in service quality, major partnership relationships strained, serious disruption in service standards.	Moderate impact on budgets (can be contained within overall directorate budget).	Serious injury requiring medical treatment or moderate physiological impact to employee, service user or public (semi-permanent harm up to 1yr), council liable.	Considerable - between 6 months and 1 year to recover pre-event position.	Adverse national media public attention with elected members becoming involved.	Moderate disruption to building, facilities, vehicles or equipment (loss of use of building for medium period, loss of equipment or vehicles requires contingency arrangements to be employed and has moderate impact on overall service delivery).	Security support and performance of service/system borderline.	Legal, regulatory, or contractual breach, moderate impact to Council, regulator action and or improvement required of the Council .
Minor	2	Minor impact to service quality, minor service standards are not met, short-term disruption to operations, minor impact on a partnerships	Minor impact on budgets (can be contained within service head's budget).	Non life changing injury or physiological impact to staff or member of the public requiring treatment.	Some - between 2 and 6 months to recover.	Minor adverse local, public or media attention and complaints.	Minor disruption to building, facilities, vehicles or equipment (alternative arrangements in place and covered by insurance, equipment or vehicles unavailable for small period of time minor impact on service).	Reasonable back-up arrangements, minor downtime of service/system.	Legal, regulatory, or contractual breach, minor impact to Council, regulator advice and improvement requested of the Council.
Minimal	1	No impact to service quality, limited disruption to operations.	Minimal impact on budgets (can be contained within unit's budget).	Minor injury or minor physiological impact to employee, service user or public.	Minimal - Up to 2 months to recover.	Public concern restricted to local complaints and of no interest to the media.	Minimal disruption to building, facilities, vehicles or equipment (alternative arrangements in place, equipment or vehicles alternative quickly available to replace or substitute).	No operational difficulties, back-up support in place and security level acceptable.	Legal, regulatory, or contractual breach, negligible impact to Council, regulator suggested improvements requested.

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

### Key

Risk	Low	Medium	High	Very High
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**REPORT TO:** AUDIT AND GOVERNANCE COMMITTEE

**MEETING DATE:** 14 February 2023

**BY:** Chief Executive

**SUBJECT:** Children's Services Risk Register

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**10**

## **1 PURPOSE**

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

## **2 RECOMMENDATIONS**

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

## **3 BACKGROUND**

- 3.1 The Risk Register has been compiled by the Children's Services LRWG. All risks have been evaluated using the standard (5x5) risk matrix (Appendix 2) producing an evaluation of risk as either 'low (1-4)', 'medium' (5-9), 'high' (10-19) or 'very high' (20-25).
- 3.2 The Council's response in relation to adverse risk or its risk appetite is such that:

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

3.3 The current Children’s Services Risk Register includes 1 Very High, 3 High and 4 Medium risks. As per the Council’s Risk Strategy, only the Very High and High risks are being reported to the Committee.

#### **4 POLICY IMPLICATIONS**

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

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

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

#### **6 RESOURCE IMPLICATIONS**

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

6.2 Personnel - There are no immediate implications.

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

#### **7 BACKGROUND PAPERS**

7.1 Appendix 1 – Children’s Services Risk Register 2023

7.2 Appendix 2 – Risk Matrix

<b>AUTHOR’S NAME</b>	Scott Kennedy	
<b>DESIGNATION</b>	Emergency Planning, Risk and Resilience Officer	
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<b>DATE</b>	02 February 2023	

Risk ID	Risk Category	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures in place) (currently	Assessment of Current Risk			Planned Risk Control Measures Not happened yet and will have an impact	Assessment of Residual Risk [With proposed control measures]			Planned Control Target Date	Evidence held of Regular Review
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				L	I	L x I		L	I	L x I		
CS1	Financial  Impact on service objectives  Reputational risk	<p><b>Children's Services Activity Pressures</b></p> <p>Service Activity pressures see demand for services outstrip available budgetary and staffing resources leading to unmet client need and risk to client safety and independence, potentially generating reputational risk for the Council as well as failing to meet statutory responsibilities.</p> <p>The cost of living crisis and the latent impact of COVID on levels of deprivation and poverty will result in additional vulnerability and demand for Social Work services. Referrals to social work continue to rise with numbers forecasted to reach their highest level of 4,350 by March 2023.</p> <p>The lack of sufficient capacity identified within Education Services to meet the needs of young people with Additional Support Needs and challenging behaviours is contributing to the need to place children out with East Lothian for care and education resulting in significant financial pressures in the External Residential Care and Education budget.</p> <p>Internal fostering resources are unable to meet the current demand. External foster placements are considerably more expensive. The addition of new foster carers to the fostering pool is being compromised by the attrition rate in existing carers. Foster care recruitment is a national challenge and ELC campaigns are resulting in reduced levels of interest.</p> <p>The requirement to meet the increasing demand for Continuing Care placements impacts on foster placement and internal residential capacity and creates further budget pressures.</p> <p>The dispersal of asylum seeking children throughout the UK transfer scheme will result in more UASC being settled in East Lothian which will place further pressure on the Aftercare service accommodation and support budget.</p> <p>Recruitment challenges preventing full implementation of service redesign (cross-refer to CS5).</p>	<p>Work continues to accurately forecast trajectory of need and our capacity to meet legislative requirements and inform service development and financial planning.</p> <p>Strengthened scrutiny of decision making and access to resources for individual children and young people through Senior Officer's Resource Group (SORG) and the newly established Tracking and Monitoring meeting Implementation of the recommendations of internal audit of Prevent and Return.</p> <p>Introduced comprehensive budget monitoring arrangements.</p> <p>Education and Children's services are working more collaboratively to support Early Intervention and prevention for our most vulnerable children and young people to mitigate against children and young people requiring to be placed externally at a later date.</p> <p>The Transforming Services For Children programme is providing strategic oversight and governance of the joint work streams identified as levers for reducing vulnerability and demand.</p> <p>Investment in preventive services aimed at reducing demand.</p> <p>Increased capacity in the fostering service and the development of an improvement plan is underway to include a review of the role of fees and allowances. A refreshed foster care recruitment campaign is underway</p> <p>Embedding the performance management and quality assurance framework at all levels of service management.</p> <p>Children's services has developed our Kinship care service in partnership with Children 1st to find alternatives to children coming in to foster care from within their own families.</p> <p>Partial implementation of the redesign of children's services aimed at ensuring efficient and effective interventions to CYP and families thereby improving outcomes and workflow and service capacity.</p>	5	4	20	<p>Completion of work streams of TS4C programme including as appropriate the re-alignment and integration of services to deliver preventive interventions and reduce the need for social work interventions.</p> <p>Full implementation of Children's Services redesign.</p> <p>The foster care team is seeking to increase joint working with the communications team in developing new and innovative ways in encouraging potential foster carers to come forward. Implementation of the fostering improvement plan.</p> <p>Continued focus on family group decision making and supporting kinship carers in partnership with Children 1<sup>st</sup> as alternatives to removing children from their family and community.</p>	4	3	12	<p>June 2023</p> <p>March 2023</p> <p>September 2023</p> <p>March 2023</p>	<p>Risk reviewed by CS Management Team January 2023 with no change to risk scores.</p>

Risk ID	Risk Category	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures in place) (currently	Assessment of Current Risk			Planned Risk Control Measures Not happened yet and will have an impact	Assessment of Residual Risk [With proposed control measures]			Planned Control Target Date	Evidence held of Regular Review
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				L	I	L x I		L	I	L x I		
CS2	<b>Business continuity</b>  <b>Impact on service objectives</b>	<p><b>Workforce Recruitment and Retention</b></p> <p>Lack of a skilled, sufficiently qualified and experienced staff resource or the unexpected loss of a key employee or employees could result in</p> <ul style="list-style-type: none"> <li>Increased caseloads that reduce staff capacity to assess and manage risk and need to children at risk of harm</li> <li>A reduction in line management capacity to provide safe oversight of risk management</li> <li>Statutory duties not being met;</li> <li>Inability to fully implement the service redesign and deliver the strategic priorities of the service improvement plan.</li> </ul> <p>East Lothian Council is failing to attract experienced and high calibre qualified social worker applicants to advertised posts. Whilst there is a national pressure on recruitment of social work staff, we are unable to compete with neighbouring authorities due to variance in starting salaries. The result is that children's services is carrying a level of vacancies that is impacting on the safe and efficient functioning of the service and on staff resilience and morale. Newly qualified and inexperienced staff require enhanced supervision, management and oversight which further impacts on line management capacity.</p> <p>The continued reliance on agency staff adds to the budget overspend and is not in line with the principles of the promise.</p>	<p>Recruitment and selection procedures adhered to and enhanced to attract more external applicants, with regular professional salary benchmarking.</p> <p>Professional Development Programme and commitment to a practice of Growing our Own" (promoting staff from within) and a Learning Culture while all policy and guidance documents are checked and refreshed regularly.</p> <p>Engagement in recruitment and retention working group chaired by Head of Corporate Services to identify solutions to current barriers.</p> <p>Partnering with the NHS to provide wellbeing sessions for staff.</p> <p>Working closely with communications to support our adverts with additional press and media coverage.</p>	4	4	16	<p>Workforce plan is under development.</p> <p>HR and Financial options are being considered to promote the attractiveness of ELC as an employer and to encourage staff to remain with the Council.</p> <p>Actively encouraging the Growing our Own agenda by trying to increase the number of students from universities and supporting family support staff to undertake the Open University Social Work qualification.</p>	3	4	12	<p>March 2023</p> <p>March 2023</p> <p>Monitored during 2023 and long term</p>	<p>Risk reviewed by Head of Children's Services, January 2023 with residual score increased from 8 to 12.</p> <p>Risk reviewed by Head of Service October 2022 with current risk score increased from 8 to 16 due to current and predicted recruitment challenges.</p>
CS3	<b>Impact on people</b>  <b>Legal and regulatory</b>  <b>Reputational</b>	<p><b>Failure to meet duty of care to public and meet statutory requirements for service delivery</b></p> <p>Failure to deliver the duties of Children's Social Work Legislation may put a child at significant risk of harm or result in children and young people not receiving their entitlement to supports and services from the council.</p> <p>The Council has a legal responsibility to address concerns that may require a child protection response. It should be noted that by the very nature of the work involved in child protection this is a high risk business even with all the controls and measures in place.</p> <p>A failure to secure efficient and effective child protection arrangements may see the Council being unable to fulfil its statutory duties/duty of care which could contribute to a service user suffering harm/death or detriment. This would in turn result in reputational damage to and increased scrutiny of the Social Work services.</p> <p>This failure could be due to a lack of resources (financial, services or staffing), poor practice,</p>	<p>Multi-agency policies and procedures that support the effective identification and management of risk.</p> <p>Well established quality assurance and control measures such as the eIRD review group that provide assurance about safe practice.</p> <p>The EMPPC and supporting sub-groups provide leadership and strategic oversight of public protection activity and performance.</p> <p>Annual budget allocation is prioritised and monitored.</p> <p>Redesign of children's services is completed and partially implemented with the primary aim of improving how the service delivers better outcomes for children and young people and meets its statutory requirements.</p>	3	4	12	<p>Transforming Services to Children programme is aimed at reducing the need for children to require social work interventions and thereby increase the capacity of the service to effectively deliver its statutory duties to those at greatest risk.</p> <p>Commitment to finalise the care leavers' protocol with housing services. Work is underway to agree what is required to increase the capacity of appropriately regulated emergency accommodation that care leavers can access.</p> <p>A further review of all children's services policies and procedures will be carried out in line with new national strategy including The Promise and UNCRC.</p> <p>A new MOSAIC system has been procured and will be implemented in April 2023.</p>	3	3	9	<p>March 2024</p> <p>February 2023</p> <p>June 2023</p> <p>April 2023</p>	<p>Risk reviewed by Head of Children's Services, January 2023 with no change to risk scores.</p>

Risk ID	Risk Category	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures in place) (currently	Assessment of Current Risk			Planned Risk Control Measures Not happened yet and will have an impact	Assessment of Residual Risk [With proposed control measures]			Planned Control Target Date	Evidence held of Regular Review
				Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating		
				L	I	L x I		L	I	L x I		
		<p>lack of training, a failure to prioritise, non-compliance with procedures/guidance or failing to intervene early enough.</p> <p>Factors that impact on this include the impact of the Covid-19 pandemic, on the mental and emotional wellbeing, and coping mechanisms of children, young people and their families, and their access to supports, where their needs are not reaching the threshold for statutory intervention. Access to and availability of earlier intervention supports and services are likely to continue to impact on vulnerable children and families.</p> <p>There are increasing requirements from the Government e.g.</p> <ul style="list-style-type: none"> <li>Continuing Care</li> <li>Implementing the Promise</li> <li>the Scottish Child Abuse Inquiry</li> <li>Scottish Child Interview Model</li> <li>SDS</li> <li>Age of Criminal Responsibility</li> <li>Keeping Brothers and Sisters together</li> <li>New National Child Protection Guidance</li> </ul> <p>The dispersal of asylum seeking children throughout the UK transfer scheme will result in more UASC being settled in East Lothian.</p> <p>Lack of suitable accommodation for care experienced young people who become homeless results in the use of unregulated B&amp;B /commercial accommodation. Young people having to stay in B&amp;B over extended periods is a breach of our statutory duties.</p> <p>There is a risk that external regulatory inspections identify significant weaknesses and risks to service users leading to reputational damage and impact on staff.</p>	<p>Detailed budget planning measures are in place together with monthly monitoring and validation.</p> <p>Strategy to increase local Fostering capacity is being implemented and Kinship Care policy and approach is being reviewed and strength. Regulated care services are inspected regularly resulting in improvement plans.</p> <p>Joint work with housing services to develop the housing strategy for care leavers and consider solutions for the lack of appropriate emergency accommodation options.</p> <p>Systematic approach to preparation for inspections (used as a learning tool) and joint improvement planning in response to findings which is then reviewed and adopted.</p> <p>A proactive approach to regulatory requirements.</p> <p>Regular Self Evaluation and improvement Planning e.g. PSIF and HGIOC.</p> <p>Policy officer has been recruited to take on the role of inspection co-ordinator. Responses to consultations on proposed legislative and policy changes ensure potential impacts are captured.</p> <p>East Lothian is committed to keeping the Promise and has recruited a Promise Officer who reports to the Corporate Parenting Board. The Promise Officer post has been extended until December 2024.</p> <p>Officers engage in national networks to ensure best and innovative practice around statutory requirements is considered within East Lothian.</p>									
CS4	<p><b>Impact on people</b></p> <p><b>Impact on service objectives</b></p> <p><b>Legal and regulatory</b></p>	<p><b>Inability to meet safe standards of professional social work practice</b></p> <p>This failure could be due to a lack of resources (financial, services or staffing), poor social work practice, a failure to prioritise or non-compliance with procedures/guidance and a failure to resource learning and development function within Children's Services and Public Protection Committee.</p> <p>Failure to fill social worker vacancies impacts on safe standards of practice as it has a detrimental impact on the current workforce to have bigger caseloads allocated. This increases stress levels and the ability to have time to reflect and consider risk. Social work vacancies also lead to an inability to allocate statutory children and families work.</p>	<p>Prioritise maintenance of adequate staffing levels for Child Protection and other work with vulnerable children</p> <p>Briefing sessions, specialist training and support are in place.</p> <p>Regular formal supervision in place for all staff including completion of PRD's focusing on specific and agreed development needs.</p> <p>Services comply with required professional registration standards for all staff e.g. SSSC.</p> <p>"Safer Recruitment" practices and PVG Checks embedded.</p>	3	4	12	<p>The Signs of Safety Practice model is being re-launched with a comprehensive staff learning and development programme and associated changes to MOSAIC. Quality assurance monitoring will assess and demonstrate compliance and impact on practice.</p> <p>Completion of the improvement plan following the death of a service user addressing key aspects of staff training and development.</p> <p>A workforce plan is under development in children's services.</p>	3	3	9	<p>March 2023</p> <p>March 2023</p> <p>March 2023</p>	<p>Risk reviewed by CS Management Team January 2023 with no change to risk scores.</p>

Risk ID	Risk Category	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures in place) (currently	Assessment of Current Risk			Planned Risk Control Measures Not happened yet and will have an impact	Assessment of Residual Risk [With proposed control measures]			Planned Control Target Date	Evidence held of Regular Review
				Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating		
				L	I	L x I		L	I	L x I		
		<p>A failure to meet safe standards of professional social work practice could result in the death, serious harm or detriment to a person. This could in turn result in prosecution, having to pay compensation and a negative impact on the reputation of the Council.</p> <p>Following the death of a service user we have been informed this will be the subject of a Fatal Accident Enquiry.</p> <p>Risk to case transfers from other LAs failing to provide the appropriate information on the child/family.</p>	<p>Monthly monitoring of staffing levels. HoS is a member of a new recruitment working group chaired by the head of corporate resources that is considering measures improve recruitment and retention.</p> <p>Multi-agency review carried out following the death of a looked after child which has satisfied the Care inspectorate and an improvement plan was developed with a comprehensive learning and development plan.</p> <p>Public Protection Office and Committee oversee core elements of Child Protection performance, improvement, policy and procedure.</p> <p>Regular monitoring and learning from incidents including through initial and significant case reviews.</p> <p>Children's Services practice guideline standards have been refreshed and are being rolled out.</p> <p>The Safe and Together domestic violence support model continues to be embedded and rolled out to new employees.</p> <p>All Regulated Services inspected, improvement plans produced with regular quality assurance review meetings.</p> <p>A quality assurance framework has been developed and implemented.</p> <p>A three year rolling programme of file audits has been implemented.</p> <p>Leadership training has been rolled out to team leaders and senior practitioners. This includes the promotion of resilience.</p>									

## East Lothian Council Risk Matrix

### Likelihood Description

Likelihood of Occurrence	Score	Description
Almost Certain	5	>90% chance of occurring
Probable	4	70%-90% chance of occurrence
Possible	3	30-70% chance of occurring
Unlikely	2	10-30% chance of occurring
Rare	1	<10% chance of occurring

### Impact Description

Impact of Occurrence	Score	Description							
		Impact on Service Objectives	Financial Impact	Physical and/or Psychological Impact on People	Impact on Time	Impact on Reputation	Impact on Assets	Business Continuity	Legal & Regulatory
Catastrophic	5	Catastrophic failure in service delivery and key service standards are not met, long-term catastrophic interruption to operations, several major partnerships are affected	Severe impacts on budgets (emergency Corporate measures to be taken to stabilise Council Finances. Consideration should be given as to whether this is an insured or uninsured risk and whether there may be reliance on reserves. The Council is expected to hold a reserve to budget ratio of 2%.	Single or Multiple fatality and or physiological impact, within council control, leading to fatal accident enquiry.	Serious - in excess of 2 years to recover pre-event position.	Highly damaging, severe loss of public confidence, Scottish Government or Audit Scotland involved. Prolonged regional and national condemnation.	Significant disruption to building, facilities, vehicles or equipment (Loss of building, vehicles, rebuilding required, temporary accommodation required, vital equipment lost without replacement capability available resulting in services being unable to be delivered).	Complete inability to provide service/system, prolonged downtime with no back-up in place.	Catastrophic legal, regulatory, or contractual breach likely to result in substantial fines or other sanctions, including substantial involvement from regulators.
Major	4	Major impact to service quality, multiple service standards are not met, long-term disruption to operations, multiple partnerships affected.	Major impact on budgets (need for Corporate solution to be identified to resolve funding difficulty). Consideration should be given as to whether this is an insured or uninsured risk and whether there may be reliance on reserves.	Number of extensive injuries (major permanent harm) or major physiological impact to employees, service users or public.	Major - between 1 & 2 years to recover pre-event position.	Serious negative national or regional criticism and publicity.	Major disruption to building, facilities, vehicles or equipment (Significant part of building unusable for prolonged period of time, alternative accommodation required, equipment or vehicles unavailable to provide significant elements of service delivery and no appropriate contingency arrangements in place).	Significant impact on service provision or loss of service.	Legal, regulatory, or contractual breach, severe impact to Council, fines and regulatory action publicly enforced.
Moderate	3	Significant fall in service quality, major partnership relationships strained, serious disruption in service standards.	Moderate impact on budgets (can be contained within overall directorate budget).	Serious injury requiring medical treatment or moderate physiological impact to employee, service user or public (semi-permanent harm up to 1yr), council liable.	Considerable - between 6 months and 1 year to recover pre-event position.	Adverse national media public attention with elected members becoming involved.	Moderate disruption to building, facilities, vehicles or equipment (loss of use of building for medium period, loss of equipment or vehicles requires contingency arrangements to be employed and has moderate impact on overall service delivery).	Security support and performance of service/system borderline.	Legal, regulatory, or contractual breach, moderate impact to Council, regulator action and or improvement required of the Council .
Minor	2	Minor impact to service quality, minor service standards are not met, short-term disruption to operations, minor impact on a partnerships	Minor impact on budgets (can be contained within service head's budget).	Non life changing injury or physiological impact to staff or member of the public requiring treatment.	Some - between 2 and 6 months to recover.	Minor adverse local, public or media attention and complaints.	Minor disruption to building, facilities, vehicles or equipment (alternative arrangements in place and covered by insurance, equipment or vehicles unavailable for small period of time minor impact on service).	Reasonable back-up arrangements, minor downtime of service/system.	Legal, regulatory, or contractual breach, minor impact to Council, regulator advice and improvement requested of the Council.
Minimal	1	No impact to service quality, limited disruption to operations.	Minimal impact on budgets (can be contained within unit's budget).	Minor injury or minor physiological impact to employee, service user or public.	Minimal - Up to 2 months to recover.	Public concern restricted to local complaints and of no interest to the media.	Minimal disruption to building, facilities, vehicles or equipment (alternative arrangements in place, equipment or vehicles alternative quickly available to replace or substitute).	No operational difficulties, back-up support in place and security level acceptable.	Legal, regulatory, or contractual breach, negligible impact to Council, regulator suggested improvements requested.

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

### Key

Risk	Low	Medium	High	Very High
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