



MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

**TUESDAY 29 AUGUST 2023
VIA DIGITAL MEETING FACILITY**

Committee Members Present:

Provost J McMillan (Convener)	Councillor L Jardine
Councillor S Akhtar	Councillor C McFarlane
Councillor E Allan	Councillor C McGinn
Councillor R Bennett	Councillor S McIntosh
Councillor L Bruce	Councillor K McLeod
Councillor C Cassini	Councillor L-A Menzies
Councillor D Collins (from Item 5)	Councillor B Ritchie
Councillor A Forrest	Councillor T Trotter
Councillor N Gilbert	Councillor C Yorkston
Councillor N Hampshire	

Council Officials Present:

Ms M Patterson, Chief Executive
Ms L Brown, Executive Director for Education and Children's Services
Ms S Fortune, Executive Director for Council Resources
Mr D Proudfoot, Executive Director for Place
Ms F Wilson, Director of Health and Social Care
Ms L Byrne, Head of Children's Services
Ms E Dunnet, Head of Finance
Ms M Ferguson, Head of Corporate Support
Ms N McDowell, Head of Education
Ms W McGuire, Head of Housing
Mr T Reid, Head of Infrastructure
Ms S Saunders, Head of Communities and Partnerships
Mr J Baker, Service Manager – Economic Development
Mr S Cooper, Team Manager – Communications
Ms R Crichton, Committees Officer
Ms F Currie, Committees Officer
Ms A-M Glancy, Service Manager – Corporate Accounting
Mr C Grilli, Service Manager – Governance
Mr D Henderson, Service Manager – Service Accounting
Mr E John, Service Manager – Sport, Countryside and Leisure
Mr S Kennedy, Emergency Planning, Risk and Resilience Manager
Ms J McLardie, Project Manager – Purchase to Pay
Mr T Renouf, Executive Officer
Mr P Vestri, Service Manager – Policy, Improvement and Partnerships

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

Councillor F Dugdale

Councillor J Findlay

Councillor G McGuire

Declarations of Interest:

None

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

The clerk recorded attendance by roll call.

Order of business – Urgent Motion: Declaration of Nature Emergency

The Provost advised that an urgent motion had been received from the Labour Group (which had now been circulated to all Members), concerning the declaration of a nature emergency. The Provost ruled that he was prepared to accept this urgent item on the grounds that the motion had not come forward earlier due to other pressures on officers and the resulting delay in having the wording finalised. The Provost pointed out, however, that he had not taken the decision to accept the motion lightly, as he always strived to protect the Council's governance arrangements. In accepting this motion, he advised that Standing Order 5.3(i) would require to be suspended, and that this would require the support of two-thirds of Members. The clerk then took a roll call vote on the suspension of Standing Order 5.3(i):

For: (12)	Councillors Akhtar, Bennett, Bruce, Collins, Forrest, Hampshire, McFarlane, McGinn, McLeod, McMillan, Ritchie, Yorkston
Against: (7)	Councillors Allan, Cassini, Gilbert, Jardine, McIntosh, Menzies, Trotter
Abstentions: (0)	

The Provost advised that as the vote to suspend Standing Orders had not achieved the s required (13), it would therefore not be possible for the urgent motion to be considered at this meeting.

The Provost also advised that an item of urgent business had been submitted by the Executive Director for Place (which had been circulated to Members), concerning the situation at Preston Lodge High School. The Provost ruled that he was prepared to accept this urgent item on the grounds that the contractual position had not been finalised until late the previous week, and that the approval of Council was urgently required in order for the proposed works to progress. He advised that this item would be heard in private as the final item of business.

1. MINUTES FOR APPROVAL

The minutes of the following meeting were approved: East Lothian Council, 27 June 2023.

2. DRAFT ANNUAL ACCOUNTS 2022-23

A report was submitted by the Executive Director for Council Resources providing an update on the draft unaudited accounts for the Council and Group entities for the year ending 31 March 2023.

The Service Manager for Corporate Accounting, Ann-Marie Glancy, presented the report, advising of the steps taken to provide Members with opportunities to scrutinise the draft unaudited accounts. She noted that the external audit process for the accounts would commence in September, with an anticipated sign-off date of December.

Councillor Hampshire commended officers on their work to deliver the draft accounts to the external auditor within the required timescales.

Councillor Akhtar thanked officers for their recent briefing to Members on the accounts. She expressed her confidence in the Council's governance and financial controls, noting that it was important for the public to see that the Council's resources were being independently evaluated.

Decision

The Council agreed:

- i. to note that the draft annual accounts for the Council and its wider group, and the Dr Bruce Trust, had been submitted to the External Auditor prior to the statutory deadline of 30 June 2023; and
- ii. to note that the accounts would remain in draft pending the finalisation of the statutory audit, which was expected to complete by 19 December 2023 at the latest.

3. FINANCIAL UPDATE

A report was submitted by the Executive Director for Council Resources, providing an update on the current and future financial outlook for the Council.

The Executive Director for Council Resources, Sarah Fortune, presented the report, highlighting the anticipated funding gap of c. £71m in the next five years, which amounted to approximately a quarter of the Council's annual running costs. She stressed that the Council was facing its most extreme financial challenge, as reflected in the Corporate Risk Register (Item 5 on the agenda for this meeting). She set out the external factors which had contributed to this position, such as the national funding settlement, growth, rising inflation, high utility costs, and high interest rates. In addition, there had been an increased demand on Council services, and the Council was no longer in a position to meet this demand within its current resources. She reported that the financial implications associated with growth had been raised regionally and nationally, and that the Council Leader had written to the Cabinet Secretary setting out the scale of the Council's challenge. She reminded Members that the Council was obliged to deliver a balanced budget, and therefore the Council had to take action to reduce its running costs. She drew attention to proposed mitigation actions, but warned that these would have an impact on Council staff and on communities, and that they could not be seen as a permanent solution. She stated that there was a significant threat to the ongoing financial sustainability of the Council, and without additional funding urgent policy decisions would be required to reduce expenditure.

In response to a series of questions from Councillor Bruce, Ms Fortune advised that, as regards the projected Integration Joint Board (IJB) overspend, the Scheme of Integration sets out how financial variations should be dealt with, but that any overspend would ultimately be

the responsibility of the partner bodies – she assured him that actions were being taken to control expenditure and the position would continue to be monitored. She explained that it was difficult to mitigate pressures for demand-led services, such as Children’s Services – this situation was replicated across Scotland and the matter had been raised with the Scottish Government. Ms Fortune advised that it was difficult to quantify savings made through mitigation measures; she believed that those measures had had a positive impact but that they would not address the scale of the overspend on a recurring basis. She added that saving on staffing costs would help, but this was not a sustainable solution in the longer term; she also noted that managers were already applying controls on the recruitment to vacant posts. On capital expenditure, Ms Fortune reported that all projects that were not yet contractually committed would be subject to review – again, measures put in place would only be temporary. As regards the roads budget, she estimated that there was currently c. £200,000-£300,000 still uncommitted. Tom Reid, Head of Infrastructure, confirmed that a review of outstanding projects would be undertaken, both in terms of roads and vehicles. Ms Fortune also informed Members that, as part of the New Deal with Local Government, the Council had called for a growth fund to reflect the costs and obligations facing councils experiencing growth, as well as greater financial flexibility and empowerment. She asserted that funding should be aligned to policy obligations, commensurate with statutory obligations and demands, and should be more outcome-focused. The Council would work with CoSLA to ensure that the New Deal reflects the Council’s concerns. She noted that in the event that CoSLA, which worked on behalf of all 32 Scottish local authorities, does not take account of the Council’s position, then the future of that relationship would be a matter for Members to determine. On the ability of the Council to meet its demands and obligations, Ms Fortune advised that this issue had been raised with the Depute First Minister.

Councillor McLeod asked how spending within services would be monitored. Ms Fortune advised that managers were expected to operate within their budgets; this would be monitored by finance officers and reported to CMT. In addition, finance updates would continue to be reported to every Council meeting.

Responding to questions from Councillor Jardine on the impact of growth, Ms Fortune noted that there had been an increase in East Lothian’s population of c. 21.5% since 2001, compared with 8.2% across Scotland. She stressed that the Council had a statutory obligation to support the national housing supply; however, this growth had resulted in significant revenue implications for the Council, which had been raised through the City Region Deal, CoSLA, the Scottish Government, and other professional associations. She noted that the increased Council Tax income did not cover these additional costs, citing the costs associated with building new schools as an example of the financial pressures faced by the Council. Referring to the recent meeting with the Depute First Minister, Ms Fortune reported that officers would be providing her with evidence of the impact of growth and that the dialogue with the Scottish Government on the situation would continue.

On authorised overspends, Ms Fortune pointed out that there were significant demands on some services, such as support for vulnerable people, and that managers had to take decisions based on their obligations and these demands; where such services could not be delivered within budget, this was flagged up and appropriate mitigation measures put in place. She assured Members that there were processes in place regarding financial controls.

Regarding the proposed temporary recruitment freeze, Ms Fortune was unable to provide specific details of posts that would potentially be affected, but highlighted the need to ensure that the Council’s statutory obligations could be fulfilled. She noted that many services remained in business continuity measures, and that this proposal would have an impact on services. She informed Members that difficult decisions would need to be taken in this regard, and that officers would monitor the impact; she assured Members that they would be kept informed of the situation and of the impact on communities. On the potential effect on community buildings/facilities, Mr Reid stated that he could not give a commitment that

facilities such as libraries and public toilets, etc. would not be impacted, and that he had to ensure that statutory functions were prioritised.

Councillor Cassini asked for an update on the situation with Council house voids. Wendy McGuire, Head of Housing, reported that there had been an increase in the turnaround time for bringing vacant properties back into use, due to vacancies and contractor shortage, as well as the condition of properties being handed back to the Council. She assured Members that there was now an increased focus on reducing the turnaround time, and that improvements had been made to management information to allow for performance to be monitored more closely.

Councillor Cassini also asked if the Council had lobbied the UK Government about the Council's financial position. Ms Fortune confirmed this to be the case, with Councillor Hampshire having written to the Chancellor of the Exchequer setting out the scale of the challenge, and wider discussions taking place around the City Region Deal framework. She confirmed that the Council would continue lobbying both governments.

In response to questions from Councillor Menzies, officers advised that the Council was working in partnership with third-sector organisations to assist those not eligible for Scottish Welfare Fund grants, and that the Council was looking to expand its work with such organisations. On the PPP interest charges, Ms Fortune undertook to provide information on this to Members. Ms Fortune also agreed to share with Members the questions being drawn up regarding the public consultation on the budget.

Councillor Forrest asked about the impact on the Council of a reduction in funding to tackle homelessness. Ms McGuire explained that the new duties on councils relating to homelessness prevention had not yet been implemented, which had hampered officers' efforts on prevention. She added that there was increased pressure on councils to reduce the use of temporary accommodation, and she warned that the Council would struggle in future if the focus remained on that aspect. Ms McGuire pointed out that the Council had received record levels of grant funding from the Scottish Government to provide new affordable housing; however, this was not likely to result in a unit subsidy increase going forward. On the delivery of affordable units within housing sites, she advised that officers worked with developers on a site-by-site basis, and that the location of affordable units within sites was agreed at the planning stage.

Councillor Trotter asked about the pause on capital spending for some projects. Ms Fortune indicated that the Council would have to take decisions on which projects to prioritise; a further report on this would be presented to Council in October, which would include a range of issues, such as the Loch Centre and the Brunton Hall.

Councillor McGinn asked about the situation with applications already received for Community Intervention funding. Ms Fortune indicated that she would share information with Members as regards applications already in the system and the flexibility available to the Council; however, she stated that no new applications would be taken forward at this time.

Councillor McGinn voiced his concern about the position with the Scottish Welfare Fund. Ms Fortune advised that representatives from all Scottish local authorities had reported that the level of funding was not adequate and that it was hoped that the Scottish Government would recognise this. Ms Dunnet added that this was now an area of priority which had been escalated to Ministers. The Council would continue its engagement with the Scottish Government to ensure that the most vulnerable people were properly supported.

Opening the debate, Councillor Hampshire warned that the proposed mitigation measures would have an impact on Council services, due to the increased cost of delivering services. He noted that Council Tax accounted for only 25% of the Council's income, and stressed that an increase in the government grant was required, particularly in light of the need to provide

additional infrastructure to meet the demands of growth in the county. He stated that the Council was now at the point where delivering services would not be sustainable without additional funding to match this growth, and he believed that it would be wrong to lose services in order to deliver additional growth. He noted that some services were close to 'breaking point'. Councillor Hampshire made reference to a recent meeting with the Depute First Minister, Shona Robison, and that Council representatives had demonstrated the challenges facing the Council. He hoped that this meeting would lead to an increase in non-ring-fenced funding for the Council.

Councillor Bruce recognised that growth was having an impact on services, and welcomed the visit by the Depute First Minister to discuss this issue. Although he was not in favour of slowing down or stopping further growth, he agreed with Councillor Hampshire that the Council needed funding to support it. He suggested that CoSLA should be acting on behalf of the Council, and if this did not happen then the Council should consider engaging directly with the Scottish Government.

Councillor Forrest pointed out that East Lothian Council was in the top three local authorities in Scotland for growth but in the bottom three for funding. He also highlighted the impact of the cost-of-living crisis on families in Scotland.

Councillor McIntosh expressed her concern as regards the situation with the Scottish Welfare Fund, and the impact of this on vulnerable people. She proposed that the Council should request additional money for this fund from the Scottish Government, adding that the Scottish Greens would lobby MSPs about this. She also suggested that the Council may consider to push back on growth in order to safeguard existing services, and that this should be considered as part of discussions on the next Local Development Plan (LDP).

Councillor Jardine also welcomed the recent meeting with the Depute First Minister. She noted that the new CoSLA Chief Executive was keen to engage with councils, and suggested that she and Councillor Bruce should be included in any such discussions. She indicated that Members would need to use their connections at Scottish and UK levels to ensure that the Council's concerns were taken into account.

In response to Councillor McIntosh's comments on the LDP, Councillor Menzies wondered if future growth, and the associated infrastructure, should be concentrated in one area. She also proposed that the UK Government should be lobbied for additional funding. On community engagement during the budget process, she called upon the Council to make an effort to ensure that those affected most by budget reductions were represented.

Councillor McGinn shared the concerns of other Members in relation to the situation with the Scottish Welfare Fund. He expressed support for the officers having to make difficult decisions on this, and he also paid tribute to officers for their efforts to keep community facilities open. He was hopeful that the meeting with the Depute First Minister would have a positive outcome.

Councillor Yorkston described the current circumstances as a 'perfect storm' for East Lothian. He commended officers and the head teacher at Preston Lodge High School for their efforts to find a solution to the RAAC problem at the school. He also remarked on the irony that the Council was expected to deliver growth and at the same time was faced with removing services that would impact on the most vulnerable people.

Concluding the debate, Councillor Akhtar shared the concerns about the Scottish Welfare Fund, and she hoped that the Scottish Government would take action on this. She also highlighted the pressures facing the IJB, made worse by the Scottish Government's decision to take back £3m of COVID-19 funding. She stressed the need for additional government support to help support communities.

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

Decision

The Council agreed:

- i. to note the significance of the 2023/24 Quarter 1 financial performance against approved budgets and the underlying financial pressures faced by the Council both this year and beyond;
- ii. to approve the urgent temporary mitigation measures set out in Section 3.29 of the report, in light of the extreme financial pressures facing the Council;
- iii. to note the range of discussions underway to promote the scale of the challenge facing East Lothian and to seek urgent solutions to support the ongoing provision of vital local services;
- iv. to note the next steps supporting the budget process in the context of significant financial concerns, including consultation with the public; and
- v. to note that in response to the significant demands on the Scottish Welfare Fund, awards would be made on a 'highest and most compelling' basis from 1 September, and agreeing that a letter would be sent to the Scottish Government setting out the Council's concerns in this regard.

4. FAIRER COUNCIL TAX: CONSULTATION RESPONSE

A report was submitted by the Executive Director for Council Resources providing the Council with an overview of the consultation on changes to Council Tax multipliers, and informing Members of the potential implications of this for East Lothian.

The Provost advised that an amendment in relation to the recommendations had been submitted by Councillors Hampshire and Akhtar.

The Head of Finance, Ellie Dunnet, presented the report, advising of the Scottish Government's proposal to change the Council Tax multipliers, which would result in increases to properties in Bands E (7.5%), F (12.5%), G (17.5%) and H (22.5%); properties in Bands A-D would not be affected by the proposed change. Ms Dunnet noted that the proposed change did not take account of any Council Tax increases proposed by the Council through the budget process. She pointed out that in East Lothian this change would affect c. 37% of properties, and she set out the implications for affected households, adding that the Council did not hold data on the affordability for households. She indicated that if the proposed change were to be implemented, the Council may face a reduction in Scottish Government grant funding under the current distribution methodology, and that there would also be an impact on the Council Tax Reduction Scheme (CTRS), which was currently unfunded. She asked Members to consider if a Council response should be submitted, and specifically if the changes to Bands E-H should be implemented.

Councillor Hampshire asked about the current cost to the Council of funding the CTRS. He was informed that there was currently a funding gap of c. £1m.

In response to questions from Councillor Bruce, Ms Dunnet anticipated that, under the proposals, the Council would receive reduced Scottish Government grant funding as it had a higher proportion of properties in Bands E-H than other authorities. She pointed out that the

current Council Tax valuations were based on 1991 figures, and that of the new homes built in East Lothian between 2012 and 2022, 66% fell within Bands E-H.

With reference to the estimated increase in Council Tax income under the proposal (c. £5m), Councillor McIntosh questioned how this would affect the Scottish Government grant. Ms Dunnet was unable to provide an answer to this, as this would be part of the Scottish Government's budget considerations. Sarah Fortune, Executive Director for Council Resources, added that she did not think the Council's funding would be reduced by £5m; however, when changes were made to the multipliers in 2017, it had affected the distribution formula.

Councillor Jardine commented that the objective of the proposal was partly concerned with fairness and equity. As regards Council Tax discounts, she requested information on how the Council's anti-fraud activities were progressing. Ms Dunnet advised that work was ongoing to target fraud relating to the single-person discount, and that work would continue, with a view to recovering the correct level of Council Tax; this would be reported to a future Audit & Governance Committee meeting.

Observing that around two-thirds of new homes built in East Lothian were valued at Bands E-H, Councillor Menzies asked if the Council had engaged with developers regarding building more properties in Bands A-D, which would align more closely with the national average. Ms Dunnet advised that 2/3-bedroom properties built more recently would fall into a higher band. Douglas Proudfoot, Executive Director for Place, added that discussions did take place with developers around need and demand, and that developers were encouraged to look at smaller units on sites; however, the Council did not have the power to compel developers to do this. He suggested that the Council's Chief Planner could provide further detail on this to Members.

Councillor Akhtar questioned if the proposed change would result in additional investment in public services in East Lothian. Ms Dunnet reiterated that under the current distribution formula, the additional amount of Council Tax collected would not be fully invested in East Lothian.

The Provost invited Councillor Hampshire to present his amendment, set out as follows:

'The current Council Tax scheme is unfair and broken and should be replaced by previous commitments. The size of a home is not a good indicator of the resident's wealth or income. Without a revaluation these proposals exacerbate the inequality between those properties that are newly built or recently valued and those which have been improved or extended but not revalued. These proposals will also indiscriminately affect pensioners and young families on fixed incomes particularly hard.

Council's budgets are under pressure with high interest rates, inflation, increases in energy costs and growth in demand for Council services. This problem needs to be addressed by an increase in National Government Grant, not by these proposed unfair Council Tax multipliers. Any increase in Council Tax generated by the multiplier will see a reduction in our Government Grant in East Lothian because of the distribution formula, as outlined in paragraphs 3.23 and 3.24 of the report. With the financial pressure that the Council is facing, it would be wrong to increase Council Tax in this way and not be able to use all of the revenue raised for the benefit of East Lothian Council Tax payers.

Therefore, Council calls on officers to provide a response to the consultation that is strongly opposed to the introduction of the proposed Council Tax multipliers and request that additional funding is provided through the National Settlement.'

Presenting the amendment, Councillor Hampshire took the view that the proposed change would not resolve the issues with the Council Tax system. He noted that 173 of the Council's own housing stock fell within Bands E-G, and that many privately rented properties would also fall within the higher bands, thereby impacting on tenants. He also believed that the changes would impact disproportionately on families and older people, and that it was unfair that Council Tax raised in East Lothian would be used to subsidise other local authorities; a local tax should be spent in the area where it is collected. He proposed that officers should prepare a response, in consultation with Group Leaders, and urged Members to support his amendment.

Councillor Akhtar seconded the amendment, suggesting that the Scottish Government should focus more on areas of growth than areas of depopulation. She stressed the need to engage with the government on addressing population growth, and stated that she could not support a proposal that asked East Lothian residents to pay more Council Tax and then not invest in local public services. She cited a Poverty Commission report which had stated that East Lothian was a great place to live, but a terrible place to be poor, and she noted that since the pandemic, poverty levels in East Lothian had increased.

Councillor Gilbert remarked that the Welsh Government was looking at similar proposals, and questioned how the Labour Group would resolve the issue.

Councillor Jardine recognised that there was general agreement among political groups that a fairer system of taxation should be implemented. She noted Councillor Hampshire's proposal to consult with all groups on the response to be submitted by the Council, but she stated that the SNP Group were not supportive of the amendment.

Councillor Bruce pointed out that property values did not take account of the resident's ability to pay or their income, and suggested that local authorities should be able to devise their own taxation system. Alternatively, Council Tax banding should be considered nationally, given that the issue was concerned with revaluations not being carried out.

Agreeing that Council Tax was not a fair system of taxation, Councillor McIntosh considered the proposal to be a stopgap. She proposed that the Council should propose renegotiating the distribution formula. She also believed that action should be taken to ensure that people who could pay more do pay more. She indicated that she would not support the amendment.

Councillor Allan commented that the amendment was disjointed, and provided no solution to implementing a fairer tax, and on those grounds she would not support it.

Speaking in support of Councillor Allan's comments, Councillor Menzies remarked that she was not sure what the Labour Group was asking for and therefore could not support the amendment. Her views were echoed by Councillor Cassini.

Councillor Trotter also agreed that the current Council Tax system was unfair, but felt that the amendment was misleading. He did not believe that East Lothian would lose any funding, and that there were safeguards in place to assist people affected. He was supportive of the Council pursuing increased grant funding from the Scottish Government.

Councillor Hampshire indicated that he would be willing to amend his amendment to reflect that if it was supported, then Group Leaders would be consulted on the response; however, if the amendment was not supported, then there would be no submission from the Council.

A short recess followed to allow political groups an opportunity to discuss the amendment (as amended to include consultation with Group Leaders on the Council's response).

On resuming the debate, Councillor Jardine stated that there was insufficient flexibility with the amendment but her group would not be putting forward their own amendment.

Councillor Hampshire stated that only those Group Leaders who were supportive of the amendment would be consulted on the Council's response.

The Provost then moved to the vote on whether or not a Council response should be submitted:

For (13): Councillors Akhtar, Bennett, Bruce, Collins, Forrest, Hampshire, McFarlane, McGinn, McIntosh, McLeod, McMillan, Ritchie, Yorkston
Against (6): Councillors Allan, Cassini, Gilbert, Jardine, Menzies, Trotter
Abstentions (0):

The Provost then moved to the vote on the amendment submitted by Councillors Hampshire and Akhtar, as amended to reflect that the submission would include consultation with those Group Leaders who had supported the amendment:

For (12): Councillors Akhtar, Bennett, Bruce, Collins, Forrest, Hampshire, McFarlane, McGinn, McLeod, McMillan, Ritchie, Yorkston
Against (7): Councillors Allan, Cassini, Gilbert, Jardine, McIntosh, Menzies, Trotter
Abstentions (0):

Decision

The Council agreed:

- i. to note the joint consultation to change the Council Tax bandings
- ii. to note the potential implications of changes to the Council Tax multipliers within East Lothian
- ii. to note that political groups and members of the public are encouraged to provide their views on the proposed changes through individual responses to the consultation
- iv. to agree that the Council should submit a response; and
- v. to call on officers, in consultation with those Group Leaders who supported the amendment, to provide a response to the consultation that is strongly opposed to the introduction of the proposed Council Tax multipliers and request that additional funding is provided through the National Settlement.

5. CORPORATE RISK REGISTER

A report was submitted by the Executive Director for Place advising of the continued substantial levels of heightened risk.

The Emergency Planning, Risk and Resilience Manager, Scott Kennedy, presented the report, highlighting that there were 7 Very High Risks, 6 High Risks, 7 Medium Risks and 1 Low Risk, and that the 'Managing the Financial Environment' now had an increased residual risk score of 25 (the highest ever reported), largely due to external factors. He also drew attention to a number of other risks which had changed since the last report, and he noted that a number of services remained in Business Continuity measures, mainly related to staffing pressures. He assured Members that officers would continue to monitor all corporate risks closely.

In response to a question from Councillor Bruce on maintenance of assets (Corporate Risk 2), Tom Reid, Head of Infrastructure, advised that the figures in the report relate to East Lothian Council assets and the anticipated costs of achieving net zero. He added that bringing older

assets up to net zero standards would be more expensive, and that funding was therefore key to achieving this. On the RAAC issue, Mr Reid advised on inspections being carried out on all schools, including those included in the PPP contract, and a report on this was due.

Councillor Jardine asked why the risks related to the maintenance of assets had increased. Mr Reid advised that at the time of updating the Risk Register, officers were still working through the commercial implications regarding the situation at Preston Lodge High School (a report on which would be heard later in the meeting). He assured Members that the situation at Ross High School was manageable, but that the situation at the Brunton Hall remained uncertain, pending an options appraisal coming forward in October/November.

On the Council's Charging Policy, Councillor Allan asked for further detail on additional charges. Ellie Dunnet, Head of Finance, explained that inflationary increases of 10% had been applied for 2023/24, and there may have been some other charges added due to operational issues.

Councillor McIntosh asked what action the Council had taken to support refugees. Wendy McGuire, Head of Housing, explained that the Council had tried to assist but had unfortunately been unsuccessful with the matching process. She added that 55% of those arriving on the HM Victoria were currently housed in hotel accommodation in Edinburgh, Fife, Falkirk, and West Lothian, with others being placed in self-contained accommodation. She also pointed out that some of the hosting arrangements for Ukrainian refugees would soon be coming to an end and would not be renewed, and that a number of those people did not want to remain in East Lothian. She offered to provide further information on this.

Councillor Hampshire expressed concern regarding the severity of the risks and the potential impact on communities if there were fewer staff to provide services. He asked if the mitigation measures set out in the Finance Update report would impact on the Council's ability to address some of these risks. Sharon Saunders, Head of Communities, noted that many of the risks on the Corporate Risk Register were long-term risks, but that the level of the risk and mitigation measures do change over time. She accepted that there could be an impact on managing risks as a result of the decisions taken by the Council earlier in the meeting. She explained that all services have their own risk registers, as well as business continuity plans, which are aligned to the financial risks and mitigation measures as regards recruitment and staffing, and also the ability to deliver key services and limiting risks. She added that risks change, as do the context and the circumstances that drive risk assessment, and that through the close scrutiny by various groups, the Council can ensure that it stays ahead regarding the assessment of risks and how the Council responds.

The Provost commended officers for the detailed information provided on risk and on controls put in place to manage risk.

Councillor Jardine welcomed the detailed report and the responses provided by officers to questions raised. However, she voiced concern at recent reports in the press in which she believed Councillor Hampshire had over-committed the Council to meet some of the challenges facing it, and she believed that a collaborative approach to these issues would be better.

Councillor Hampshire responded, asserting that the Scottish Government had failed East Lothian, and that he would do all he could to find the resources to deliver projects in the county and bring community facilities back into use.

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

Decision

The Council agreed to approve the Corporate Risk Register, and in doing so to approve that:

- i. the Corporate Risk Register would be maintained as a 'live' document which would be reviewed by the Council Management Team (CMT), the CMT sub-group on Risk Management, Service Management Teams (SMT), risk owners and the Corporate Risk Management Group on a regular basis and reported back to Council as and when required;
- ii. the relevant risks had been identified; and
- iii. the significance of each risk was appropriate to the current nature of the risk;
- iv. the total profile of corporate risk could be borne by the Council at this time in relation to the Council's appetite for risk but in the context of the planned mitigations; and
- v. although while the corporate risks require close monitoring and scrutiny over the next year, many are long-term risks for the Council that are likely to be a feature of the risk register over a number of years.

6. SCOTTISH GOVERNMENT VISITOR LEVY (SCOTLAND) BILL: CONSULTATION RESPONSE

A report was submitted by the Executive Director for Place regarding a proposed response to the Scottish Government's consultation on the Visitor Levy (Scotland) Bill.

The Service Manager – Economic Development, Jamie Baker, presented the report, advising that it was proposed that councils would be given the authority to introduce a visitor levy, with income from that levy to be used to sustain facilities and provide services for those visiting the area for leisure purposes. He noted that the Council's response would need to be submitted by 15 September.

Councillor McIntosh asked if tourism industry trades unions had been involved in the consultation, noting that the City of Edinburgh Council had amended their response to include trades unions. Mr Baker took account of this suggestion.

Councillor Gilbert asked about the charging mechanism and how it would apply to caravan sites. Mr Baker did not think that an annual site fee would be applicable, but undertook to confirm this.

Councillor Menzies urged Members to look at the opportunities associated with this proposal, particularly that it would allow the Council to use the income locally and to determine where it would be best used to develop the tourist industry. She observed that of the top 10 most visited countries in the world, 6 had some form of tourist tax.

Councillor Hampshire spoke in favour of the proposal, pointing out that the Council spent a lot of money providing facilities for tourists and it was reasonable to expect tourists to contribute to the cost of providing such facilities and services. He suggested that the mechanism for collection of the levy should be as simple as possible so as not to create a significant administrative burden, and that doing this on a regional basis was likely to be the most efficient method.

Councillor McIntosh was also supportive of the introduction of a levy, as it provided an opportunity to consider how tourism works and spread the benefits of it. She was particularly keen for environmental and cultural conservation to be embedded in the Council's plans, and noted that sustainability was also key. She was keen that the Council supports community-led visitor attractions.

Councillor Bruce agreed with Councillor Hampshire that operating the levy on a regional basis would be sensible. He also believed that councils should be given more flexibility in order to promote innovation.

As Cabinet Spokesperson for Economic Development, the Provost provided examples successful partnership working in the tourism sector, such as the 'Golf Coast' initiative, Fringe by the Sea and the Lammermuir Festival. He commented that the proposed response was balanced and recognised issues that would arise as a result of introducing the levy.

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

Decision

The Council agreed to approve the proposed consultation response, as set out at Appendix 1 to the report, to be submitted by 15 September 2023.

7. WORK OF COUNCIL CHAMPIONS

A report was submitted by the Executive Director for Council Resources advising Council of the work of the Council Champions during the previous 12 months.

The Head of Corporate Support, Morag Ferguson, presented the report, requesting that any suggestions as regards additional areas that would benefit from Champions should be directed to her in the first instance.

Councillor Jardine suggested that more could be done to promote social enterprise development. Councillors McGinn and Bennett indicated that they would be happy to discuss this further with her.

Councillor Gilbert remarked that in order for Champions to be effective, they would need to operate across East Lothian, and he asked if this had been done during this first year. Councillor Ritchie reported that she had met with youth workers across the county, and that she was making efforts to cover the whole area.

Councillor Hampshire suggested that Members could invite the Champions to meetings, who would then feed ideas back to the Administration to consider. He stressed that the Administration was trying to work across East Lothian to help improve communities.

Councillor McGinn noted his intention to do more in his Champion role next year to highlight the work of volunteer groups in the county, and he would be happy to hear suggestions from other Members in relation to the work of particular groups.

Councillor Trotter asked for examples of positive outcomes from having Council Champions and if there were any extra costs involved. The Provost made reference to visits to Armed Forces and Veterans events, which had provided opportunities to share information and build partnerships, as well as hearing about issues involving these groups. He added that he had not incurred any additional expenses when carrying out these duties.

Councillor Menzies noted that opposition Members had suggested sharing the Champion roles with others in accordance with their abilities, and that there should be further discussion on this. This view was shared by Councillor Allan, who commented that all Members would be happy to contribute and lessen the burden on Administration Members. The Provost indicated that he would welcome the ideas of others.

Mrs Ferguson clarified that there had been no additional budget allocation for Champion roles, and that no additional costs had been incurred over and above Members' regular duties.

Councillor Hampshire reassured Members that the role of Champions was to give groups working in those areas a stronger voice, and that there was nothing preventing opposition Members meeting with groups and feeding back ideas to the Administration.

Councillor Akhtar concluded the debate by thanking the Champions for their work over the past year. She noted that she had received positive feedback on the work of Councillors Ritchie and McFarlane. She also highlighted the importance of following up on issues raised by community groups.

Decision

The Council agreed:

- i. to note the work of the Council Champions in 2022/23; and
- ii. to consider whether there are any additional areas that would benefit from the appointment of a designated Champion.

8. MOTION: MUSSELBURGH FLOOD PROTECTION SCHEME (MFPS) – NOTE OF PROGRESS AND REQUEST FOR INFORMATION

A motion was submitted by Councillors McIntosh and Jardine in relation to the Musselburgh Flood Protection Scheme:

1. East Lothian Council notes:
 - a) The recent exhibition event as part of the MFPS consultation, which was attended by almost 1000 people, and has generated a large amount of written and verbal feedback which is still being worked through by the Project Team;
 - b) That there is significant concern among some of the community, in Musselburgh and in the wider area, about the scale, cost and environmental impact of the scheme;
 - c) That Councillors have an important role to play in listening to constituents and applying scrutiny to the proposals; equally, Councillors have a responsibility to ensure we have sought out all relevant information and are making decisions on an informed basis;
 - d) That the design as presented in June was a draft which is still in progress, and that the final outline design will be presented to Council in January 2024 to be debated and voted on.
2. East Lothian Council requests that the following reports be brought to a full Council meeting at the earliest opportunity, to allow Members to read, debate and note their contents:
 - a) The scientific report from the Eddelston Water site visit to explore Natural Flood management
 - b) The report from Dynamic Coast on expected changes to the coastline in the future.
3. And that the following points be included in the papers published ahead of the January meeting which will vote on the Scheme:
 - a) Full flood maps of the extent of the flood scenarios chosen for the Scheme as presented at that time;

- b) To the extent that these are available to the Council and can be shared, the Council would like EIA submissions from groups with expertise in the ecology of the area. For example, this might include the RSPB, the Seabird Centre, Restoration Forth, and the Scottish Wildlife Trust.

Councillor McIntosh presented the motion. She made reference to the work undertaken to date by officers and consultants, and to the survey issued as part of the recent public event. However, she stressed that many in the community had concerns about the Scheme and urged officers to consider how to address these concerns. She was of the view that Members needed to be more active in discussions about the Scheme and in listening to the views of constituents, and she felt that the current and previous Administration could have done more to engage with the community on this matter. She also noted that there needed to be clearer scrutiny of the Scheme by Members. She advised that there would be two further Council reports on the Scheme before it is presented to Council for approval in January 2024, and that it was important that Members were given an opportunity to ask questions on the detail in an open and transparent way at all of these meetings. On the use of nature-based solutions, Councillor McIntosh indicated that she now had a much better understanding of these, and hoped that these would be applied. She hoped that the Environmental Impact Assessments (EIAs) of as many relevant organisations as possible would be sought and made available. Concluding her presentation, Councillor McIntosh stated that robust political debate and scrutiny on this matter was required.

Seconding the motion, Councillor Jardine welcomed the recent public event, noting that many in the Musselburgh community and beyond had concerns about the Scheme. She reminded Members that they were accountable to the public and that all Members had a duty to maintain and strengthen public trust in the Council. She stressed that it was important to use the most recent data; conduct a quality consultation process; encourage dialogue and the sharing of ideas; and allow for sufficient scrutiny on how the project is achieving its objectives. She spoke of the importance of working in partnership with communities, and to listening to their views and concerns. Councillor Jardine also highlighted the importance of ensuring that the Scheme provided value for money.

Opening the debate, Councillor Hampshire declared that he was fully supportive of evidence being made available to the community, and that he had, in fact, already asked officers to make all information relating to the scheme available. He urged Members to take account of the views of the professionals on this matter.

Councillor Bruce indicated that he was happy to support the motion and making information available to the public. He did, however, still have some concerns about the project, particularly around the costs. He asked if there would only be one EIA, with submissions from the various organisations feeding into that. Tom Reid, Head of Infrastructure, responded, advising that the EIA had a defined specification and those partner organisations considered to be statutory or specialist consultees would be asked to contribute to it. He added that it was the aim to ensure that all assessments were as detailed as possible and included as many organisations as possible.

Sederunt: Councillor McFarlane left the meeting.

Councillor McLeod voiced his unease over 3b of the motion, noting that engaging with certain groups may be construed as supporting them, and he did not want to prejudge his future vote on the matter.

Councillor Cassini pointed out that she had received a great deal of correspondence from constituents on this matter, much of which was opposition to the plans. She was keen that the community is kept informed and that their views on the scheme are heard.

Following a brief discussion on the wording of 3b, Councillor McIntosh agreed to amend it to read: ‘the Council would like submissions to the EIA from organisations with expertise ...’, rather than ‘the Council would like EIA submissions from groups with expertise ...’

A number of Members indicated that they would be happy to support the motion as amended.

The Provost offered Councillor McIntosh an opportunity to sum up, but she indicated that she had nothing to add to what had already been said.

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

Decision

The Council agreed to approve the motion, as amended.

9. SUBMISSIONS TO THE MEMBERS’ LIBRARY SERVICE, 12 JUNE TO 14 AUGUST 2023

A report was submitted by the Executive Director for Council Resources noting the reports submitted to the Members’ Library since the meeting of the Council in June 2023.

Decision

The Council agreed to note the reports submitted to the Members’ Library Service 12 June and 14 August 2023, as listed in Appendix 1 to the report.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Council unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraphs 6 and 8 (information concerning the financial or business affairs of any particular person other than the Authority; information relating to expenditure on Contracts) of Schedule 7A to the Local Government (Scotland) Act 1973.

Preston Lodge High School RAAC Remediation

A private report submitted by the Executive Director for Place regarding proposed RAAC remediation works at Preston Lodge High School was approved.