



West Lothian
Council

COUNCIL EXECUTIVE

COUNCIL'S CODE OF CORPORATE GOVERNANCE – ANNUAL REVIEW OF COMPLIANCE 2013/14

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 evidence of compliance with the standards of the Code has been strengthened and the standards continued to be substantially met in 2013/14.
2. To note the changes for future years to the statements on anti-fraud policy and benefit fraud, and on corporate procurement, as set out in section D11 of this report.
3. To agree that the focus in 2014/15 should be on the actions identified in section D13 of this report to further improve the levels of compliance with the Code's standards across the council.
4. To agree that this report be referred to the Audit and Governance 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 with which compliance is audited by the council's external auditor as part of the council's statutory audit. The council's Corporate Plan 2013/17 identifies governance and risk as one of three co-ordinated enablers underpinning the delivery of the Plan's priorities and outcomes.
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	To be considered at the Partnership and Resources PDSP on 6 June 2014.
VIII	Other consultations	Heads of Service, Audit and Risk Manager, Chief Solicitor, Corporate Governance Working Group and Governance and Risk Board, Corporate Management Team.

D. TERMS OF REPORT

Introduction –

1. The council in June 2010 adopted a revised Code based on a new Framework, Delivering Good Governance in Local Government, produced by CIPFA/SOLACE. This Framework changed the emphasis of corporate governance from one focused on the rigour of processes to one focused on achieving outcomes. 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.

The Governance and Risk Board, which is chaired by a Depute Chief Executive, meets every two months to exercise oversight of the council's governance, risk management and business continuity arrangements. This reflects that the council's Corporate Plan 2013/17 identifies corporate governance and risk as one of the three co-ordinated enablers underpinning the delivery of the Plan's priorities and outcomes. The Board considered this annual report on 13 May 2014 and agreed its terms.

Evidence of Compliance for 2013/14 –

2. During the latter part of 2013/14, Internal Audit conducted a review of services' compliance with the council's Partnership Working Guidance. Implementation of any improvements identified in the report will form part of the work of the Corporate Governance Working Group in 2014/15.

A follow up was also undertaken of previous work in relation to the arrangements for reporting on the activities of significant outside bodies, and/or those with elected member representation. This review found that there were still improvements required to the reporting arrangements, and reminders were issued to the Heads of Service which resulted in all relevant reporting requirements being met.

3. Audit Scotland reported as part of their 2012/13 audit that overall governance arrangements in the council were adequate and no material weaknesses in the accounting and internal control systems were identified during the audit. They were satisfied that the disclosures in the Annual Governance Statement were in line with the guidance contained in the CIPFA publication Delivering Good Governance in Local Government and with the adequacy of the process put in place to obtain the necessary assurances for the Annual Governance Statement.
4. The Audit and Governance Committee considered my annual report for 2012/13 at its meeting on 25 September 2013. The Committee raised no concerns or issues and noted the contents of the report including that the evidence of compliance with the standards of the Code had been strengthened and the standards had continued to be substantially met in 2012/13.
5. 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.

6. Governance Champions for each Head of Service assessed each requirement of the Code 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 provides the overall picture for all standards falling into the green and amber aggregate scores. There are no standards with a red score. The other pie charts provide an analysis of each of the green and amber aggregate scores, together with the number of standards falling into the individual score bands. A summary graph, indicating the number of standards falling 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 and amber aggregate scores. The Code itself, held in Covalent, contains more underlying detail and commentary in relation to each entry and score.
8. A comparison of the scoring for 2012/13 and 2013/14 is provided below:

	2012/13	2013/14	Change
Red	2	0	
Amber	120	110	-8%
Green	238	250	5%

The figures detailed above show an improvement compared with the previous year in that there are now no red scores, the number of amber scores has reduced (-8%) while the number of green score has increased (5%). The pie charts in Appendix 1 show that for 69 per cent 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 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 2013/14.

9. The evidence of compliance supplied by the governance champions highlighted inconsistencies between service areas in relation to the application and review of policies, procedures and processes. This was due in part to inexperienced governance champions. A review of these inconsistencies was undertaken by members of the Corporate Governance Working Group resulting in more accurate scores. A review will be undertaken with the governance champions to ensure the consistent application of evidence across service areas. This will ensure that any areas for improvement within service areas are highlighted for future action.

Individual Statements of Compliance –

10. 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. The statement on compliance with procurement rules is now a corporate one covering all contracts, both for works contracts and also contracts for supplies and services. This reflects the revised corporate management structure which the council has put in place under the Head of Finance and Estates.

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 and Standing Orders for all Contracts [including CHCP (Part B contracts)]	Head of Finance and Estates
5.	Anti-fraud and Corruption Strategy	Head of Finance & Estates
6.	Benefit Fraud Prosecution and Sanction Policy/ Fraud Policy and Strategy for Housing Benefit and Council Tax Benefit	Head of Finance & Estates
7.	Disclosure of information by Employees (Whistle Blowing Policy and Procedure)	Head of Corporate Services
8.	Disciplinary and Grievance Procedures	Head of Corporate Services
9.	Occupational Health & Safety Policy	Head of Corporate Services
10.	Protection of Children and Protected Adults	Head of Corporate Services
11.	Information Security	Head of Corporate Services
12.	Public Sector Equality Duty	Head of Corporate Services
13.	Covert surveillance and accessing communications data	Chief Solicitor

11. 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.

With regard to the two statements concerning the anti-fraud policy and benefit fraud, the Governance and Risk Board agreed that for future annual statements, one statement of corporate fraud be produced to reflect the revised management arrangements for fraud.

With regard to the statement on corporate procurement, the Governance and Risk Board agreed that future statements should include information about numbers of challenges made by tenderers and court actions brought against the council under procurement regulations, and their outcomes.

Issues addressed during 2013/14 –

12. A number of specific issues of a governance nature was addressed during 2013/14. These included:

(1) Risk Management and Business Continuity Planning -

During the course of 2013/14 a comprehensive business continuity testing programme commenced for WLC1 activities, defined as those activities which would result in risk to life and limb if they are not maintained. Services have also identified WLC2 activities, defined as those activities which if not continued would have a significant impact on the council's operations, and are in the process of preparing business continuity plans for these. The council's risks are managed using Covalent and processes are embedded for the on-going review and management of risks.

(2) Review of Corporate Delegation Template –

The council's Scheme of Delegation to Officers allocates responsibility for corporate and public services and functions to senior officers, and provides for them to sub-delegate certain of those responsibilities to officers within their service areas. In order to assist that process of sub-delegation and maintain a record of those sub-delegations, the council has also put in place a subsidiary document called the Delegation Template. It contains lists of the most significant corporate policies and procedures and enables each Depute Chief Executive, Head of Service and other designated officers to record to whom he or she has entrusted parts of the service area's functions. The template has been updated and revised in the last year through the Delegations Working Group, and it is to be populated by each service area by the end of June 2014. It will be checked to ensure sub-delegation is to an appropriate level of responsibility and to ensure there is a consistent, although not necessarily uniform, approach across the council. Thereafter it will be updated on a regular basis to reflect changes in policy or procedure, and reviewed to ensure a current record of responsibility is kept within each service area.

(3) Protocol for Complaints regarding Conduct of Councillors –

The absence of a protocol for dealing with complaints received regarding alleged breaches of the Councillors' Code of Conduct was identified in last year's review as a gap in compliance with the Code of Corporate Governance. A protocol has now been produced reflecting the process followed by the Chief Legal Officer/Monitoring Officer in dealing with such complaints.

(4) Training on Corporate Governance Matters

As part of its remit to disseminate information and advice to services on corporate governance matters, the Corporate Governance Working group has been involved in delivering training throughout the year:-

- Consideration of the Code in 2013/14 had identified as a weakness training and guidance to elected members and officers in relation to working with and on outside bodies, and in relation to partnership working. In response, a training resource was developed for both officers and members. The first training session for officers closely involved in working with outside bodies and supporting elected members in working with outside bodies was delivered in January 2014, and will be repeated as and when required. Arrangements are in hand to deliver a similar session to elected members.
- Regular sessions were also delivered through HR Learning & Development's Bitesize Programme for officers on Working in a Political Environment and on the council's Decision-Making Structure.
- Four separate sessions took place to provide officers with guidance on preparing for and attending and speaking at PDSP and committee meetings.
- Training was also provided to officers on report-writing for PDSP and committee meetings

(5) Identification of Potential Governance Issues -

As part of its remit to identify any potential governance implications of council decisions and new legislation, the Corporate Governance Working Group has considered a range of issues and advised on the governance implications of such matters including -

- West Lothian Development Trust
- Regulatory Reform (Scotland) Bill
- Health and Social Care integration and CHCP governance
- Best Value Policy
- Police and Fire Services scrutiny and reporting
- Community Centre Management Committee Leases
- Enterprise and Regulatory Reform Act 2013 – Whistleblowing implications.

Future Development -

13. The following activities will be pursued by the Corporate Governance Working Group in 2014/15 to further improve governance requirements across the council -
 - (1) A review with the Governance Champions to ensure the consistent application of evidence across service areas. This will ensure that any areas for improvement within service areas are highlighted for future action.
 - (2) A review of the scores for 2013/14 to identify appropriate standards where evidence of compliance can be improved further.
 - (3) An investigation of the possibility of streamlining the scoring system to facilitate a consistent approach to assessing the evidence of compliance across services.
 - (4) Implementation of any improvements identified in Internal Audit's report on compliance with the council's Partnership Working Guidance.
 - (5) A review by Internal Audit of another section of the Code to maintain awareness of its provisions and improve compliance with them.
 - (6) Benchmarking the council's approach to corporate governance with other councils.

E. CONCLUSION

Evidence of compliance with the standards of the council's Code of Corporate Governance has been strengthened during 2013/14 and the Code's standards continued to be substantially met in 2013/14.

F. BACKGROUND REFERENCES

1. Minutes of the following meetings –
 - Council Executive of 4 June 2013
 - Audit and Governance Committee of 25 September 2013
 - West Lothian Council of 15 October 2013
2. Audit Scotland's report on its audit of the council for 2012/13, and covering report by Head of Finance & Estates dated 15 October 2013.
3. Internal Audit report on Partnership Working Guidance dated 27 March 2014.
4. Council's Code of Corporate Governance data base on Covalent showing assessment of compliance and supporting evidence for 2013/14 for each standard in the Code.
5. Corporate Governance Working Group and Governance and Risk Board Action Notes of meetings (held on file).

Appendices/Attachments: Two

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Date of meeting: 10 June 2014

List of Appendices

Appendix 1 – Overall pie chart, pie charts showing breakdown for each of the green and amber 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 and amber areas.

Appendix 2- Annual statements of compliance on specific issues.