



West Lothian
Council

COUNCIL EXECUTIVE

COUNCIL'S CODE OF CORPORATE GOVERNANCE – ANNUAL REVIEW

REPORT BY CHIEF LEGAL OFFICER

A. PURPOSE OF REPORT

To submit the outcome of the annual review of the council's compliance with its Code of Corporate Governance.

B. RECOMMENDATIONS

1. To note that the standards of the Code were substantially met in 2011/12.
2. To agree that the Corporate Governance Working Group review the Code in Autumn 2012 with a view to streamlining the Code by removing duplicate entries as no longer required, with any substantive changes identified to be reported to the council for approval as part of the annual report for 2012/13.
3. To note that the corporate governance arrangements within the council will continue to be a key priority for the running of the council in the year ahead. This is particularly so having regard to the current financial climate of reduced funding and increased demand for services
4. To agree that the focus in 2012/13 should be on identifying actions to further improve the levels of compliance with the Code's standards across the council.
5. To note the expanded remit of the Audit and Governance Committee agreed by the council on 10 May 2012, and agree that this report be referred to that Committee for consideration.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Being honest, open and accountable
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The council has adopted a local Code of Corporate Governance compliance with which is audited by the council's external auditor as part of the council's statutory audit of accounts.
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None

V	Relevance to Single Outcome Agreement	None
VI	Resources - (Financial, Staffing and Property)	Within existing resources.
VII	Consideration at PDSP	The Partnership & Resources PDSP on 8 June 2012 noted this report and agreed (1) that it be forwarded to the Council Executive for approval of the recommendations in the report, and (2) that it be referred to the Audit and Governance Committee for consideration.
VIII	Other consultations	Working Group of Officers on Corporate Governance, individual Deputy Chief Executives and Heads of Service, Audit and Risk Manager, Chief Solicitor.

D. TERMS OF REPORT

Introduction –

1. A new Framework, Delivering Good Governance in Local Government, was produced by CIPFA/SOLACE which changed the emphasis of corporate governance from one focused on the rigour of processes (the 2001 framework) to one focused on achieving outcomes. The council in June 2010 adopted a revised Code based on this new Framework. The Chief Legal Officer is designated to oversee the implementation and monitoring of the Code and to co-ordinate and carry out the annual review of compliance with the Code, which requires a report to the council annually within three months of the end of the financial year. In this work, the Chief Legal Officer is assisted by the officers' Corporate Governance Working Group.

Evidence of Compliance for 2011/12 –

2. During 2011/12 internal audit conducted a review of the council's anti-fraud and corruption arrangements and concluded that control was effective. Internal audit recommended that the council's anti-fraud and corruption policy be reviewed and updated to reflect the provisions of the 2010 Bribery Act. This has been done and it is intended that the revised policy be submitted to the Council Executive for approval in June 2012.

After discussion with the Corporate Governance Working Group it was agreed that internal audit would also review compliance with section 3.1 of the revised Code in relation to value for money and performance. Internal audit concluded that the overall level of compliance was satisfactory.

Internal audit follow up of previous work on the annual statements of compliance identified that one recommendation ranked “high” importance had not been implemented. This related to the compliance statement for the procurement of building and civil engineering contracts where it was recommended that the process for receiving assurance on compliance should be documented in writing. It has now been agreed that this recommendation will be implemented as a matter of priority.

3. Audit Scotland in their overview report on local government in Scotland for 2011 reported that the current financial context and the changing political context emphasise the importance of sound governance and accountability. Following the council elections in May 2012, the immediate focus will be to establish effective working relationships within councils and with local partners and to provide strong leadership and direction which will drive improvements in services, resulting in better outcomes for people and communities.
4. Each item in the revised Code requires to be assessed across three factors – approach, deployment and review, as explained below –
 - “approach” is concerned with what system or procedure has been put in place to meet the requirement of the Code
 - “deployment” concerns whether that system or procedure has actually been used, and
 - “review” is concerned with what arrangements are in place to review and revise that system or procedure.

None of the above factors is concerned with the quality or effectiveness of systems or procedures; those are monitored and judged in other ways through various scrutiny routes.

5. In 2010/11, the first year of scoring levels of compliance with the revised Code, only the approach requirements were assessed due to the significantly greater detail of the new Code. Compliance work this year extended the assessment to deployment and review requirements. Evidence of compliance with all three factors is reported in this year’s annual report, creating a baseline for future years.
6. Each requirement of the Code has been assessed in turn in respect of the approach, deployment and review factors using the following scoring structure.

Scoring is on a scale from 0 to 4 for each of the three categories, so 12 is the maximum.

- 0 – No evidence available, or only anecdotal
- 1 – Some evidence available
- 2 – Evidence available
- 3 – Clear evidence available
- 4 – Comprehensive evidence available

Aggregate score of 0 to 5 (inclusive) is a red light
Aggregate score of 6 to 8 (inclusive) is an amber light
Aggregate score of 9 to 12 is a green light.

7. Appendix 1 contains pie charts showing the scores obtained. The first chart gives the overall picture for all standards falling into the green, amber and red aggregate scores. The other pie charts give an analysis of each of the green, amber and red aggregate scores, providing the number of standards falling into the individual score bands of nought to twelve. A summary graph, indicating the number of standards failing within each of the scores is also provided in Appendix 1. Along with these pie charts and summary graph are lists of each standard within the green, amber and red aggregate scores. The Code itself, held in Covalent, contains more underlying detail and commentary in relation to each entry and score.
8. There is a total of 373 entries in the Code which have each been scored. Of those, 25 (7%) scored in the range of a red light. Those entries will require particular attention, but the following general comments can be made about them:-
 - Many are entries for which the council does not, at the moment, have the specific requirements in place. For example, one of the entries (2.2.2h) requires responsibilities of officers and elected members to be contained in Standing Orders. Although the council has documents approved in relation to both aspects, they are not formally incorporated in Standing Orders., and the resulting score is low.
 - Many are entries for which the Responsible Officer does not match the recently-approved Scheme of Delegations to Officers, and this has presented problems in gathering information and populating such entries in the Code.
9. The pie charts in Appendix 1 show that for 93% of the Code's standards, an aggregate score falling in the amber or green range was achieved. For 63% of the standards, an aggregate score falling in the green range was achieved, scoring 9 or above out of a maximum of 12. This provides clear evidence of compliance for nearly two thirds of the Code's standards, where an average score of at least 3 out of a maximum of 4 was achieved for each of the factors of approach, deployment and review. The Corporate Governance Working Group, therefore, has concluded that the governance standards of the Code were substantially met in 2011/12.
10. The process of gathering evidence of compliance highlighted a number of entries in the Code which the Corporate Governance Working Group found were no longer relevant or necessary because they duplicated other entries. It is recommended that the Corporate Governance Working Group review the Code in Autumn 2012 with a view to streamlining the Code appropriately, and addressing the difficulties identified in paragraph 8 above. Any substantive change to the Code will be reported to the council for approval as part of the annual report for 2012/13.

Issues addressed during 2011/12 –

11. A number of specific issues were addressed by the Working Group during 2011/12. These were:-

(1) Risk Management and Business Continuity Planning -

A revised risk management policy and strategy have been prepared covering both risk management and business continuity planning and were approved by the Council Executive on 7 February 2012. The council's risk register has now moved to Covalent and a revised risk assessment methodology implemented. The objective of the new methodology is to ensure that key councils risks are correctly identified, accurately scored and effectively managed. Review of the risks contained within Covalent has now been completed. A Risk Management Board, chaired by a Depute Chief Executive, is now in place and is responsible for the oversight of the council's corporate risk management and business continuity arrangements. Risk champions have been appointed for each service area.

(2) Member/Officer Roles and Working Relationships -

Following the recommendations in Audit Scotland's report "Roles and relationships: are you getting it right?" published in 2010, the Corporate Governance Working Group conducted a survey of elected members and officers on their understanding of their respective roles. The outcome was reported to the Partnership and Resources PDSP on 2 December 2011 with the main areas of improvement concerning the need for more training on the different roles of members and officers to assist the maintenance of good working relationships. The induction training for members following the council elections on 3 May will include specific training on the roles of members and officer, and training on corporate governance as a whole will also be offered as part of elected members' training.. Similar training has already been given to Heads of Service and their senior managers in the last two months.

In addition, the Corporate Governance Working Group has drafted role descriptions for three of the four statutory officers highlighted in Audit Scotland's report, ie the Head of Paid Service, Monitoring Officer, and Chief Social Work Officer. The role description for the fourth statutory officer, ie the Chief Financial Officer, had already produced and noted by the P&R PDSP on 18 February 2011. The three draft role descriptions are currently being finalised and will be presented to the PDSP and Council Executive in due course.

(3) Governance "Champions" –

In order to increase awareness of the need for good governance arrangements across the council, governance "Champions have been identified by each Head of Service. They have been trained to monitor compliance with the council's Code of Corporate Governance within their service areas.

12. The council's Code of Corporate Governance requires an annual statement of compliance to be made by the relevant responsible officer on a number of issues. These are listed in the table below. In addition, the Corporate Governance Working Group agreed that a further annual statement of compliance should be produced regarding the council's use of its statutory powers to conduct covert surveillance or accessing communications data under the strict terms of the Regulation of Investigatory Powers Act 2000 (RIPA) and the equivalent Scottish Act (RIPSA).

Subject		Responsible Officer
1.	Freedom of Information (reported on separately)	Head of Corporate Services
2..	Councillors' Code of Conduct (reported on separately)	Chief Legal Officer
3.	Breaches of the law	Chief Legal Officer
4.	EC Procurement Rules for Contracts for Construction and Works	Depute Chief Executive (Corporate, Operational & Housing)
5.	EC Procurement Rules for Contracts for Supplies and Services	Head of Finance& Estates
6.	Anti-fraud and Corruption Strategy	Head of Finance& Estates
7.	Fraud Policy and Strategy for Housing Benefit and Council Tax Benefit	Head of Finance& Estates
8.	Benefit Fraud Prosecution and Sanction Policy	Head of Finance& Estates
9.	Whistle Blowing Policy and Procedures	Head of Corporate Services
10.	Disciplinary and Grievance Procedures	Head of Corporate Services
11.	Occupational Health & Safety Policy	Head of Corporate Services
12.	Protecting Vulnerable Groups	Head of Corporate Services
13.	Information Security	Head of Corporate Services
14.	Covert surveillance and accessing communications data	Chief Solicitor

13. These annual statements, except the first two which are reported on separately, are contained in Appendix 2.

Each of these annual statements of compliance concludes that the council's policies and procedures are operating satisfactorily or effectively and any breaches or areas of improvement have been identified. None of the breaches highlighted is considered to have had, or to have a material or significant impact on the operations or finances of the council.

The statement on compliance with EU procurement regulations for contracts for supplies and services highlights that a full scale review of Procurement has been undertaken and recommendations are being implemented to ensure that systems are in place to secure full compliance across the council. This applies as well to works contracts.

Future Development -

14. The following activities will be pursued by the Corporate Governance Working Group in 2012/13 to further improve governance requirements across the council -
 - completion of the task of improving awareness of governance issues through improved training and access to the key governance policies and procedures on the council's intranet and web site;
 - completion of the task of amending the council's governance policies and procedures to reflect the provisions of the Bribery Act 2010 which introduced corporate liability for failing to prevent bribery, and preparation of appropriate guidance for services;
 - completion of the production of role descriptions for the statutory posts of Head of Paid Service, Monitoring Officer and Chief Social Work Officer;
 - improving the level of compliance with the Code's standards across the council, particularly regarding those standards achieving an aggregate red score this year; and
 - streamlining the Code, as recommended in paragraph 10 of this report.
15. The Partnership & Resources PDSP on 8 June 2012 noted this report and agreed (1) that it be forwarded to the Council Executive for approval of the recommendations in the report, and (2) that it be referred to the Audit and Governance Committee for consideration.

E. CONCLUSION

1. The council's arrangements for corporate governance have operated well and the requirements of the council's Code of Corporate Governance have been substantially met in 2011/12.
2. During the year ahead, the focus will be on improving areas of compliance identified in this year's annual report, and streamlining the Code to assist with maintaining awareness of its requirements across the council.

F. BACKGROUND REFERENCES

1. Minutes of the following meetings –
 - Council Executive of 28 June 2011
 - West Lothian Council of 10 May 2012
 - Partnership and Resources PDSP of 18 February 2011 and 2 December 2011

2. Partnership and Resources PDSP Action Note of 8 June 2012.
3. Audit Scotland's overview report on local government in Scotland for 2011.
4. Audit Scotland's report "Roles and relationships: are you getting it right?" published on 26 August 2010,
5. Council's Code of Corporate Governance data base on Covalent showing assessment of compliance and supporting evidence for 2011/12, for each requirement in the Code.
6. Corporate Governance Working Group Action Notes of meetings (held on file).

Appendices/Attachments: Two

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Date of meeting: 25 June 2012

List of Appendices

Appendix 1 – Overall pie chart, pie charts showing breakdown for each of green, amber and red areas, summary graph indicating the number of standards falling within each of the scores, and lists detailing each of the Code's standards under the green, amber and red areas.

Appendix 2- Annual statements of compliance on specific issues.