West Lothian Council

<u>COUNCIL EXECUTIVE</u>

<u>CORPORATE GOVERNANCE – ANNUAL REPORT 2017/18</u>

<u>REPORT BY GOVERNANCE MANAGER</u>

A.   PURPOSE OF REPORT

To provide assurance in relation to compliance with the standards in the council's Code of Corporate Governance and related governance matters.

B.   RECOMMENDATIONS

1. To note the terms of the annual governance statement approved at Governance & Risk Committee on 18 June 2018 (Appendix 1)

2. To note the information provided in the annual compliance statements by senior officers (Appendix 2)

3. To note the information provided in relation to the standards in the revised Code of Corporate Governance (Appendix 3) and that the standards continued to be substantially met in 2017/18

4. To note that this report will be considered further by the Governance & Risk Committee to identify areas of concern and appropriate actions

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)**	Code of Corporate Governance. The council's Corporate Plan 2018/23 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**	N/a
VI	**Resources - (Financial, Staffing and Property)**	Within existing resources
VII	**Consideration at PDSP**	Not required

VIII	**Other consultations**	Monitoring Officer; Audit, Risk & Counter Fraud Manager; Chief Solicitor; Governance & Risk Board; Corporate Management Team

D.   TERMS OF REPORT

1   Background

1.1   To make sure that the council adheres to the rules of good corporate governance, it maintains a Local Code of Corporate Governance which sets out the principles and other standards by which good governance should be judged. In April 2018 it adopted a revised Code of Corporate Governance based on a Framework called "Delivering Good Governance in Local Government", produced by CIPFA/SOLACE. It is supplemented by a set of "Guidance Notes for Scottish Authorities".

1.2   Broadly, governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved. It is recognised that good governance leads to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes. Corporate governance is not directly about performance, or service standards, or service delivery, or policy-making. It is about the systems which make sure these things can be done, that they can be done well and that they can be done in an open, transparent and accountable way.

1.3   The new Framework includes a modified and updated definition and description of governance:-

- Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved
- To deliver good governance in the public sector, both governing bodies and individuals working for public sector entities must try to achieve their entity's objectives while acting in the public interest at all times
- Acting in the public interest implies primary consideration of the benefits for society, which should result in positive outcomes for service users and other stakeholders

1.4   The new Framework sets out seven principles in the top layer in the hierarchy for a Code. They are:-

- A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- B. Ensuring openness and comprehensive stakeholder engagement
- C. Defining outcomes in terms of sustainable economic, social, and environmental benefits
- D. Determining the interventions necessary to optimise the achievement of the intended outcomes
- E. Developing the entity's capacity, including the capability of its leadership and the individuals within it
- F. Managing risks and performance through robust internal control and strong public financial management
- G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability

1.5   The council itself is the authority or governing body which carries ultimate responsibility for achieving good standards of corporate governance. It receives assurance in relation to that obligation though the activities of its committees and from council officers. It is recognised that both governing bodies and individuals working for public sector entities must try to achieve their entity's objectives while acting in the public interest at all times. Acting in the public interest implies primary consideration of the benefits for society, which should result in positive outcomes for service users and other stakeholders.

1.6   The Code is designed to help the council take responsibility for developing and shaping an informed approach to governance. It is aimed at achieving the highest standards in a measured and proportionate way. It is intended to assist the council in reviewing and accounting for its own unique approach to decision-making and accountability. It is a tool to help decision-making and not an end in itself. The overall aims are to ensure that:-

- resources are directed in accordance with agreed policy and according to priorities
- there is sound and inclusive decision making
- there is clear accountability for the use of those resources in order to achieve desired outcomes for service users and communities

1.7   This annual report is brought to Council Executive each year to provide assurance in relation to the extent of compliance with the Code, to provide information about steps taken to address areas of concern identified in the past, and to identify areas of concern requiring future attention. As well as consideration by Council Executive, the report has in the past also taken to Governance & Risk Committee for detailed consideration.

1.8   From the work of officers and council and committees, the following sources of information and evidence provide the basis for giving members assurance that the council's standards of corporate governance continued to be substantially met in 2017/18.

2   Audit Committee and Governance & Risk Committee

2.1   In June 2017 the remit of the former Audit & Governance Committee was divided, and two committees replaced it – Audit Committee, and Governance & Risk Committee. The powers held by the former committee and members' rights to information and officers were not changed or diluted. The remit was simply divided between two bodies instead of being concentrated in one.

2.2   The work of both committees was significant in relation to many aspects of corporate governance. They approved annual plans for internal audit, risk and counter-fraud, and received reports about progress in the completion of each one. They received regular and frequent reports in relation to risk, internal audit activity and governance matters; reports and recommendations from the external auditors (who attend meetings of Audit Committee); the same from the Accounts Commission; and *ad hoc* reports in relation to unanticipated areas of concern.

2.3   In 2017/18, Audit Committee meetings included these items as examples of its business:-

- Consideration of the review of the system of internal control, annual accounts and external audit report and annual plan which confirmed the auditors were content to place formal reliance on the work of the council's Internal Audit function, that Internal Audit operated in compliance with the Public Sector Internal Audit Standards and that no significant control weaknesses had been identified
- An external assessment of the council's Internal Audit Service which concluded that the internal audit service complied in all material respects with the requirements of the Public Sector Internal Audit Standards (PSIAS)
- Accounts Commission/Audit Scotland reports on Self-Directed Support, Local Government in Scotland Financial Overview 2016/17, Principles for a Digital Future: Lessons Learned from Public Sector ICT Projects, Equal Pay in Scottish Councils, and Early Learning and Childcare
- Risk actions outstanding and overdue from previous internal and external audit reports
- The council's Best Value Assurance Report on a reference for detailed scrutiny and monitoring from full council in January 2018
- Investigation reports in relation to Procurement Business Case Exemptions, Information Security breaches, Financial Monitoring and Reporting of West Lothian Leisure, School Medication Policy and Procedures and the Objective Content Management System, and Monitoring of Voluntary and Not For Profit Organisations
- The Local Scrutiny Plan 2017/18 which confirmed that the shared risk assessment concluded that no scrutiny risks have been identified which require specific scrutiny in 2017/18

2.4   The meetings of the Governance & Risk Committee during the year dealt with the following examples of its work:-

- Presentations by service areas on risk management arrangements
- Consideration of the council's high corporate risks as a standing item
- Reports by the council's external risk advisers on management of legionella, safety in Waste Services and personal safety in Education Services
- Consideration of the revised Local Code of Corporate Governance and its recommendation for approval to Council Executive
- Cyber-security risks and management of health and safety risks, which led to that becoming a standing item at meetings
- An external validation of the independence and work of the council's risk management function
- Consideration of the annual report on corporate governance for 2016/17 from Council Executive

2.4   Both committees undertook self-assessment exercises to examine their effectiveness and influence and to identify ways to improve their operation. This arose from an audit recommendation to monitor the relationship between the two new committees. No significant issues were identified.

3   Best Value Assurance Report

3.1 The council was subject during the year to a best value review by its external auditors on behalf of Audit Scotland. The aim was to assess the extent to which the council complies with its duty to secure best value as set out in the Local Government in Scotland Act 2003. The est Value Assurance Report was produced in November 2017 and was considered by the Accounts Commission in December 2017. The Accounts Commission made recommendations which were then published and considered by full council in January 2018 in accordance with statutory procedures.

3.2 The report was a positive one and council accepted the Commission's recommendations. Council also approved an Action Plan and referred the report on to Audit Committee to monitor progress and completion. The agreed actions have been completed.

3.3 The council's continuing compliance with its best value duty will feature in the ongoing work by its external auditors.

4   Governance & Risk Board

4.1 The Governance & Risk Board is an officer group charged with maintaining oversight of the council's corporate governance and risk management functions. It is chaired by a Depute Chief Executive and has representation from all service areas, including the Monitoring Officer, the Audit, Risk and Counter-Fraud Manager, the Chief Solicitor (also the Depute Monitoring Officer), and the Governance Manager. It reports when required to the Corporate Management Team and oversees the work of officer working groups.

4.2 Its meetings in 2017/18 included these items of business:-

- Review of corporate business continuity planning
- Monitoring of insurance claims and statistics
- Monitoring and reporting on corporate high risks and strategic risks
- Preparation for implementation of GDPR in May 2018
- Outstanding and overdue risk actions form internal and external audit reports
- Annual governance statement, annual compliance statement and annual report on corporate governance

5   Management Plans

5.1 Management Plans are an important and vital link between the council's corporate aims and priorities and the implementation at a service level, with their identification and reporting of actions and performance monitoring measures. Many of the standards built into the Code are clearly reflected in the Plans, for example:-

- Explaining service structures, services and activity budgets
- Partners and partnership working
- Relevance to Corporate Plan priorities and responsibility for corporate strategies
- Customer participation and consultation
- Employee engagement

- Performance and actions and improvement and efficiency activity

5.2   All are reported to members and are available to the public through PDSPs in the spring each year, and then on the council's website. They provide information on the service's activities in the preceding year and planned activities for the forthcoming year and are an essential tool in assisting the translation of service activity into evidence of compliance with the Corporate Plan and the Code.

6   Policy and Strategy Development and Reviews

6.1   During the year there were many significant steps taken corporately and at service level in developing and reviewing strategies and policies. Many of those have a material impact on compliance with the standards.

6.2   The most significant developments were around the adoption of the council's Corporate Plan 2018/23 in February 2018. It followed an extensive public consultation exercise to identify priorities over the next five years. End-of-strategy reports were presented for the corporate strategies underlying the previous Corporate Plan. A list of replacement strategies to support and enable delivery of the new Plan's priorities and agreed outcomes were prepared and approved between February 2018 and June 2018.

6.3   A sample of other significant strategy and policy developments during the year is:-

- Equality Outcomes and Mainstreaming Reports
- Pupil Equity Funding and Regional Improvement Collaboratives
- Development of the City Region Deal
- Local Housing Strategy 2017/22
- Regulation of Investigatory Powers Policy and Procedure
- Early years and Child Care implementation

6.4   The reports and minutes of decisions for all of these are readily available on the council's website through COINS (http://coins.westlothian.gov.uk/coins/). New and reviewed policies and strategies as a matter of routine explain when they will be reviewed again and how performance will be reported.

7   Monitoring and Reporting

7.1   There is clear evidence from PDSP and committee and council reports and minutes of regular and transparent reporting in relation to significant aspects of the council's functions and which have a bearing on compliance with the Code. These include performance reporting (both service and financial), compliance with statutory retimes and compliance with internal standards and agreed outcomes. Some examples are:-

- SPSO Annual Report
- Complaints performance reports (quarterly and annual)
- Treasury Management (annual and interim)
- Budget monitoring reports (quarterly and outturn)
- Raising Attainment
- Scottish Biodiversity Duty
- Strategic Housing investment Plan

7.2   Performance reporting continues through quarterly reports to PDSPs, reports to the Performance Committee and Education (Quality Assurance) Committee, and public performance reporting arrangements through Covalent. Arising from the best Value Assurance Report, a review of service and financial performance reporting was carried out. Service and financial performance are now linked and reported together to PDSPs. Reports to Performance Committee have been adjusted to include a better reflection of corporate performance as well as performance at the level of WLAM units.

8   Systems and procedures

8.1   The implementation and review of corporate policies and procedures provides additional evidence of compliance with the standards in the Code. Some examples are:-

- Information Security Policy

- Tenant Participation Strategy

- Surplus property Procedures

- Review of Financial Regulations

- Amendments to Standing Orders and Scheme of Administration in accordance with actions agreed on the Best Value Assurance Report

- Asset Transfer Requests Procedures, including establishment of two new committees

8.2   Following the council elections in May 2017 the council complied with its statutory duties in terms of electing a Provost. It completed the formalities required of it at its post-election statutory meetings. Co0mpliance was achieved with the duties around declarations of acceptance of office by councillors and completion of their registers of interests. The council was able to resume its regular pattern of business by 26 May 2017.

9   Annual Compliance Statements

9.1   A set of compliance statements is produced to sit alongside the Code and also inform the drafting and approval of the annual governance statement. They deal with compliance with the law and with the council's corporate policies, procedures and practices of significance to good governance. They are prepared after consultation with services and senior officers and take into account oversight by external bodies of the council's compliance. They are signed by the responsible senior officer. They are designed to bring to the attention of elected members any incidents of non-compliance which are significant to the council's operations and which are not reported elsewhere in a systematic way.

9.2   The preparation and compilation of these annual statements are the responsibility of the Monitoring Officer. The statements for 2017/18 are attached in Appendix 2, and are comprised of:-

- Best Value Framework - Head of Finance & Property Services
- Procurement - Head of Corporate Services
- Fraud and Corruption - Head of Finance & Property Services
- Employee Whistleblowing - Head of Corporate Services

- Discipline and Grievances - Head of Corporate Services

- Occupational Health & Safety - Head of Corporate Services

- Protection of Vulnerable Groups - Head of Corporate Services

- Information Security - Head of Corporate Services

- Public Sector Equality Duty - Head of Corporate Services

- Breaches of the law - Monitoring Officer

9.3   Compliance with the freedom of information regime is reported separately and elsewhere by the Head of Corporate services. An annual report on the operation of the Councillors' Code of Conduct is also reported separately by the Governance Manager. Following the adoption of a revised Policy and Procedure on Covert Surveillance and Accessing Communications Data (RIPSA) an annual report will be presented by the Senior Authorised Officer to PDSP instead of an annual compliance statement.

9.4   The council must consider each year a formal report by the council's Chief Social Work Officer. For the first time that report was heard by committee rather than by PDSP. It will be considered by full council in 2018/19.

9.5   The annual statements of compliance demonstrate that the council's policies and procedures are operating satisfactorily and 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.

10   Annual Governance Statement

10.1   It is a requirement of the regulations for dealing with the council's annual accounts that an annual governance statement is approved and included in those accounts. The statement is prepared in accordance with the CIPFA/SOLACE Framework.

10.2   The statement for 2017/18 was approved by Governance & Risk Committee on 18 June 2018. It is in Appendix 1. It draws on the other sources of assurance mentioned in this report, in particular the Code and the annual compliance statements.

11   Standards in the Code

11.1   As indicated earlier in the report, the new Code is structured around seven overarching principles. Beneath those is a hierarchy of sub-principles and standards. They are designed to focus in more detail on the principles and lead to the kinds of evidence that should be present and assessed to measure compliance.

11.2   The Code is intended to be a tool towards assessing compliance with good governance standards and informing the assurance that members and the community may take that the council is meeting those standards. The Code was designed to be less cumbersome and easier to use and navigate. The aim was to find a balance between detail and the level of input required to provide the assurance that is required.

11.3   The evidence listed in the approved Code has been assessed and a brief commentary has been added. The main elements in the assessment are the approach designed to be taken, the extent to which that approach is used, and the arrangements in place to review the approach. An overall assessment is made and a grading applied using simple red, amber and green indicators.

11.4 Under the previous arrangements there were more standards; there was more and duplication of work required across services to populate the Code; and the assessment was a more complicated exercise. Scoring was by way of a numerical value, from 0 to 12.

11.5 There has been some loss of ability to compare since the principles, sub-principles, standards and forms of evidence are different. However, it is still possible to see and consider trends across a period of time based on the proportions of red, amber and green indicators.

11.6 Under this year's assessment there were 258 entries for the evidence considered. Not all are unique – some are mentioned many times because they inform several of the over-arching principles. Things like Standing Orders, risk management, financial regulations and management and engagement and consultation measures feature frequently throughout.

11.7 Of those 258 entries there were 204 greens (79%), 54 ambers (21%) and no reds. These compare well with previous years and continue the trends that can be seen from older figures:-

11.8

	2017/18	2016/17	2015/16	2014/15	2013/14
Green	204 (79%)	263 (73%)	259 (72%)	230 (64%)	250 (69%)
Amber	54 (21%)	97 (27%)	101 (28%)	130 (36%)	110 (31%)
Red	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
total	258	360	360	360	360

11.9 The more significant amber scores have been translated into the annual governance statement (Appendix 1), along with significant issues noted in the annual compliance statements (Appendix 2).

12 Areas of concern last year and this year

12.1 Last year's report listed some areas which would be taken forward in 2017/18. Those were as follows, and a note of progress is included for each:-

- Building on the post-elections members' induction programme, further development of members' training and briefings. Five training days were added to the calendar of meetings for 2018/19. Sessions have been provided on stand-alone topics such as homelessness and developments in the Councillors' Code of Conduct

- Implementation of the community empowerment legislation in relation to participation requests, asset transfer requests and participatory budgeting. The procedure for participation requests was used for the first time during the year. The procedure is being reviewed and will be reported to committee in November. Procedures were established for dealing with asset transfers, including two new committees. A policy for Community Choices is still under development

- Implications from the Scottish Government's review of local governance arrangements. The review is ongoing and reports will be made in autumn 2018 to PDSP to establish the council's position

- Implementation of a refreshed RIPSA policy and procedure, and reporting arrangements. The policy was approved during the year and the first annual report will go to DPS in October 2018

- Translation of the existing Code of Corporate Governance to the 2016 CIPFA/SOLACE Framework. That was completed in April 2018
- Reporting and monitoring of information security breaches. This issue was dealt with through Audit Committee
- Improvements to the information asset register. This issue was dealt with through Audit Committee
- Procedures in relation to procurement business case exemptions from Standing Orders. This issue was dealt with through Audit Committee
- Review of the role descriptions of the four statutory officers in light of recent guidance. This work remains outstanding
- Implementation of the general data protection regulation for May 2018. Implementation was effective by the due date and continues to be reviewed through the Information Management Working Group
- Grants to voluntary organisations. This issue was dealt with through Audit Committee

12.2 The areas of concern to be addressed in 2018/19 are listed in paragraph 16 of the annual governance statement (Appendix 1). Where these issues have been identified through internal audit reports the agreed actions and progress will be monitored and reported through the Audit Committee. In other cases, the Governance & Risk Committee will have that role. The committee may identify other issues to be explored and considered when it deals with this report at its meeting on 29 October 2018.

E.   CONCLUSION

On the basis of all of the factors and information noted in this report, the council can be assured that the standards of corporate governance continue to be substantially met.

F.   BACKGROUND REFERENCES

1   Council Executive, 17 April 2018

2   Governance & Risk Committee, 18 June 2018

3   "Delivering Good Governance in Local Government - Framework (CIPFA/SOLACE, 2016)

4   "Delivering Good Governance in Local Government - Guidance Notes for Scottish Authorities (CIPFA/SOLACE, 2016)

5   Governance & Risk Committee, 9 October 2017 and 9 April 2018

6   Council Executive, 19 September 2017

Appendices/Attachments: 1. Annual Governance Statement

2. Annual Compliance Statements

3. Code Standards and Assessment

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Date of meeting: 11 September 2018