



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 revised Code has increased the number of governance requirements significantly compared to the previous Code, and that the governance approach requirements of the Code were substantially met in 2010/11.
2. To agree that the items in the current Code identified by the Corporate Governance Working Group as no longer required be deleted for 2011/12.
3. To note that the Corporate Management Team (CMT) has agreed that the current guidance relating to the committee report template should be expanded, to reflect the requirement for committee reports to identify –
 - any changes required to the council's Scheme of Delegation to Officers,
 - implications for implementation of the Single Outcome Agreement, and
 - implications for performance indicators for service delivery.
4. To note that the corporate governance arrangements within the council will continue to be a key strategic priority for the council in the year ahead, particularly having regard to the current financial climate of reduced funding and increased demand for services.
5. To agree that the focus in 2011/12 should be on ensuring that the revised Code is embedded across the whole council and the necessary reviews of governance systems and procedures take place when required.

C. SUMMARY OF IMPLICATIONS

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| 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 Resources - (Financial, Staffing and Property) | Within existing resources. |
| IV Consultations | Working Group of Officers on Corporate Governance, individual Depute Chief Executives and Heads of Service, Internal Audit Manager, Chief Solicitor and the CMT. The P&R PDSP considered this report on 17 June 2011 and agreed that it be submitted to the Council Executive for consideration. |

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.

Evidence of Compliance for 2009/10 –

2. In previous years, Internal Audit conducted an annual review of the council's corporate governance arrangements, taking a different section of the Code each year. All five sections of the council's previous Code were subject to review by Internal Audit with findings that the levels of control were good. Audit work for 2009/10 involved reviewing compliance with the Employee Code of Conduct. This Code is currently being reviewed by Corporate Services (HR) in order to implement Internal Audit's recommendations. In 2010/11, Internal Audit reviewed the process by which the annual statements of compliance listed in paragraph 12 of this report were compiled by the various responsible officers. Internal Audit's recommendations have been implemented in producing these annual statements for this report.

3. In the External Auditor's report on the council's 2009/10 accounts, reported to the council on 26 October 2010, the Auditor reported on the council's governance systems. The assessment identified areas for improvement but overall the results suggested that the council has a sound governance framework. The assurance and improvement plan assessed the council as having no significant risks in this area. Public performance reporting was one area identified for improvement. An action plan has been agreed and implemented.
4. Audit Scotland in their overview report on local government in Scotland for 2010 reported that the current financial context and increasingly varied models of service delivery require an increased focus on governance. The report also made significant reference to the roles and working relationships between councillors and officers, and listed a number of issues upon which they recommended councils canvass views. A survey of councillors and relevant officers is currently under way.
5. West Lothian Council's new Code of Corporate Governance represents a complete revision from the previous Code encompassing not only the means of detailed assessment but the fundamental structure of the Code. The new Code requires assessment in considerably more detail and whereas the old Code comprised of 158 individual items, the new Code has 370 items assessed across three aspects – approach, deployment and review.
6. In the first year of scoring only the approach levels have been assessed due to the significantly greater detail of the new Code. Work has started on extending the assessment to deployment and to review, and evidence of compliance with these factors will be reported in next year's annual report.
7. Each item of the Code has been assessed in turn in respect of the approach aspect using the following scoring structure.

0 – No evidence or anecdotal
1 – Some evidence
2 – Evidence
3 – Clear evidence
4 – Comprehensive evidence

Levels 0, 1 and 2 represent processes which are either new to the Code or / and are subject to a quality improvement programme.
8. The individual scores and supporting evidence for each item are contained in a separate full assessment report available for inspection from Committee Services (contact person Anne Higgins).
9. The percentage score given in the attached summary [Appendix 1] represents the total score assessed per section as a percentage of the maximum possible score for each section. The overall compliance score is 87%.

10. The full assessment report highlights a number of entries in the existing Code which the Corporate Governance Working Group found were no longer applicable for the reasons stated in the Admin. Notes for each such section. It is recommended that these entries are deleted from the current Code for 2011/12.
11. The Corporate Governance Working Group has concluded that the governance approach requirements of the Code were substantially met in 2010/11.

Issues addressed during 2010/11 –

12. A number of specific issues were addressed by the Working Group during 2010/11. These were:-

(1) Risk Management and Business Continuity Planning -

A revised combined policy and strategy is being prepared. The new policy and strategy will take into account recommended practice and guidance from a variety of sources including the Accounts Commission, CIPFA, the Institute of Risk Management and the International Standards Organisation standard ISO 31000: Risk Management –Code of Practice, the British Standards BS25999 :Business Continuity Management and BS ISO/IEC 27001:2005;Information Security Standards. It will also reflect the changes in the council's structure. Work will be undertaken to change working methods and plans to comply with the approved policy and strategy during 2011-12.

(2) Partnership Working -

The guidance on Partnership working approved in June 2010 has been issued to all service management teams. In addition key staff members from each service group have received risk management training relating to partnership and collaborative working to enable them to provide support and guidance to their colleagues.

(3) Committee Report Template and Guidance –

The Corporate Management Team has agreed that the current guidance relating to the committee report template used by services for submitting reports to committee should be expanded to reflect the requirement on authors of these reports to identify any implications for –

- the council's Scheme of Delegation to Officers in order to facilitate the need to keep this Scheme up to date;
- the implementation of the Single Outcome Agreement; and
- the performance indicators for service delivery.

13. The council's Code on Corporate Governance requires an annual statement of compliance to be made by the relevant responsible officer on a number of issues. These are: -

	Subject	Responsible Officer
1.	Freedom of Information (reported on separately)	Chief Legal Officer
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.	Child Protection Arrangements	Head of Corporate Services
13.	Information Security	Head of Corporate Services

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.

14. The statement on compliance with EU procurement regulations for contracts for supplies and services highlights a number of breaches of those rules and confirms that remedial steps are or have been taken.
15. The statement on the council's Whistle Blowing Policy and Procedure confirms that, whilst there were no issues reported under the policy during 2010/11, it would benefit from being further publicised to employees.
16. The Occupational Health and Safety statement highlights that there were seven visits from the Health and Safety Executive during 2010/11 three of which resulted in action plans being developed to ensure that the recommendations made were put in place. One serious incident in 2009, reported in this statement last year, resulted in the council being fined £80,000 in respect of a breach of the health and safety legislation. The need for managers to ensure that the requirements of the council's health and safety policy and procedures are complied with is highlighted.
17. The statement on Child Protection Arrangements highlights that one referral was made to the List of Individuals Disqualified from Working with Children during 2010/11. The protection of children legislation has been extended from March 2011 to include vulnerable adults, and as a result a new Policy and Procedure on Protecting Vulnerable Groups is being developed.
18. The annual statement on compliance with the council's policy on information security is a new statement agreed by the Council Executive in June 2010. It highlights that 239 incidents were recorded in 2010/11, an increase on the previous year's total of 74, mirroring a general industry wide increase in the volume of viruses. None of the incidents required notification to the UK Information Commissioner as all data losses were contained, recovered and internal processes updated as an outcome.

Future Development -

19. Audit Scotland in their report on the council's accounts for 2009/10 stated that -
 - councils are large complex organisations and so good governance is critically important; and
 - governance and accountability issues are likely to be prominent as the council's operating environment and economic position become more difficult and the development

of working in partnership with others increases.

20. The following activities will be pursued by the Corporate Governance Working Group in 2011/12 to ensure governance requirements are given the appropriate attention -

- better awareness of governance issues through improved training and access to the key governance policies and procedures on the council's intranet and web site;
- gathering of both deployment evidence and review evidence across the whole council; and
- identification of the implications for the council's governance policies and procedures of the Bribery Act 2010 which introduced corporate liability for failing to prevent bribery, and preparation of appropriate guidance for services.

E CONCLUSION

1. The council's arrangements for corporate governance have operated well and the approach requirements of the council's revised Code of Corporate Governance have been substantially met in 2010/11.
2. During the year ahead, the focus will be on ensuring that the revised Code is embedded across the whole council and the necessary reviews of governance systems and procedures take place when required.

F BACKGROUND REFERENCES

1. Minutes of the following meetings –
 - Council Executive of 29 June 2010
 - West Lothian Council of 26 October 2010
2. Report by Audit Scotland dated October 2010 to Members and the Controller of Audit on the 2009/10 Audit of the council's accounts.
3. Delivering Good Governance in Local Government Framework issued by CIPFA and SOLACE in 2007 and endorsed by UK and Scottish Ministers.
4. Audit Scotland's overview report, dated January 2011, on local government in Scotland for 2010
5. Council's Code of Corporate Governance showing full assessment of individual scores of compliance and supporting evidence for 2010/11, for each item in the Code.
6. Corporate Governance Working Group Action Notes of meetings (held

on file).

Appendices/Attachments: 2

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Date: 17 June 2011

List of Appendices

Appendix 1 – Summary of percentage scores for corporate governance approach.



Appendix 1
Summary of Percent.

Appendix 2 - Annual statements of compliance on specific issues.



Appendix 2
Individual Stateme..