



Council Executive

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

1 October 2020

A meeting of the **Council Executive** of West Lothian Council will be held within the **Webex Virtual Meeting Room** on **Tuesday 6 October 2020** at **10:00am**.

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Declarations of Interest - Members should declare any financial and non-financial interests they have in the items of business for consideration at the meeting, identifying the relevant agenda item and the nature of their interest
3. Order of Business, including notice of urgent business, declarations of interest in any urgent business and consideration of reports for information.

The Chair will invite members to identify any such reports they wish to have fully considered, which failing they will be taken as read and their recommendations approved.

4. Confirm Draft Minutes of Meeting of Council Executive held on Tuesday 18 August 2020 (herewith).
5. Correspondence

Public Items for Decision

6. Consultation on Proposal for Changes to the National Transfer Scheme (NTS) for Unaccompanied Asylum-Seeking Children (UASC) Response - Report by Head of Social Policy (herewith).

7. Scottish Government Consultation on Raising the Age of Referral to the Principal Reporter - Report by Head of Social Policy (herewith).
8. Review of Standing Orders for the Regulation of Contracts - Report by Head of Corporate Services (herewith).
9. Review of Policy and Procedure for Supporting Attendance at Work - Report by Head of Corporate Services (herewith).
10. Community Council Special Project Grants - Report by Head of Corporate Services (herewith).
11. Family Leave Provisions - Elected Members - Report by Governance Manager and Head of Corporate Services (herewith).
12. Supporting Performance Framework - Report by Head of Corporate Services (herewith).
13. Procurement Arrangements - Direct Award to GL Education Group - Report by Head of Corporate Services (herewith).
14. Parental Bereavement Leave and Pay - Report by Head of Corporate Services (herewith).
15. Consultation Response: Role of Social Security in Scotland's Recovery from Covid-19 - Report by Head of Finance and Property Services (herewith).
16. Proposed 3G Pitch and Changing Facilities in Armadale - Report by Head of Finance and Property Services (herewith).
17. Learning Estate Investment Programme Update - Joint Report by Depute Chief Executive and Head of Finance and Property Services (herewith).
18. 59 Main Street, Blackridge - Proposed Sale to Mr Gary Drummond - Report by Head of Finance and Property Services (herewith).
19. Land at Caputhall Road, Deans Industrial Estate, Livingston - Proposed Sale to CNG Fuels Limited - Report by Head of Finance and Property Services (herewith).
20. Former Pavilion, Whitburn Road, Bathgate - Proposed Sale to Michael Tugman - Report by Head of Finance and Property Services (herewith).
21. Risk Management Policy - Report by Head of Finance and Property Services (herewith).
22. Scottish Government Programme for Government 2020/21 - Report by Head of Finance and Property Services (herewith).
23. 2020/21 General Fund Revenue Budget - Month 5 Monitoring - Report by Head of Finance and Property Services (herewith).

24. 2020/21 General Services Capital Budget - Month 5 Monitoring - Report by Head of Finance and Property Services (herewith).
25. Regulation of Investigatory Powers - Review of Policy Procedure - Report by Deputy Chief Executive (herewith).
26. Covid-19: Public Inspection of Documents - Suspension of Duties - Report by Corporate Governance (herewith).
27. Proposed Changes to Pre-Application Consultation (PAC) Requirements in Planning - Proposed Consultation Response - Report by Head of Planning, Economic Development and Regeneration (herewith).
28. Interim Regional Spatial Strategy for Edinburgh and South East Scotland (iRSS) - Report by Head of Planning, Economic Development and Regeneration (herewith).
29. Planning Guidance: Areas of Built Heritage and Townscape Value - The Shale Miners' Rows - Report by Head of Planning, Economic Development and Regeneration (herewith).
30. Planning Guidance: The Vennel, Linlithgow - Report by Head of Planning, Economic Development and Regeneration (herewith)
31. Scottish Government Consultation: Scottish Planning Policy and Housing - Report by Head of Planning, Economic Development and Regeneration (herewith).
32. Supplementary Guidance: Developer Obligations for General Infrastructure for Site Delivery (Excluding Transport and Education Infrastructure, Cemetery and Public Art Provision) - Report by Head of Planning, Economic Development and Regeneration (herewith).
33. Developer Contributions Towards Town and Village Improvements in Fauldhouse and Whitburn - Report by Head of Planning, Economic Development and Regeneration (herewith).
34. Supplementary Agreement to the Minute of Agreement for the Edinburgh and South East Scotland Region Joint Committee - Report by Head of Planning, Economic Development and Regeneration (herewith).
35. Third Sector Partnership and Voluntary Organisations Budget 2021/22 - Report by Head of Planning, Economic Development and Regeneration (herewith).
36. Timetable of Meetings 2020/21 - Report by Chief Executive
37. Cycling, Walking and Safe Streets - New Footway Schemes and Assessment of Pedestrian Crossings - Report by Head of Operational Services (herewith).

DATA LABEL: Public

38. Riverlife: Almond & Avon - Almond Barriers Project Mid Calder Weir - Report by Head of Operational Services (herewith).
39. 2020/21 Winter Plan - Roads and Transportation - Report by Head of Operational Services (herewith).
40. 2019/20 Annual Return on the Charter - Report by Head of Housing, Customer and Building Services (herewith).
41. 2020/21 Housing Revenue Account - Month 5 Monitoring - Report by Depute Chief Executive (herewith).
42. 2020/21 Housing Capital Report - Month 5 Monitoring - Report by Depute Chief Executive (herewith).
43. Kick Start - Report by Head of Planning, Economic Development and Regeneration (herewith).

Public Items for Information

44. Local Government Benchmarking Framework - Report by Head of Corporate Services (herewith).
45. Note Action taken in terms of Standing Order 31
 - (a) Free School Meals - Holiday Provision - Report by Depute Chief Executive (herewith).
 - (b) Local Bus Provision - Breich Valley - Report by Head of Operational Services (herewith).

Private Items for Decision

46. Coronavirus (Scotland) (NO2) Act 2020 - Powers to Intervene in Care Provisions - Quarterly Update - Report by Head of Social Policy/Chief Social Worker

NOTE **For further information please contact Eileen Rollo on 01506 281621 or email eileen.rollo@westlothian.gov.uk**

MINUTE of MEETING of the COUNCIL EXECUTIVE held within WEBEX VIRTUAL MEETING ROOM, on 18 AUGUST 2020.

Present – Councillors Lawrence Fitzpatrick (Chair), Kirsteen Sullivan, Frank Anderson, Janet Campbell, Harry Cartmill, Tom Conn, David Dodds, Peter Heggie, Charles Kennedy, Cathy Muldoon, Damian Timson, Andrew McGuire substituting for George Paul

Apologies – Councillor Chris Horne, George Paul

1. DECLARATIONS OF INTEREST

Agenda Item 6 – Petition - Traffic Calming Measures – Falside Bathgate – Councillor Harry Cartmill declared an interest in that he had spoken publicly in favour of the petition and would take no part in the consideration or decision of this item of business.

Agenda Item 10 – Petition – Local Bus Provision Bathgate Town Centre Service – Councillor Harry Cartmill declared an interest in that he had spoken publicly in favour of the petition and would take no part in the consideration or decision of this item of business.

Agenda Item 25 – City of Edinburgh Council – Reform of Transport Arm's Length Organisations – Councillor Cathy Muldoon declared an interest in that she was a council appointed member of Sustran and Lothian Buses Regional Sub-Committee.

Agenda Item 24 – 2020/21 General Fund Revenue Budget – Month 3 Monitoring Report – Councillor Tom Conn declared an interest in that he was a council appointed board member of West Lothian Leisure.

Agenda Item 25 – 2020/21 General Fund Revenue Budget – Month 3 Monitoring Report – Councillor Frank Anderson declared a non-financial interest in that he was the Chair of Open Door and Craigshill Good Neighbour Network.

2. ORDER OF BUSINESS

The Council Executive agreed to the meeting being Webcast.

The Council Executive agreed that in accordance with Standing Order 8(3) that all items of business for information were to be taken as read and their recommendations noted without further consideration.

3. MINUTE

The Council Executive confirmed the Minute of its Meeting held on 23 June 2020 as a correct record. The Minute was thereafter signed by the Chair.

4. CORRESPONDENCE

The Council Executive noted the correspondence

5. PETITION - TRAFFIC CALMING MEASURE, FALSIDE, BATHGATE

Having previously declared an interest Councillor Harry Cartmill left the meeting during consideration of this item of business.

The Council Executive considered a petition by the residents of Falside with regard to traffic calming measures.

Decision

To refer the petition to the Environment Policy Development a Scrutiny Panel for consideration and to report back to a future meeting of Council Executive.

6. COMMUNITY COUNCIL SPECIAL PROJECTS GRANT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services regarding an application for a special project grant which had been received from Torphichen Community Council.

The report recommended that the Council Executive determine the valid application received from Torphichen Community Council as detailed in the appendix to the report.

Decision

To approve the terms of the report and approve the application.

7. PROCUREMENT APPROVAL REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to enter into contracts where committee authorisation was required by Standing Orders.

The report recommended that Council Executive approve:

1. The extension of the contract with Aligned Assets to January 2021 to upgrade the iManage and iExchange software to the latest version.
2. A direct award from Scottish Procurement Office Equipment Framework SP-016-013 to Konica Minolta Business Solutions (UK to 30 June 2023, for Multifunctional devices.

Decision

To approve the terms of the report.

8. DESIGNATION OF LOCAL SENIOR OFFICER

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive advising of the proposed appointment of a new Scottish Fire and Rescue Service Local Senior Officer (LSO) for the West Lothian Council area following David Lockhart's promotion to Head of Service Delivery for the East of Scotland.

The report recommended that the Council Executive agrees to support the appointment of Area Commander David Sharp as the LSO for the West Lothian Council Area.

Decision

To approve the terms of the report and to congratulate David Lockhart on his promotion to Head of Service Delivery for the East of Scotland.

9. PETITION - LOCAL BUS PROVISION BATHGATE TOWN SERVICE

Having previously declared an interest Councillor Harry Cartmill left the meeting during consideration of this item of business.

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services submitted by the Mental Health Advocacy Project and residents of Belvedere and Easton regarding the reduction of evening journeys of the Bathgate Town Service.

The report recommended that the Council Executive:

1. Note the outcome of the passenger engagement exercise;
2. Note that an amended service could be provided within current budgeted resources;
3. Note the timescales for implementation;
4. Agree to amend the LBS 5 service to reflect the outcome of the passenger engagement exercise – option 1; and
5. Instruct officers to progress the necessary application with the Officer of the Traffic Commissioner.

Decision

1. To approve the terms of the report.

2. To note the Chief Executive would instruct officers to re-engage with the community on the Broxburn/Uphall Town Centre Bus Service.

10. PREPARATIONS FOR LIVINGSTON SOUTH BY-ELECTION

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive advising of the arrangements being made to deliver the Livingston South By-Election.

The report recommended that the Council Executive:

1. Note the arrangements being made; and
2. Agree a revised polling scheme for the by-election as outlined in paragraph D2, where changes had been recommended to minimise disruption to the education of young people.

The Chief Executive advised that due to a number of difficulties holding the by-election on 1 October 2020, it would now be held on 5 November 2020.

Decision

To approve the terms of the report and to note the by-election would be held on 5 November 2020.

11. COVID-19 RECOVERY AND RENEWAL PLAN

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive providing an update on plans for the recovery and renewal of council services, in accordance with the latest guidance published by the Scottish Government around the gradual lifting of Covid-19 lockdown restrictions.

The report recommended that Council Executive:

1. Note the update on the council's response to the Covid-19 pandemic;
2. Note the council wide Covid-19 Recovery and Renewal Plan, as set out in Appendix 1 of the report; and
3. Agree that further updates should be provided to Council Executive on the Covid-19 Recovery and Renewal Plan.

Decision

To approve the terms of the report.

12. CONSULTATION RESPONSE: PROPOSED RIGHT TO FOOD (SCOTLAND) BILL

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services advising of the parliamentary consultation on the proposed Right to Food (Scotland) Bill and to agree a response to be returned by 15th September 2020.

The report recommended that Council Executive:

1. Note the contents of the proposed consultation response at appendix 1; and
2. Approve the proposed consultation response to be submitted on behalf of West Lothian Council.

Decision

To approve the terms of the report.

13. WORKING PARTNERSHIP INITIATIVE - GREENDYKES BING

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of a request for the council to take part in a partnership initiative to address issues of off-road vehicles and other anti-social behaviour at Greendykes Bing which is located between Broxburn and Winchburgh.

The report recommended that the Council Executive:

1. Note the issues raised locally in relation to off-road vehicles and other anti-social behaviour at Greendykes Bing and the approach from the Acting Chair of a local group inviting the council to participate in a partnership initiative to address those issues;
2. Agree in principle that the council should participate in the initiative, subject to clarification of the extent of the problems, its remit, purposes and the council representation the group considered appropriate; and
3. Agree that the Head of Planning, Economic Development and Regeneration should act as lead officer for the interface between the group and the council and should report again to Council Executive when these matters have been established.

Motion

To approve the terms of the report.

- Moved by Councillor Lawrence Fitzpatrick and seconded by Councillor Kirsteen Sullivan

Amendment

To agree the report and that all 4 ward members are appointed as participating members of the group

- Moved by Councillor Frank Anderson and seconded by Councillor Janet Campbell

A roll call vote was taken. The result was as follows :-

Motion

Harry Cartmill
Tom Conn
David Dodds
Lawrence Fitzpatrick
Peter Heggie
Charles Kennedy
Andrew McGuire
Cathy Muldoon
Kirsteen Sullivan
Damian Timson

Amendment

Frank Anderson
Janet Campbell

Decision

Following a vote the motion was successful by 10 votes to 2 and it was agreed accordingly.

14. CALL FOR EVIDENCE RESPONSE - DOGS (PROTECTION OF LIVESTOCK) (AMENDMENT) (SCOTLAND) BILL

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of the call for evidence from the Scottish Parliament's Rural Economy and Connectivity Committee regarding the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill, and seeking approval for the proposed response from West Lothian Council.

The report recommended that the Council Executive:

1. Note the content of the report and proposed response to the call for evidence detailed in Appendix 1 of the report; and
2. Approve the proposed response to the call for evidence.

Decision

To approve the terms of the report.

15 PLANNING GUIDANCE - HOUSE EXTENSION & ALTERATION DESIGN GUIDE

The Council Executive considered a report (copies of which had been circulated (by the Head of Planning, Economic Development and Regeneration advising of the outcome of a consultation on draft Planning Guidance entitled “House Extension & Alteration Design Guide” and to seek approval of the guidance.

The report recommended that the Council Executive:

1. Note the comments received on the draft guidance following consultation;
2. Agree the responses to the comments received during consultation on the draft Planning Guidance (Appendix1) and which was cross referenced with Appendix 3, a track change version of the guidance identifying where revisions proposed by consultees had been made;
3. Approve the content of the Planning Guidance “House Extension & Alteration Design Guide” (Appendix 2);
4. Approve the “Screening Report” (Appendix 4) which was to be submitted to the SEA Gateway and the Consultation Authorities and which set out the council’s justification that the guidance was exempted from additional Strategic Environmental Assessment because it would not in itself have any significant environmental effects; and
5. Delegate authority to the Head of Planning, Economic Development and Regeneration to timeously issue a “Screening Determination” in the event that the SEA Gateway and the Consultation Authorities confirm their agreement that the guidance would not in itself have any significant environmental effects, and to report the outcome of the SEA screening process to a future meeting of the Council Executive for information.

Decision

To approve the terms of the report.

16 6 AND 7 NAIRN ROAD, DEANS INDUSTRIAL ESTATE, LIVINGSTON - PROPOSED SALE TO H+H DEVELOPMENTS LIMITED

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the sale of 6 and 7 Nairn Road, Livingston to H+H Developments Limited for £555,555 (Five Hundred and Fifty-Five Thousand Five Hundred and Fifty-Five Pounds).

The report recommended that the Council Executive:

1. Approve the sale of 6 and 7 Nairn Road, Livingston to H+H Developments Limited for £555,555 subject to terms and

conditions as set out in the report; and

2. Authorise the Head of Finance and Property Services to carry out further negotiations with the purchaser, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

Decision

To approve the terms of the report.

17. 48 MUIRFIELD WAY, DEANS LIVINGSTON - PROPOSED SALE TO LIVINGSTON HOMEREACH LIMITED

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the sale of 48 Muirfield Way, Deans, Livingston to Livingston Homereach Limited for the sum of £140,000 (One Hundred and Forty Thousand Pounds).

The report recommended that the Council Executive:

1. Approve the sale of 48 Muirfield Way, Deans, Livingston to Livingston Homereach Limited for the sum of £140,000 subject to terms and conditions set out in the report; and
2. Authorise the Head of Finance and Property Services to carry out any further negotiations with the purchaser in respect of the sale of the property, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

Decision

To approve the terms of the report.

18. UNIT 1 - 8, OAKBANK PARKWAY, LIVINGSTON - PROPOSED EXTENSION OF GROUND LEASES TO MALT PORTFOLIO GP LLP

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the extension of the ground leases for 1-8 Oakbank Park Way, Livingston to Malt Portfolio GP LLP.

The report recommended that the Council Executive:

1. Approve the extension of the ground leases of Units 1-9 Oakbank Park Way, Livingston Malt Portfolio GP LLP for the sum of £5,758 (Five thousand seven hundred and fifty-eight pounds) subject to the terms and conditions set out in the report; and
2. Agree to provide delegated authority to the Head of Finance and

Property Services to carry out any further negotiations and conclude the extension of the leases for the property, on the basis that any revised terms and conditions still represented the achievement of best value for the council.

19. PROPOSED 3G PITCH AND CHANGING FACILITIES AT WATSON PARK, NORTH STREET, ARMADALE

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on proposals to deliver a new synthetic 3G sports pitch and changing facilities at Watson Park, North Street, Armadale.

The report recommended that the Council Executive:

1. Note that adverse ground conditions had rendered the proposed location of a new synthetic 3G sports pitch and changing facilities at Watson Park, North Street, Armadale financially unviable;
2. Note that an options appraisal had been undertaken to identify potential alternative council-owned locations within Armadale for a new synthetic 3G sports pitch and changing facilities and that these options were currently being discussed by officers with the end-users of the new facilities; and
3. Agree that a further report should be presented to the Council Executive on 6 October 2020 to consider the delivery of the new facilities at an alternative council-owned location in Armadale.

Decision

To approve the terms of the report.

20. WINCHBURGH CORE DEVELOPMENT AREA - SCHOOL ESTATE INVESTMENT UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services and Head of Education (Learning, Policy and Resources) providing an update on the progress made in relation to the delivery of new school investment as part of Winchburgh Core Development Area.

The report recommended that the Council Executive:

1. Note that the project successfully achieved financial close on 28 July 2020 at a cost of £60.742 million which was within the approved budget of £60.919 million;
2. Note the project timescales for commencement and completion of main construction works together with the proposed school opening dates; and

3. Note that the construction costs and timescales for delivery reflected the current risks associated with Covid-19 and changes to construction operating procedures to ensure social distancing.

Decision

To approve the terms of the report.

21. ORGANISATIONAL DUTY OF CANDOUR ANNUAL REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy providing an update on the annual Duty of Candour report. The report detailed the number of incidents to which the Duty of Candour procedure applied in relation to the council's Social Work services.

The report recommended that the Council Executive:

1. Approve the publication of the annual report for 2019/20; and
2. Note that there had been no incidents which triggered requirements under the Duty.

Decision

To approve the terms of the report.

22. 2020/21 NON-RESIDENTIAL CONTRIBUTION

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy providing an update on the position in relation to Non-Residential Social Care Contributions in the current financial year in the light of the Covid-19 pandemic.

The report recommended that the Council Executive:

1. Note that due to the implications anticipated for the delivery of care arising from the Covid-19 pandemic the issue of invoices for and the collection of Non-Residential Social Care Contributions from 1 April 2020 were postponed pending a resumption of full service provision and a committee decision concerning charging and collection;
2. Note that taking account of the work undertaken to resume normal delivery of care services it was proposed to issue invoices in September requiring service users to recommence their contributions to care costs from 1 October 2020; and
3. Agree that invoices for the period 30 September 2020 should not be issued and that there should be no requirement for services users to contribute retrospectively for care that they had received in

the period from 1 April 2020 to 30 September 2020.

Decision

To approve the terms of the report.

23. 2020/21 GENERAL FUND REVENUE BUDGET - MONTH 3 MONITORING REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update of the General Fund revenue budget monitoring exercise at month 3 and set out potential options to manage anticipated pressures, which were mainly as a result of the Covid-19 pandemic. An update on recurring budget pressures and delivery of approved budget savings for the period 2020/21 to 2022/23 was also provided.

The report recommended that the Council Executive:

1. Note the outcome of the month 3 risk-based monitoring exercise, which was a projected overspend of £4.334 million, after accounting for all currently confirmed funding from Scottish Government;
2. Note the council awaited confirmation of further funding from Scottish Government in relation to social care costs and the return to schools;
3. Note the potential actions identified in the report to manage and mitigate the financial pressures outlined in the report;
4. Note the recurring pressures of £974,000, and the updates from relevant Heads of Service on progress against agreed actions to mitigate these pressures;
5. Agree that the Head of Finance and Property Services should provide a letter of comfort to West Lothian Leisure covering financial year 2020/21 only, and incorporating the wording and context set out in section D.2.3 of the report;
6. Note the good progress in the delivery of approved budget savings for 2020/21 to 2022/23;
7. Agree that Heads of Service take all management action necessary to ensure, wherever possible, that 2020/21 expenditure is managed within budgeted resources;
8. Agree the £994,000 over and above the minimum approved General Fund Balance £2 million should be ear-marked for managing the projected overspend;
9. Agree that officers should continue to engage with Scottish

Government and COSLA around further government funding for the council so the significant additional costs being incurred in relation to Covid-19 were fully funded; and

10. Agree that the additional resources announced for food funding of £444,000 were used to provide support to vulnerable groups over the remainder of the financial year and agree that £505,000 funding support for Free School Meals over the summer holidays should be allocated against the cost of delivering this programme, which the council had already agreed to deliver, with the £505,000 balance held as a contingency to cover potential food related costs over the remainder of 2020/21.

Motion

To approve the terms of the report.

- Moved by Councillor Lawrence Fitzpatrick and seconded by Councillor Kirsteen Sullivan.

Amendment

To approve recommendations 1, 2, 3, 4, 6, 7, 8, 9, to remove recommendation 5 and amend recommendation 10 as follows:

“Agree that the additional resources announced for food funding of £444,000 were used to provide support to vulnerable groups over the remainder of the financial year and agree that £505,000 funding support for Free School Meals over the summer holidays should be allocated against the cost of delivering this programme, which the council had already agreed to deliver, with the £505,000 balance used to provide support to vulnerable groups for the rest of the financial year.

- Moved by Councillor Frank Anderson and seconded by Councillor Janet Campbell.

A roll call vote was taken. The result was as follows: -

Motion

Harry Cartmill
Tom Conn
David Dodds
Lawrence Fitzpatrick
Peter Heggie
Charles Kennedy
Andrew McGuire
Cathy Muldoon
Kirsteen Sullivan
Damian Timson

Amendment

Frank Anderson
Janet Campbell

Decision

Following a vote, the motion was successful by 10 votes to 2 and it was agreed accordingly.

24. CITY OF EDINBURGH COUNCIL - REFORM OF TRANSPORT ARM'S LENGTH ORGANISATIONS

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services advising that the City of Edinburgh Council (CEC) had commenced a review of the governance arrangement for its transport ALEOs and to agree responses to five key questions CEC had posed in its engagement letter.

The report recommended that the Council Executive:

1. Note CEC's intention to reform its transport arm's length organisations and the commencement of engagement with Lothian Buses minority shareholders on this matter;
2. Agree the response to the five key questions, asked in the CEC engagement letter, as outlined in section D.3 of the report; and
3. Instructs the Head of Operational Services to continue engagement with CEC and to provide Council Executive with a further report to seek authority to progress any outcomes from these discussions.

Decision

To approve the terms of the report.

25. EQUALITY AND DIVERSITY

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services providing information on the process taken to identify and mitigate against the impact of Covid-19 on protected characteristics, the council's response to Black Lives Matter movement and the development of a new Outcomes and Mainstreaming Framework for 2021/2025.

The report recommended that the Council Executive:

1. Note the council's mechanism to consider the potential equality impacts of Covid-19;
2. Note the council's commitment to working with key stakeholders in response to the Black Lives Matter movement; and
3. Agree the suggested approach to the development of the Equality and Diversity Outcome 2021-2025.

Decision

To approve the terms of the report.

26. DISCRETIONARY NON-DOMESTIC RATES RELIEF SCHEME

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval to amend the current Discretionary Non-Domestic Rates Relief Scheme.

The report recommended that the Council Executive agree the proposed amendment to the current Discretionary Non-Domestic Rates Relief Scheme to allow a 20% “top up” relief for the Bridge Community Project.

Decision

To approve the terms of the report.

27. EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT (INCORPORATION) (SCOTLAND) BILL

The Council Executive considered a report (copies of which had been circulated by the Governance Manager on the response to a pre-legislative scrutiny call for views on a Member’s Bill seeking to incorporate the European Charter of Local Self-Government into Scots Law.

The report recommended that the Council Executive:

1. Note that the European Charter of Local Self Government (Incorporation) (Scotland) Bill had been introduced to the Scottish Parliament and that the Local Government and Communities Committee had called for views as part of its pre-legislative scrutiny;
2. Note that the council previously expressed its support for incorporation when responding to a consultation by the MSP seeking to introduce the Bill (Council Executive, 11 September 2018); and
3. Note the specific questions asked and the proposed responses, and to approve them for submission to the Committee by the deadline of 17 September 2020 (Appendix 1).

Decision

To approve the terms of the report.

28. CORPORATE GOVERNANCE ANNUAL REPORT

The Council Executive considered a report (copies of which had been circulated) by the Governance Manager providing assurance in relation to compliance with the standards in the council’s Code of Corporate Governance and related governance matters.

The report recommended that the Council Executive:

1. Note the terms of the annual governance statement approved at Governance and Risk Committee on 22 June 2020 (appendix 1) and in particular the assurance that although there were areas where improvement could be made, the council and the West Lothian community could be assured that the council's corporate governance standards had been substantially met in 2019/20;
2. Note that in approving the annual governance statement Governance and Risk Committee considered the annual compliance statements provided by senior officers, the fully populated Local Code of Corporate Governance, and a progress report on a running list of governance issues previously identified; and
3. Note that the governance issues identified in this year's annual governance statement would be added to the list considered by Governance and Risk Committee and that interim progress reports would be made to that committee a part of its work plan.

Decision

To note the terms of the report.

29. ANNUAL PROCUREMENT REPORT 1 APRIL TO 31 MARCH 2020

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services providing the Annual Procurement report for the period 1 April 2019 to 31 March 2020 attached at appendix 1.

The report recommended that the Council Executive note the terms of the report.

Decision

To note the terms of the report.

30. COMMUNITY COUNCIL GRANTS 2019/20

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the administration and special project grants which were paid to community councils during financial year 1 April 2019 to 31 March 2020.

The report recommended that the Council Executive note the payments made from the Community Council administration and special project grants budgets during financial year 2019/20

Decision

To note the terms of the report.

31. COUNCILLORS' LOCAL DISBURSEMENT FUND

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the expenditure from the Councillors' Local Disbursement Fund for the period 1 April 2019 to 31 March 2020.

The report recommended that the Council Executive note the expenditure from the Councillors' Local Disbursement Fund for the period 1 April 2019 to March 2020.

Decision

To note the terms of the report.

32. RIGHT OF PRE-EMPTION, LAND FORMING PART OF HERMAND ESTATE, WEST CALDER

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services advising of the council's right of pre-emption over land forming part of Hermand Estate, West Calder and seeking approval for the acquisition of this land.

The report recommended that the Council Executive note and approve a number of recommendations contained in the report.

Decision

To approve the terms of the report.

33. FISHERY AND LOCH AT BEECRAIGS COUNTRY PARK, LINLITHGOW

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services.

The Council Executive considered the recommendation of the report.

Decision

To approve the terms of the report.

34. MILL CENTRE, BLACKBURN

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the current position in relation to the Mill Centre, Blackburn.

The report recommended that the Council Executive approve the recommendations of the report.

Decision

To approve the terms of the report.

Leas Phrìomh Mhinistear agus Rùnaire a' Chaibineit
airson Foghlam agus Sgilean



Scottish Government
Riaghaltas na h-Alba
gov.scot

Deputy First Minister and Cabinet Secretary for
Education and Skills
John Swinney BPA/MSP

T : 0131-244 4000
E : dfmcse@gov.scot

Graham Hope
morgan.hewitt@westlothian.gov.uk

Our Reference: 202000064698

Your Reference: Re-Opening of Schools and Early Learning and Childcare

21 August 2020

Dear Graham,

Thank you for your letter of 30 June 2020 regarding the reopening of schools.

I commend the work of local authorities, schools and the early learning and childcare sector across Scotland for the way in which they have responded to the COVID-19 outbreak. They have worked hard to protect the interests of our children and young people – through our childcare hubs, ensuring ongoing provision of free school meals, delivering remote learning, and planning for the reopening of schools in August.

As you point out, in my statement to Parliament on 23 June, I announced that the Scottish Government would invest an additional £100m to support the return to school.

On 30 July, we confirmed that schools would return full time in August. On the same day, we published new guidance that clearly sets out the approach that must be taken to a safe reopening of our schools, including a number of specific risk-mitigation measures that will need to be introduced in all schools in order that they provide a safe environment for staff and pupils. Also, on 30 July it was also announced that we are making a total additional investment of £135 million to ensure that our children, young people and staff can be welcomed safely back into schools. This includes £75 million for additional teachers into Scotland's classrooms in the new school year, to support education recovery and

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



INVESTORS
IN PEOPLE

Accredited
Until 2020



accelerate progress with our aim of excellence and equity in Scottish education. It comes on top of the £30m we have already announced to tackle digital inclusion amongst children and young people - £25m of which will go to work with schools on the provision of digital devices to enable pupils to learn online.

The Scottish Government is committed to working in partnership with local authorities in preparing to reopen schools and has already invested heavily in supporting them in the emergency response and the recovery phases of tackling COVID-19 to ensure they are able to deliver the childcare and education services required.

The COVID-19 Education Recovery Group - which brings together local authorities, teachers' representatives, parent bodies and trades unions - continues to meet to consider the key factors in preparing for the reopening of schools and early learning and childcare, and officials are working closely with COSLA and other partners to determine the costs associated with this.

Thank you for taking the time to write.

Yours sincerely,



JOHN SWINNEY

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



INVESTORS
IN PEOPLE

Accredited
Until 2020



DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

CONSULTATION ON PROPOSAL FOR CHANGES TO THE NATIONAL TRANSFER SCHEME (NTS) FOR UNACCOMPANIED ASYLUM-SEEKING CHILDREN (UASC) RESPONSE

REPORT BY HEAD OF SOCIAL POLICY

A. PURPOSE OF REPORT

The purpose of the report is to inform the Council Executive of the Home Office consultation on the proposal for changes to the National Transfer Scheme for Unaccompanied Asylum-Seeking Children and welcome their views and comments.

B. RECOMMENDATION

It is recommended that the Council Executive considers the draft response to the consultation and agrees its submission to the Home Office.

C. SUMMARY OF IMPLICATIONS

I Council Values	<ul style="list-style-type: none">– Focusing on our customers' needs– Being honest, open and accountable– Providing equality of opportunity
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<ul style="list-style-type: none">- Social Work (Scotland) Act 1968- Getting it right for every child (GIRFEC)- Immigration Act 2016- The Children's Act 1989
III Implications for Scheme of Delegations to Officers	N/A
IV Impact on performance and performance Indicators	N/A
V Relevance to Single Outcome Agreement	Making our communities safer
VI Resources - (Financial, Staffing and Property)	N/A
VII Consideration at PDSP	The draft response was considered by the Social Policy PDSP on 18 th September and the content was supported.
VIII Other consultations	Senior Manager Social Policy, FMU

D. TERMS OF REPORT

Background

The National Transfer Scheme (NTS) was introduced in July 2016 to try to achieve a more balanced distribution of Unaccompanied Asylum-Seeking Children (UASC) across the UK. Chris Philip MP, Home Office, Parliamentary Under-Secretary of State reported in a letter sent to all UK local authorities that the scheme was initially successful, with nearly 900 voluntary NTS transfers taking place between July 2016 and December 2018. However, after that point, the scheme slowed significantly and is now no longer working as intended.

Under the current NTS arrangements, when a UASC arrives in a region which already has the agreed criteria of amounting to 0.07% of its child population then the child can be transferred into the NTS. According to the anonymous data detailed in Appendix 3 the percentages of UASC in the 178 UK Local Authorities ranges from 8.0% to 0.0%. These statistics reflect the inequality in the sharing of responsibility for UASC between all UK Local Authorities.

Consultation

This consultation is asking for views on measures required to ensure that all local authorities have an equitable and fair share of supporting vulnerable unaccompanied asylum-seeking children.

Key objective of the proposals

The objective of the NTS has always been that the best interests of children should always be a primary consideration. These proposals seek to increase the speed and certainty of transfers, ensuring that children are cared for in a sustainable placement as quickly as possible and reducing the risk that children establish links in the entry authority or find transfer disruptive.

Principles:

- **Increase voluntary participation in the NTS** - The overall objective of these proposals is to increase voluntary participation in the NTS so that there is a more equitable distribution of UASC throughout the UK.
- **Remove operational barriers for local authorities** – Make the transfer operations more efficient and increase predictability allowing for greater planning when extending capability for caring for UASC.
- **Increase transparency** - Establish a comprehensive data package ensuring the effective operation of the scheme and enhancing confidence that the scheme is operating fairly.

The main elements of the proposed changes are:

1. The development of a new national rota – 12 ‘regions’ have been identified of which Scotland as a whole is one. Proposal is that each region will take turn as the ‘duty receiving authority’.
2. The introduction of weighing factors – In order to make a national rota as fair and equitable as possible, it is proposed to apply a weighting system, to take wider pressures into consideration.
3. Access to the NTS - To support the predictability of the National Rota, it is proposed that the threshold to make referrals into the National Transfer Scheme should be that a local authority is supporting UASC at over 0.07% of their general child population, irrespective of whether their region is.

4. Transport costs and practicalities -The introduction of a National Rota will mean that the potential journeys are going to be longer and more complex in some cases.
5. Age assessment – While there are no changes to where responsibility for undertaking age assessments lies, in some cases, the entry local authority may agree to conduct the case law compliant age assessment before transfer has been agreed
6. Escalation procedure - In order to ensure confidence in the system, a robust escalation procedure is required that addresses issues both prior to any transfer as well as any issues that may emerge after the transfer has taken place. Such a system will also allow learning to be shared across all participating authorities and agencies.
7. Sharing expertise, building experience and developing capacity - Ensuring that receiving areas are in a position to meet the needs of UASC is an issue for all authorities both in terms of the availability of placements and the capability to meet the needs of UASC, including cultural and religious needs.
8. Children transferred or resettled from overseas - Previously, placements available through the NTS have been prioritised for children arriving from overseas under both Section 67 of the Immigration Act (Dubs Amendment) and the Vulnerable Children's Resettlement Scheme. Should there be a future need for placements from children from overseas, these needs will be fed into the National Rota alongside those arriving spontaneously.
9. Data management and governance – it is proposed that that governance of the National Transfer Scheme remains with the UASC Governance Board.

E. CONCLUSION

The draft response to the consultation notes that West Lothian Council supports the objectives of the NTS and agrees that the best interest of children should always be the primary consideration. However, we believe that participation in the scheme should be a mandatory rather than on a voluntary basis as this would ensure that allocation through the scheme is fair and equitable across all UK Local Authorities. Clarification is also sought on the longer-term financial support which would be available to Local Authorities supporting these young people

F. BACKGROUND REFERENCES

Appendices/Attachments:	Appendix 1	The draft national transfer scheme for unaccompanied asylum-seeking children consultation response
	Appendix 2	Proposal Document
	Appendix 3	UASC - data

Contact Person: Susan McKenzie
Senior Manager, Children's Services
Susan.McKenzie@westlothian.gov.uk
01506 281347
Jo Macpherson, Head of Social Policy

Date of Meeting: 6/10/2020

National Transfer Scheme consultation questionnaire proforma (local authorities)

This questionnaire should be considered alongside the Ministerial letter of 28 August 2020 with regard to the attached proposal paper. Please expand the boxes to answer.

Please return your completed questionnaire to
NTSconsultation@homeoffice.gov.uk by 30 September

1. What is your feedback on the proposal outlined at Annex A?

West Lothian Council supports the objective of the NTS and agreed that the best interest of children should always be the primary consideration. However we believe that participation in the scheme should be a mandatory rather than on a voluntary basis as this would ensure that allocation through the scheme is fair and equitable across all UK Local Authorities.

Our experience shows us that the financial implications associated with providing support to these young people are significantly higher than that provided within the current scheme or indeed in the new proposal. We recognise that the costs in the initial period of support are high and although this enhanced cost may reduce following the local risk assessment there is still a significant cost associated with providing appropriate support to meet the needs of these young people as they transition to adults.

We would therefore seek further clarification on the longer term financial support which would be available to Local Authorities supporting these young people

2a. It remains our clear preference that participation in the NTS is on a voluntary basis. How likely is it that your local authority would participate in a rota based NTS as outlined at Annex A?

*As in the response to question 1 above West Lothian Council is of the opinion that this scheme should be mandatory for all LA's and would only 'volunteer' if there is a guarantee that **all** local authorities have agreed to a voluntary participation.*

Therefore, the answer to this question is that West Lothian Council would be unlikely to participate in a rota based NTS unless all LA's are involved in the scheme. Unless all local authorities participate, the financial burden on already stretched resources would become even more challenging.

2b. If unlikely, please explain why not and what barriers to participation remain.

As outlined in question 2a above, West Lothian Council feels that unless there is full compliance from all UK LA's then the scheme is at risk of becoming unfair and vulnerable to inequitable distribution of responsibility and will result in a continuation of the system not working effectively.

3. Should efforts to increase participation on a voluntary basis fail, it may be necessary to exercise the provisions of the Immigration Act 2016 to mandate transfers under the NTS.

This could operate either as a permanent replacement to the voluntary NTS as the primary mechanism for transfers or deployed only when required by exceptional circumstances.

While a mandatory scheme is not our preference, we would be grateful for your views on a potential mandatory approach to transfers if participation in the voluntary scheme does not achieve a more equal distribution of UASC?

As in the answers above, West Lothian Council recommends that this scheme is mandatory and not on a voluntary basis which has historically proven not to be fair and equitable and therefore risks the best wellbeing of the child.

As is the case with all authorities West Lothian Council is operating with limited financial resources with a requirement to make ongoing savings to achieve a balanced budget position. It is anticipated that participation in this scheme will create an additional cost pressure unless funding is increased. It will be particularly unfair if this burden is not spread evenly across all authorities in the UK.

4. The threshold at which a Local Authority can make referrals to the NTS is currently reached when it is supporting UASC at, or above, 0.07% of their general child population. This threshold is also used to determine the rate for additional Home Office funding to Local Authorities for UASC in their care.

What are your views on the current threshold? For example, should the 0.07% also include the number of former UASC care leavers within a local authority or be adjusted in some other way?

West Lothian has no particular view on the current threshold level. Further analysis would be needed to understand how this would affect the quota levels suggested in the proposal.

5. Who do you think is best placed to run a voluntary rota based NTS? The Home Office (as now) or someone else? Please give details.

West Lothian Council would recommend an independent body that is not operated by the Home Office but has experience and knowledge of legislations and processes to run the NTS scheme on both a national and regional basis. These may not be the same body.

6. Do you have any other suggestions on how the NTS could be improved?

All noted above

Proposal for Changes to the National Transfer Scheme (NTS) for Unaccompanied Asylum-Seeking Children (UASC)

Key objective of the proposals

- **Ensure the NTS operates in the best interests of the child** –The objective of the NTS has always been that the best interests of children should always be a primary consideration. These proposals seek to increase the speed and certainty of transfers, ensuring that children are cared for in a sustainable placement as quickly as possible and reducing the risk that children establish links in the entry authority or find transfer disruptive.

Principles

- **Increase voluntary participation in the NTS** - The overall objective of these proposals is to increase voluntary participation in the NTS so that there is a more equitable distribution of UASC throughout the UK.
- **Remove operational barriers for local authorities** – Make the transfer operations more efficient and increase predictability allowing for greater planning when extending capability for caring for UASC.
- **Increase transparency** - Establish a comprehensive data package ensuring the effective operation of the scheme and enhancing confidence that the scheme is operating fairly.

The main elements of the proposed changes:

1. A new national rota

Under the current arrangements, when a UASC arrives in a region which already has UASC amounting to over 0.07% of its child population, that child can be referred into the NTS. The NTS team in the Home Office then asks all local authorities if they can offer a placement for that UASC. In contrast, the local authority where the UASC arrives has to find a placement immediately, regardless of capacity.

We are proposing to establish a national rota in which regions will take it in turns as the duty receiving authority. The Home Office will allocate children to the regional coordinator for the region on duty, who will then be responsible for allocating to a local authority within their region under their own local arrangements. Once a participating local authority has been allocated a child through the rota, they will be responsible for identifying a placement so that the child will transfer within a maximum of 10 working days. Responsibility will move to the next region once the indicated number of UASC have been placed.

While we can never be certain how many UASC will arrive over any given period, operating a rota will give regions and local authorities a greater understanding of the number of UASC they will be asked to support, and when such support might be requested. While it would not be possible to predict placement needs precisely, regions will know when their turn on the rota is coming up. This system should increase the predictability of the region's contribution to the NTS and increase the speed of transfers.

We have modelled what this is likely to mean in terms of the number of UASC that each region might be expected to receive through the NTS over a 52-week period as an indication to aid planning. This is not an absolute guide but gives an indication of what the rota would mean for your region.

Regions may of course retain the flexibility to agree transfers outside of the rota where a particular placement is in the best interest of the child, for example where a child may have a family connection.

The operation of the proposed rota is set out within the high-level process flow diagram below. It is recommended that the Home Office continue to co-ordinate and manage the NTS rota supported by Strategic Migration Partnerships. We are considering how to ensure that social work expertise is available to manage issues as they arise.

2. Weighting factors

In order to make a national rota as fair and equitable as possible, it is proposed to apply a weighting system, to take wider pressures into consideration. Each region may apply specific local factors to their intra-regional rota should they wish. This could be on the basis of static factors such as the size of the local authority, or temporary factors affecting a particular local authority's children's services. The following factors have been considered for weighting the national rota.

- ✓ **Child population.** Regional contribution will be nationally weighted according to the regional child population in order to ensure proportionality.
- ✓ **Supported Asylum population.** There is currently a disproportionate regional distribution of asylum seekers who are dispersed and supported under provisions of the Immigration and Asylum Act 1999. See rota methodology below for further details of proposed weighting.
- ✓ **London.** London has offered to take a higher number as an interim arrangement, in recognition of the high numbers currently presenting within the capital.

Other factors have been considered for weighting at national level but have been excluded as set out below. These can still be taken into consideration at an intra-regional level.

- ✗ **Looked After Children numbers.** Although it is recognised that there is regional variance in the population of Looked After Children, it is less pronounced than the figures for supported asylum pressures (see the analysis in within rota methodology below). Given the wide variance in rates within regions, it is recommended that overall Looked After Children numbers should not be used as a method of national weighting.
- ✗ **Numbers of Care Leavers, including whether they are UASC.** Numbers of Care Leavers are published in the SSD 903 return. However, currently figures are only published for Care Leavers aged 19, 20 and 21, which is not the full range of responsibilities. It is not currently possible through the published information to distinguish those Care Leavers who are previously UASC.

Figures in Scotland reflect the significantly different legal arrangements there. No figures are published in Wales.

- × **Numbers of Looked After Children and Care Leavers placed Out of Area, including whether they are UASC.** These figures are not currently available.

3. Access to the National Transfer Scheme

To support the predictability of the National Rota, it is proposed that the threshold to make referrals into the National Transfer Scheme should be that a local authority is supporting UASC at over 0.07% of their general child population, irrespective of whether their region is. In the current arrangements, local authorities above the 0.07% but within a region that is overall underneath the 0.07% can only make transfer requests within their own region.

4. Transport costs and practicalities

The current NTS Protocol stipulates that the receiving authority should be responsible for the transport costs unless there is a mutual agreement for a different arrangement. The introduction of a National Rota will mean that the potential journeys are going to be longer and more complex in some cases.

It is recommended that the entry authority would be better placed to enable the journey as it will be their staff who will have any relationship with the child and that this section is amended to state that transport costs and arrangements should be the responsibility of the entry authority. Planning and communication between the local authorities vital and this will need to take place in a timely fashion to avoid delays.

5. Age Assessment

We do not propose any changes to where responsibility for undertaking age assessments lies. For clarity, the existing protocol sets out that 'where the age of a child is disputed – but accepted as being under 18 years of age or treated as being under 18 years of age until further assessment of their age has been completed – the receiving local authority will normally conduct the Merton and further case law compliant age assessment. In some cases, the entry local authority may agree to conduct the case law compliant age assessment before transfer has been agreed.'

6. Escalation procedure

In order to ensure confidence in the system, a robust escalation procedure is required that addresses issues both prior to any transfer as well as any issues that may emerge after the transfer has taken place. Such a system will also allow learning to be shared across all participating authorities and agencies.

A Cases of Concern protocol exists but it is acknowledged that this primarily addresses concerns that arise prior to transfer.

There may be cases where a transfer has taken place and concerns arise that:

- a. The information provided by the entry authority was incorrect and that this would have affected the basis for the transfer – e.g. that they had family members living in the entry authority; or

- b. The safety and welfare of the child has been seriously affected and that this is attributable to the decision to transfer, including concerns regarding their physical or mental health.

In such situations there will be a mechanism to review and potentially reverse the transfer.

7. Sharing expertise, building experience and developing capacity

Ensuring that receiving areas are in a position to meet the needs of UASC is an issue for all authorities both in terms of the availability of placements and the capability to meet the needs of UASC, including cultural and religious needs.

The Government is committed to sharing learning and offering support to all regions to develop additional skills and expertise, including those with smaller UASC populations. The Controlling Migration Fund has been used in some regions to develop placement resources and offer training to staff and carers. We are currently considering what the best strategic approach would be to ensure that resources continue to support such developments and that any funding is directed to where it is most needed to support the NTS.

Appropriate commissioning of placements is required to address issues of quality and availability of placements. Some areas have found that engagement with rotas has aided them in commissioning as providers are encouraged to develop services. There is greater predictability that can aid planning. In turn this has driven down costs as well as improving quality and stability.

8. Children transferred or resettled from overseas

Previously, placements available through the NTS have been prioritised for children arriving from overseas under both Section 67 of the Immigration Act (Dubs Amendment) and the Vulnerable Children's Resettlement Scheme. Should there be a future need for placements from children from overseas, these needs will be fed into the National Rota alongside those arriving spontaneously.

9. Data management and governance

It is recommended that governance of the National Transfer Scheme remains with the UASC Governance Board, which is jointly chaired by the Department for Education and the Home Office and includes local government representation.

Transparent and regular data sharing is important to reassure all participating authorities that the National Rota is being managed effectively and fairly, as well as demonstrating progress towards the aims of the NTS. Once ratified by the Governance Board, this would be circulated to local authorities and regional Strategic Migration Partnerships.

An annual review of weighting arrangements should also be undertaken and agreed at the UASC Governance Board.

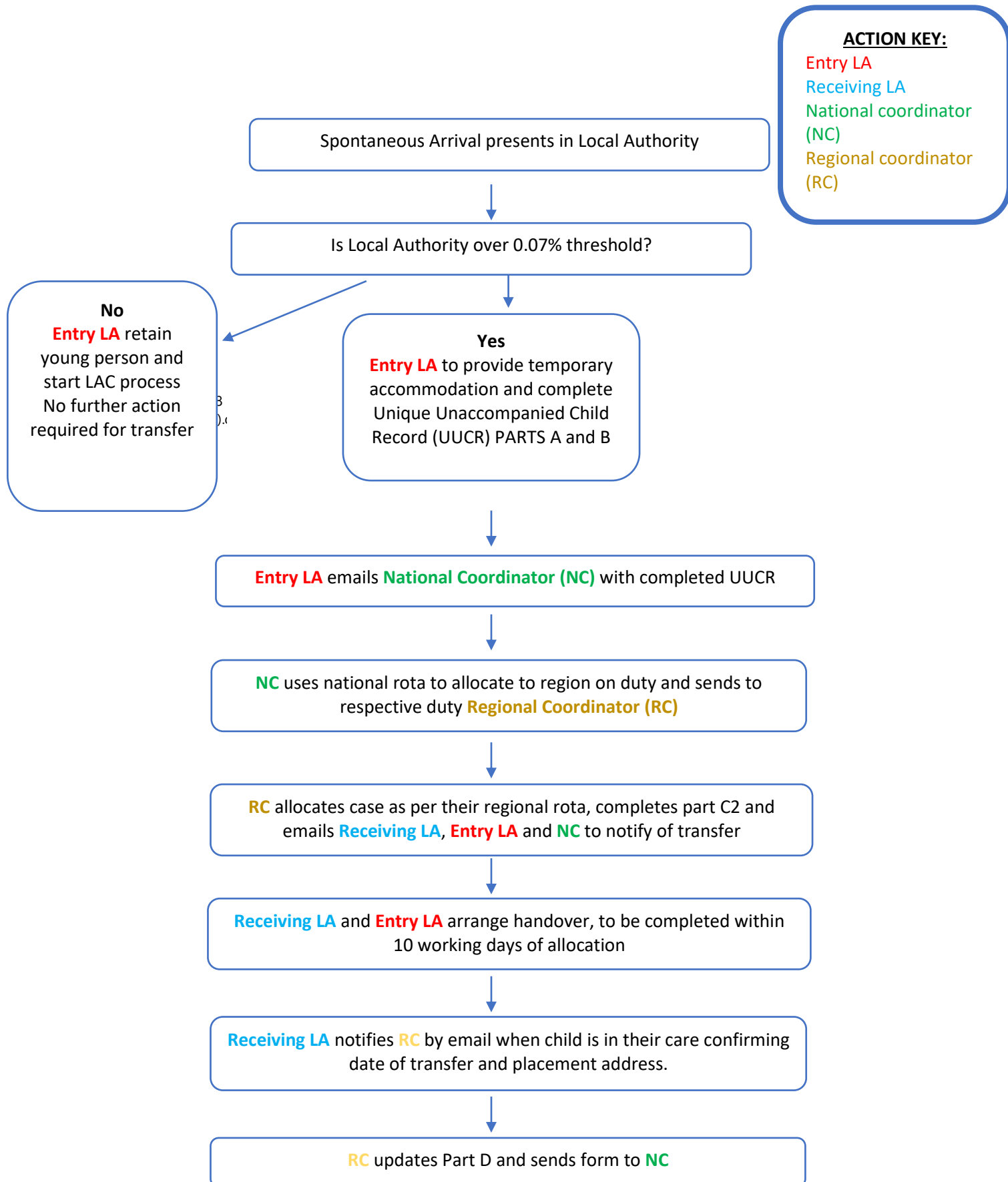
It is recommended that an operational group meet remotely on a monthly basis to ensure good communication and enable any issues to be addressed as soon as possible. This will include a discussion of any cases of concern that have arisen through the Escalation Procedure.

Next steps

Once consultation responses have been received and analysed, we will share high level findings with the UASC Governance Board. Ministers will then consider final recommendations.

It is our aim to encourage all authorities to engage and participate in the NTS through the proposed rota. Should this not be initially possible, we would not expect those authorities who do participate to take on all eligible children and will seek to develop models that achieve a proportionate number of transfers.

High Level Process Flow Diagram



Rota Methodology

Summary

Due to the nature of UASC arrivals, no modelling can provide complete certainty to the flow of UASC placements via the NTS.

For **illustrative purposes** a weighted average has been calculated to demonstrate to regions of what their participation on the new rota **could** look like.

The input data contains the general population, child population¹ and total supported asylum² populations at a regional level.

Weighting

The primary weighting factor is the region's **child population** set against the national average. Regions with greater child populations will be asked to place a greater number of UASC.

The secondary factor is an inverse weighting of **supported asylum population**. Regions with larger proportions of asylum seekers supported under s95 and s4 of the Immigration Act 1999 will be asked to place fewer UASC.

In order to support the development of the new rota scheme, **London** has helpfully offered to temporarily suspend the lower weighting it would otherwise have received as a result of its large supported asylum population and this is reflected in the model.

Model inputs

The model is programmed to be flexible and input values can be amended. The model will routinely be reviewed by the operational team responsible for managing the rota.

The following variable values have been entered into the model to provide indicative figures for the purpose of demonstrating regional commitment:

- **720 referrals per year/60 per month** – based on expected referral rates.
- **70% of referrals leading to a transfer** – based on experience with the existing NTS and anticipated impact of broader operational changes.

Using these input values and weighting factors, we can determine how many children we might expect to transfer through the proposed rota in any given period and/or cycle.

¹General population and child population taken from ONS Mid-2019 Population estimate - <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>

²Supported asylum population taken from RASI Place Based Report, March 2020

Model output

The table below provides an indication of what the commitment under a regional rota would look like based on the weightings described above. It illustrates the impact of the weighting factors for each region and shows the expected number of placements that would need to be found over a year, and also per quarter. It is proposed that the quarterly breakdown is the version used to determine whose turn is next on the rota. For example, the East Midlands would take 8 children referred into the rota before passing to the East of England, who would take the next 15 children referred into the rota and so on. Of course, given that precise UASC intake is difficult to predict, the rota might cycle through these volumes in more or less than three months. Final values will be calculated ahead of implementation and updated as new data becomes available.

Indicative NTS Rota Operation					
Region	Weighting contribution (total child population) [Weighting factor 1.0]	Weighting contribution (supported asylum proportion inc. London waiver) [Weighting factor 0.5]	Overall weighting [total child population contribution + supported asylum proportion contribution]	Indicative UASC placements per year	Indicative UASC placements over 3 months – to be repeated 4 times annually
East Midlands	7.1%	5.1%	6.4%	32	8
East of England	9.5%	17.7%	12.3%	62	15
London	14.4%	10.0%	12.9%	65	16
North East	3.8%	2.0%	3.2%	16	4
North West	11.1%	2.2%	8.1%	41	10
Northern Ireland	3.1%	5.9%	4.0%	20	5
Scotland	7.3%	3.7%	6.1%	31	8
South East	13.9%	30.1%	19.3%	97	24
South West	7.8%	14.6%	10.1%	51	13
Wales	4.5%	3.0%	4.0%	20	5
West Midlands	9.2%	3.0%	7.1%	36	9
Yorkshire and The Humber	8.3%	2.7%	6.4%	32	8

Guidance and use of data

This data is shared in the spirit of collaborative and joint working between central and local government. The data is intended to be shared with Leaders of Local Authorities, Chief Executives and Directors of Children's Services. If there is a pressing requirement for the data to be shared more widely within Local Authorities, the decision to share should be taken by the Chief Executive and should only be shared wider in exceptional circumstances. It cannot be published and cannot be shared any wider outside of Local Authorities. The data is taken from an operational database and is reflective of UASC populations at a particular point in time.

UK Summary

Nation	0.07% Of child population¹ (Rounded Down)	UASC Population (March 2019)²	UASC Population (March 2020)³	% National UASC Population (March 2020)⁴
England	11574	4665	4831	94.3%
Scotland	706	125	188	3.7%
Wales	429	62	70	1.4%
Northern Ireland	308	11	29	0.6%

¹ The number of UASC within each individual local authority to meet the 0.07% threshold for referral into the NTS, totalled across each nation.

² Indicative UASC population figures calculated from funding claims management information at March 2019.

³ Indicative UASC population figures calculated from funding claims management information at March 2020.

⁴ Proportion of the total UASC population.

Local Authority UASC Populations (Anonymised)

Local Authority	UASC Population (March 2020) ³	% National UASC Population (March 2020) ⁴
1	408	8.0%
2	272	5.3%
3	126	2.5%
4	111	2.2%
5	102	2.0%
6	100	2.0%
7	97	1.9%
8	92	1.8%
9	90	1.8%
10	89	1.7%
11	84	1.6%
12	81	1.6%
13	78	1.5%
14	77	1.5%
15	76	1.5%
16	76	1.5%
17	74	1.4%
18	72	1.4%
19	70	1.4%
20	68	1.3%
21	64	1.3%
22	64	1.3%
23	61	1.2%
24	58	1.1%
25	58	1.1%
26	56	1.1%
27	55	1.1%
28	55	1.1%
29	52	1.0%
30	51	1.0%
31	49	1.0%
32	49	1.0%
33	48	0.9%
34	48	0.9%
35	47	0.9%
36	45	0.9%
37	44	0.9%
38	43	0.8%

39	42	0.8%
40	41	0.8%
41	40	0.8%
42	39	0.8%
43	39	0.8%
44	38	0.7%
45	38	0.7%
46	38	0.7%
47	36	0.7%
48	36	0.7%
49	35	0.7%
50	35	0.7%
51	33	0.6%
52	32	0.6%
53	32	0.6%
54	32	0.6%
55	29	0.6%
56	29	0.6%
57	29	0.6%
58	28	0.5%
59	28	0.5%
60	28	0.5%
61	28	0.5%
62	28	0.5%
63	27	0.5%
64	27	0.5%
65	26	0.5%
66	25	0.5%
67	24	0.5%
68	24	0.5%
69	24	0.5%
70	23	0.4%
71	23	0.4%
72	23	0.4%
73	23	0.4%
74	23	0.4%
75	22	0.4%
76	21	0.4%
77	20	0.4%
78	20	0.4%
79	20	0.4%
80	20	0.4%
81	19	0.4%
82	19	0.4%

83	19	0.4%
84	18	0.4%
85	18	0.4%
86	18	0.4%
87	18	0.4%
88	17	0.3%
89	17	0.3%
90	16	0.3%
91	16	0.3%
92	15	0.3%
93	15	0.3%
94	14	0.3%
95	14	0.3%
96	14	0.3%
97	14	0.3%
98	13	0.3%
99	12	0.2%
100	12	0.2%
101	12	0.2%
102	12	0.2%
103	11	0.2%
104	11	0.2%
105	11	0.2%
106	10	0.2%
107	10	0.2%
108	10	0.2%
109	10	0.2%
110	10	0.2%
111	10	0.2%
112	9	0.2%
113	9	0.2%
114	8	0.2%
115	8	0.2%
116	8	0.2%
117	8	0.2%
118	8	0.2%
119	8	0.2%
120	8	0.2%
121	7	0.1%
122	7	0.1%
123	7	0.1%
124	7	0.1%
125	7	0.1%
126	6	0.1%

127	6	0.1%
128	6	0.1%
129	6	0.1%
130	6	0.1%
131	6	0.1%
132	5	0.1%
133	5	0.1%
134	5	0.1%
135	5	0.1%
136	5	0.1%
137	5	0.1%
138	5	0.1%
139	4	0.1%
140	4	0.1%
141	4	0.1%
142	4	0.1%
143	3	0.1%
144	3	0.1%
145	3	0.1%
146	3	0.1%
147	3	0.1%
148	3	0.1%
149	3	0.1%
150	3	0.1%
151	3	0.1%
152	3	0.1%
153	2	0.0%
154	2	0.0%
155	2	0.0%
156	2	0.0%
157	2	0.0%
158	2	0.0%
159	2	0.0%
160	2	0.0%
161	2	0.0%
162	2	0.0%
163	2	0.0%
164	2	0.0%
165	2	0.0%
166	1	0.0%
167	1	0.0%
168	1	0.0%
169	1	0.0%
170	1	0.0%

171	1	0.0%
172	1	0.0%
173	1	0.0%
174	1	0.0%
175	1	0.0%
176	1	0.0%
177	1	0.0%
178	1	0.0%

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

SCOTTISH GOVERNMENT'S CONSULTATION ON RAISING THE AGE OF REFERRAL TO THE PRINCIPAL REPORTER

REPORT BY HEAD OF SOCIAL POLICY

A. PURPOSE OF REPORT

The purpose of the report is to inform the Council Executive of the Scottish Government's consultation on Raising the Age of Referral to the Principal Reporter and seek the Panel's views and comments.

B. RECOMMENDATION

It is recommended that the Council Executive considers the draft response to the consultation and agrees its submission to the Scottish Government.

C. SUMMARY OF IMPLICATIONS

I Council Values	<ul style="list-style-type: none">– Focusing on our customers' needs– Being honest, open and accountable– Providing equality of opportunity
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<ul style="list-style-type: none">- Children and Young People (Scotland) Act 2014- Social Work (Scotland) Act 1968- Scottish Government Youth Justice Strategy 2015-2020- Criminal Procedure (Scotland) Act 1995- Community Justice (Scotland) Act 2016- Management of Offenders (Scotland) Act 2019- The Children's Hearings (Scotland) Act 2011- Getting it right for every child (GIRFEC)
III Implications for Scheme of Delegations to Officers	N/A
IV Impact on performance and performance Indicators	N/A
V Relevance to Single Outcome Agreement	Making our communities safer
VI Resources - (Financial, Staffing and Property)	N/A

VII Consideration at PDSP	The draft response was considered by the Social Policy PDSP on 18 th September and the content was supported.
VIII Other consultations	None

D. TERMS OF REPORT
Background

This consultation aims to seek views on the principle of increasing the age at which children can be referred to the Reporter for care, protection and offence grounds to all children under 18 years of age. The current age of referral is children under the age of 16 years. This includes those who come to the attention of agencies for vulnerability such as those at risk of exploitation, abuse or harm due to their own behaviour or the behaviour of others.

Any potential change as a result of this consultation will preserve the current protections, meaning that the most serious cases can still be dealt with by the criminal justice system. This consultation also seeks views on the structural, resourcing, service design and practice implications of the proposed changes.

Whilst the focus of this consultation is on proposals for a legislative change to allow 16 and 17 year olds to be referred to the Reporter, consideration will also be given to whether additional protections are necessary to facilitate information for victims, safeguarding and access to supports.

Getting it Right for Every Child (GIRFEC) policy recognises all under 18 year olds as children. The term 'child'/'children' has therefore been used for the purposes of this consultation document.

All children in Scotland have the right to be protected from abuse or neglect. The Scottish approach to child protection is based upon children's rights and sits within the wider context of GIRFEC— our national approach to improving outcomes and supporting the wellbeing of children and young people.

In 2011 the Whole System Approach (WSA) to offending behaviour by children and young people, was rolled out across Scotland. WSA is the Scottish Government's programme for addressing the needs of under 18s involved in, or at risk of becoming involved in offending. Based on the principles of GIRFEC, WSA supports a prevention and early intervention approach to ensure children and young people get the right support at the right time, providing better outcomes for children, young people, victims and safer communities.

The attached draft consultation response outlines:

- Does West Lothian Council agree that the age of referral should be increased from under 16 year old's to under 18 year old's?
- If the age of referral is increased to under 18 year olds, are the existing grounds of referral to the Children's Hearing sufficient?
- Views on the potential implications, including resource for local authorities, Police and other service providers / organisations, including the public bodies who run the reporter service and the Children's panel
- Does West Lothian Council agree if the age of referral is increased that amendments are required to ensure sufficient access to information and support for victims harmed by children?

E. CONCLUSION

West Lothian Council has drafted a response to the Scottish Government's consultation on Raising the Age of Referral to the Principal Reporter. The draft response notes that the council generally supports the proposal to increase the age of referral to the Principal Reporter to 18, for all cases, as this would enable young people aged between 16 and 18 to benefit from the range of protective and supportive measures available through Children's Hearings System.

F. BACKGROUND REFERENCES

Appendices/Attachments: Appendix 1 – Raising the age of referral to the principal reporter draft consultation response

Appendix 2 – Consultation Document

Contact Person: Susan McKenzie
Senior Manager, Children's Services

Susan.McKenzie@westlothian.gov.uk

01506 281347

Jo Macpherson, Head of Social Policy

Date of Meeting: 06/10/2020

1. Do you agree that the maximum age of referral to the Reporter should be increased to 18?

YES for all cases

REASONS:

West Lothian Council supports the proposal to increase the age of referral to the Principal Report to 18 for all cases as this would enable young people aged between 16 and 18 to benefit from the range of protective and supportive measures available through Children's Hearings System.

Where referral is on offence grounds, in line with principles of the Whole System Approach we believe that young people under the age of 18 should be subject to the Children's Hearing System unless the seriousness of the offence would mean that it should be referred through the Adult Court system.

2. If the age of referral is increased to 18, are the existing grounds of referral to a Children's Hearing sufficient?

Yes

However, there may need to be amendments to some of the wording for grounds of referral for example – failure to attend school would not apply to young people age over 16 and consideration would need to be given to the wording for outwith parental control with regards to young people aged over 16

3. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for local authorities, Police and other service providers/organisations?

There is likely to be resource implications of increasing the age of referral to the Reporter for local authorities, Police and other service providers/organisations. However, this is difficult to quantify at this time as the volume of young people that this change would impact on has not been identified.

4. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for SCRA (the public body which operates the Reporter service)?

Not Applicable

5. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for Children's Hearings Scotland (the body which operates the national children's panel)?

Not Applicable

6. If the age of referral to the Reporter was increased, are amendments required to ensure sufficient access to information and support for victims harmed by children?

YES

7. If there are any further comments you would like to make, which have not been addressed in the questions above, please use the space below to provide more detail.

Child Care and Justice

Consultation on Raising The Age of Referral to The Principal Reporter

Responding to this Consultation

We are inviting responses to this consultation by 7 October 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/children-and-families/age-of-referral-to-the-principal-reporter>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 7 October 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to CareandJusticeConsultation@gov.scot.

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the email address above.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



Title

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- ☐ Individual
- ☐ Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☐ Publish response with name
- ☐ Publish response only (without name)
- ☐ Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

☐ Yes

☐ No

Child Care And Justice – Consultation On Raising The Age Of Referral To The Principal Reporter

About the Consultation

The 2019-20 Programme for Government¹ made a commitment to consult on enabling joint reporting to the Crown Office and Procurator Fiscal Service (COPFS) and the Principal Reporter (“the Reporter”) of all 16 and 17 year olds’ offence cases. This consultation goes further and seeks views on the Scottish Government’s proposals for legislative change to allow 16 and 17 year olds to be referred to the Reporter on care, protection and offence grounds.

Currently, a child turning 16 who is not already subject to a compulsory supervision order (CSO) or an open referral to the Reporter cannot be referred to the children’s hearings system, unless by the court following guilt being accepted or established. A child subject to conditions of a CSO or open referral can be referred until their 18th birthday. Removing these conditions for 16 and 17 year olds would enable agencies to provide child protection and Whole System Approach² (WSA) responses for all under 18s.

Introduction

This consultation aims to seek views on the principle of increasing the age at which children can be referred to the Reporter for care, protection and offence grounds. This includes those who come to the attention of agencies for vulnerability such as those at risk of exploitation, abuse or harm due to their own behaviour or the behaviour of others. Any potential change as a result of this consultation will preserve the current protections, meaning that the most serious cases can still be dealt with by the criminal justice system. This consultation also seeks views on the structural, resourcing, service design and practice implications of the proposed changes.

Whilst the focus of this consultation is on proposals for a legislative change to allow 16 and 17 year olds to be referred to the Reporter, consideration will also be given to whether additional protections are necessary to facilitate information for victims, safeguarding and access to supports.

Getting it Right for Every Child (GIRFEC) policy recognises all under 18s as children. The term ‘child’/‘children’ has therefore been used for the purposes of this consultation document.

Scotland’s unique approach to child care and youth justice builds on Lord Kilbrandon’s report (1964)³ by responding to deeds in the context of needs. The view of Lord Kilbrandon’s Committee, which led to the Social Work (Scotland) Act

¹ [Protecting Scotland’s Future – The Governments Programme for Scotland 2019 -20](#)

² [Youth Justice - Whole System Approach to Youth Offending](#)

³ [The Kilbrandon Report](#)

1968⁴ and the creation of the Children's Hearings System, was that it was not useful to categorise children based on their offending alone. Instead, effective state responses obliged decision makers and service providers to look behind the presenting problems to find the underlying causes and 'failures of upbringing' in order to help the child and family. The Committee concluded that children who offend and children in need of care and protection both require a welfare based approach.

In 2011 the Whole System Approach (WSA) to offending behaviour by children and young people, was rolled out across Scotland. WSA is the Scottish Government's programme for addressing the needs of under 18s involved in, or at risk of becoming involved in offending. Based on the principles of GIRFEC, WSA supports a prevention and early intervention approach to ensure children and young people get the right support at the right time, providing better outcomes for children, young people, victims and safer communities.

All children in Scotland have the right to be protected from abuse or neglect. The Scottish approach to child protection is based upon children's rights and sits within the wider context of GIRFEC – our national approach to improving outcomes and supporting the wellbeing of children and young people.

Child care and justice is a complex area. This document aims to cover some of the key points and considerations to facilitate a meaningful consultation and engagement process which will help initiate consideration of 16 and 17 year olds who may benefit from the support of the children's hearings system.

Why are we consulting?

In March 2017 the independently chaired Child Protection Systems Review submitted their report, entitled 'Protecting Scotland's Children and Young People: It is Still Everyone's Job'⁵, to the Scottish Government. This report recommended the Scottish Government review both the measures available to protect 16 and 17 year olds and whether the Children's Hearings (Scotland) Act 2011 should be amended to allow any 16 or 17 year old to be referred to the Reporter where it might be necessary for a compulsory supervision order (CSO) to be considered.

The Children's Hearings Improvement Partnership (CHIP) was identified as the appropriate group to develop this work on behalf of the Child Protection Improvement Programme (CPIP). A short life working group was formed to examine the proposal further, consider the justifications for making such a change, and to review both the benefits and potential barriers to implementation.

The short life working group subsequently reported to the CHIP and Youth Justice Improvement Board (YJIB).

⁴ [Social Work \(Scotland\) Act 1968](#)

⁵ [Protecting Scotland's children and young people: it's still everyone's job \(2017\)](#)

Some of the key points included:-

- The current situation in Scotland does not always appear consistent with our understanding of child and adolescent social, emotional and psychological development. Each child is developmentally unique. Our current approach of arranging treatment by chronological age is not consistent with our GIRFEC aspiration of seeing each child as a separate unique individual. Those aged between 16 and 18 present with similar if not the same risks and vulnerabilities as younger children and are arguably not being adequately protected by the current legal provisions or in a way that is consistent with prevailing policy in Scotland.
- There are a number of vulnerable 16 and 17 year olds who currently fall out with the Children's Hearings System who need its protection and/or guidance to address significant issues in their lives. Child Protection, Adult Support and Protection and the Criminal Justice system can be complex systems to transition through and can result in vulnerable children falling between the legislative and service gaps.

In November 2018, the Inspectorate of Prosecution in Scotland published a Thematic Report⁶ on the Prosecution of Young People. The purpose of the inspection was to review and assess the effectiveness of COPFS processes and procedures for prosecuting children up to the age of 18 in the Justice of the Peace and Sheriff Courts and the use of alternative actions. The inspection identified a high success rate (80%) for 16 and 17 year olds diverted as an alternative to prosecution, where almost two thirds who successfully completed did not re-offend. The report recommended COPFS prioritise review of the presumption that those aged 16 and 17 subject to a CSO are to be dealt with by the prosecutor.

In March 2019 the Lord Advocate amended policy to include a presumption that all children who are jointly reported to COPFS and the Reporter, including 16 and 17 year olds subject to a CSO will be referred to the Reporter. In addition, for those 16 and 17 year olds who are not subject to a CSO, there will be a presumption against prosecution in court with consideration given to diversion from prosecution, where possible. Guidance⁷ supporting this was published in June 2019.

The aim of this change was to enable referral of 16 and 17 year olds to the Reporter where that is appropriate and in the public interest. The decision as to whether or not a case will be retained in the criminal justice system or referred to the Reporter is always a matter for the Procurator Fiscal. This results from the Lord Advocate's constitutional position as head of the system of prosecution. In practice, that decision is made by professional prosecutors in accordance with guidelines set by the Lord Advocate. The guidelines require engagement between the Procurator Fiscal and the Reporter, and the application of appropriate, rebuttable presumptions as to when a case will be retained by the Procurator Fiscal.

⁶ [Thematic Report on the Prosecution of Young People \(2018\)](#)

⁷ [Decision making in cases of children jointly report to the Procurator Fiscal and Children's Reporter \(2019\)](#)

This consultation is a key part of ensuring that the needs of our most vulnerable children are considered and that they have the opportunity to be supported in a child centred system which can address identified needs and risks. It will help us consider the processes required to support these changes and any potential limitations.

Current supports for vulnerable 16 and 17 year olds

Where a child between the ages of 16 and 18 requires protection, services need to consider which legislation or policy, if any, can be applied. The Adult Support and Protection (Scotland) Act 2007⁸ applies to children over the age of 16. The local authority has a duty to make enquiries about an adult who they believe is at risk because the adult meets each element within a three point test. Due to the nature of this test, children often do not meet the criteria for statutory intervention. The National Guidance for Child Protection in Scotland (2014)⁹ is designed to include children up to the age of 18. However, the protective interventions that can be taken depend on the circumstances and legislation relevant to that child. At present, a child aged 16 identified as being at risk due to human trafficking or sexual exploitation could not be referred to the Reporter.

The following examples illustrate the anomalies and limitations of the current legal position:

1. A 16 or 17 year who is very vulnerable and needy to the point that they are already looked after by the local authority, will not be eligible to be jointly reported or dealt with by the children's hearings system if they commit an offence - if they are looked after on a voluntary basis rather than under the authority of a CSO.
2. A 16 or 17 year old who remains vulnerable due to a learning disability discloses earlier sexual abuse by a parent or carer. The opportunity for additional support and protection via the children's hearings system could help reduce vulnerability and ensure adequate supports for that child - such as a measure of no contact, particularly where there is limited family support. Currently that child could not be referred to a children's hearing.
3. A 16 or 17 year old with a long and serious offending history that has led them to be subject to a CSO would have the opportunity of being jointly reported to the Reporter and COPFS and potentially have their case dealt with by the Reporter.
4. A 16 or 17 year old not subject to a CSO and charged with a first offence would have to be referred to COPFS.

⁸ [Adult Support and Protection \(Scotland\) Act 2007](#)

⁹ [National Guidance for Child Protection in Scotland \(2004\)](#)

Risk, Need and Vulnerability

There is a wealth of evidence about children who display harmful behaviours highlighting the links between vulnerability, victimisation and offending¹⁰. Many children who display harmful behaviours are highly vulnerable and have experienced trauma and crime in their own lives. Negative early life experiences can leave some children more vulnerable to environmental pressures¹¹. In turn, this can contribute to the emergence of violence and/or other forms of harmful or antisocial behaviours in childhood. An assessment of their vulnerability as well as the risk of harm they may present to others needs to be taken into account. Work with children who display harmful behaviours must be child centred. This means having regard both for the needs of those harmed and those who cause harm.

McAra and McVie (2010)¹² highlight the need for youth justice policy to be holistic, with any required intervention being proportionate, based on identified need and which maximises diversion from criminal justice systems. The findings from their Edinburgh Study of Youth Transitions and Crime support the Kilbrandon principles, the links between needs and deeds and the importance of a holistic approach to children who offend.

The Council of Europe guidelines on child friendly justice¹³ were created to ensure that justice is always friendly towards children regardless of who they are or what they have done. They apply to all circumstances where children are likely to be in contact with criminal, civil or administrative justice systems. The guidelines are underpinned by 5 fundamental principles – participation, best interests of the child, dignity, protection from discrimination and rule of law. The guidelines define a child as any person under the age of 18 years.

Removing the conditions and restrictions affecting the current permissible age range of referral to the Reporter would help ensure more children have access to support, guidance and protection. This would be particularly beneficial to children encountering acute levels of risk who have not previously come to the attention of the local authority or Reporter. For example, someone aged 16 at risk of sexual exploitation who had not previously come to the attention of agencies could be offered additional protection via an increase in age of referral. Appendix A offers some illustrative examples where children aged 16 and 17 could benefit from the opportunity to be referred to the Reporter.

The Scottish Government, having heard clear representations from practitioners and the children's rights sector, is concerned that children may be denied access to appropriate legal protection by virtue of their 'order status' at their 16th birthday. That

¹⁰ [The Howard League for Penal Reform – Children as Victims](#)
[Edinburgh Study of Youth Transitions and Crime](#)
[Children and Young People in Custody in Scotland – Looking Behind the Data \(Revised June 2018\)](#)
[The Links Between Victimization and Offending \(2004\)](#)

¹¹ [Polishing the Diamonds – Addressing Adverse Childhood Experiences in Scotland \(May 2016\)](#)

¹² [Youth Crime and Justice: Key Messages from the Edinburgh Study of Youth Transitions and Crime](#)

¹³ [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#)

status may be more clearly referable to their personal circumstances and the arrangements put in place with them and their family by the local authority. The welfare of the child who is subject of the proceedings is the paramount consideration when their needs are considered by courts and children's hearings. The Children's Hearings (Scotland) Act 2011 emphasises this test can be overridden for the purpose of protecting members of the public from serious harm (whether or not physical harm), but even in those circumstances the subject child's welfare remains a 'primary consideration'¹⁴.

Importantly, extending the age of referral to the Reporter will not remove the ability of the Procurator Fiscal to retain serious cases for prosecution in the criminal justice system.

Who can refer a child to the Reporter?

The definition of a child in terms of the Children's Hearings (Scotland) Act 2011 is under the age of 16 (or, if over 16, subject to a referral to Children's Hearings proceedings already under consideration, or subject to a CSO).

The Children's Hearings (Scotland) Act 2011 allows for a child to be referred to the Reporter. The statutory criteria for referral are:

- a) The child is in need of protection, guidance, treatment or control; and
- b) It might be necessary for a CSO to be made in relation to the child.

The Local Authority and Police must refer a child when the criteria apply. Any other person may do so.

What is joint reporting?

The prosecution provisions in respect of children are outlined in the Criminal Procedure (Scotland) Act 1995¹⁵. The Lord Advocate has issued guidelines to the Chief Constable regarding the reporting to Procurators Fiscal of offences alleged to have been committed by children¹⁶. Children aged between 12 and 15 years should only be jointly reported to the Reporter and COPFS for the most serious offences that give rise to solemn proceedings or in cases that may result in disqualification from driving (for 15 year olds and above).

16 and 17 year olds are jointly reported:

- a) Where they are subject to a CSO or
- b) Where they were referred to the Reporter before their 16th birthday, but where a decision has not yet been made either to make them subject to a CSO, not to refer them to a children's hearing or to discharge the referral.

¹⁴ [Section 26 Children's Hearings \(Scotland\) Act 2011](#)

¹⁵ [Criminal Procedure \(Scotland\) Act 1995](#)

¹⁶ [Lord Advocate's Guidelines to the Chief Constable on the Reporting to Procurators Fiscal of offences alleged to have been committed by children](#)

It is the responsibility of the police, following the Lord Advocate's Guidelines, to identify which cases need to be jointly reported. Cases which are jointly reported should be discussed by the Reporter and Procurator Fiscal, sharing relevant information to assist with decision making. The final decision on prosecution is always made by the Procurator Fiscal and based on a discussion with the Reporter. Decision making is supported by guidance¹⁷.

What are the grounds of referral to a children's hearing?

Section 67(2) of the Children's Hearings (Scotland) Act 2011 lists the grounds in which a child can be referred to a children's hearing:

- a) the child is likely to suffer unnecessarily, or the health or development of the child is likely to be seriously impaired, due to a lack of parental care,
- b) a Schedule 1 offence has been committed in respect of the child,
- c) the child has, or is likely to have, a close connection with a person who has committed a Schedule 1 offence,
- d) the child is, or is likely to become, a member of the same household as a child in respect of whom a Schedule 1 offence has been committed,
- e) the child is being, or is likely to be, exposed to persons whose conduct is (or has been) such that it is likely that—
 - (i) the child will be abused or harmed, or,
 - (ii) the child's health, safety or development will be seriously adversely affected,
- f) the child has, or is likely to have, a close connection with a person who has carried out domestic abuse,
- g) the child has, or is likely to have, a close connection with a person who has committed an offence under Part 1, 4 or 5 of the Sexual Offences (Scotland) Act 2009,
- h) the child is being provided with accommodation by a local authority under section 25 of the 1995 Act and special measures are needed to support the child,
- i) a permanence order is in force in respect of the child and special measures are needed to support the child,
- j) the child has committed an offence,
- k) the child has misused alcohol,
- l) the child has misused a drug (whether or not a controlled drug),
- m) the child's conduct has had, or is likely to have, a serious adverse effect on the health, safety or development of the child or another person.
- n) the child is beyond the control of a relevant person,

¹⁷ [Decision making in cases of children jointly reported to the Procurator Fiscal and Children's Reporter \(June 2019\)](#)

- o) the child has failed without reasonable excuse to attend regularly at school,
- p) the child—
 - (i) has been, is being, or is likely to be, subjected to physical, emotional or other pressure to enter into a civil partnership, or,
 - (ii) is, or is likely to become, a member of the same household as such a child,
- q) the child—
 - (i) has been, is being or is likely to be forced into a marriage (that expression being construed in accordance with section 1 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (asp 15)) or,
 - (ii) is, or is likely to become, a member of the same household as such a child.

Seeking Advice and/or Remittal for Disposal

Where a person (over the age of 16 and not within six months of attaining the age of 18, who is not subject to a CSO or interim CSO) pleads guilty to, or has been found guilty of, a summary offence, s49(6) of the Criminal Procedure (Scotland) Act 1995 allows the court to refer them to the Reporter for a children's hearing to be arranged for the purpose of obtaining advice. On consideration of the advice obtained the court may dispose of the case or remit the case to the Reporter for disposal by a children's hearing¹⁸.

Children can remain subject to a CSO until their 18th birthday. The Social Work Scotland¹⁹ position is clear - children aged 16 and 17 should remain subject to a CSO where it is in their best interests. Orders should not be terminated solely based on non-engagement, the child having outstanding offences or matters being dealt with in the criminal justice system.

Support, Guidance and Protection

A child being assessed as in need of a CSO often has needs and faces risks that are significant, entrenched and complex. Local authorities have a range of obligations to provide voluntary supports to children who are identified as being in need²⁰. However, where those concerns escalate or are more complex and require consideration of protections or interventions with legal force, then 16 and 17 year olds generally have no exposure or access to such protections.

The Children's Hearings (Scotland) Act 2011 provides that a children's hearing may make, vary or continue an order or interim variation or grant a warrant if it would be

¹⁸ [Section 49 Criminal Procedure \(Scotland\) Act 1995](#)

¹⁹ [Position Statement by Social Work Scotland: Children aged between 15 and 17 in the Children's Hearings System](#)

²⁰ [Section 22 Children \(Scotland\) Act 1995](#)

Section 33 Children and Young People (Scotland) Act 2014

better for the child than no order being in place. This is often referred to as the 'no order principle'. If all children aged 16 and 17 were eligible for referral to the Reporter, this principle would remain a core feature of any decision by a children's hearing. Extending the age range of referral to the Reporter to 16 and 17 year olds would not change the obligation to support children on a voluntary basis. Instead it would enhance the support and protections available to those whose vulnerabilities cannot be met via voluntary supports.

When a child becomes 'looked after' the state assumes duties and responsibilities to safeguard and promote their welfare and wellbeing. A wide range of legislation, regulation and guidance provides the framework within which actions take place, but the end-purpose of all of them is the same: to secure nurturing, positive childhoods, from which vulnerable children can develop into successful learners, confident individuals, responsible citizens and effective contributors.

The definition of a 'looked after child' is set out in legislation²¹. Most children who are looked after fall into two categories. The first category is children looked after 'at home' – where the child is subject to a CSO or interim CSO with no residence measure. The second category is children who are looked after 'away from home'. These are children who have been subject to a CSO or interim CSO with a residence measure; or children who are provided with accommodation under Section 25 (a voluntary agreement); or placed by a local authority which has been granted a permanence order²².

Any child or young person who stops being looked after on or after their 16th birthday and is less than 26 years of age may be eligible for Aftercare. Between the ages of 16 and 19, a young person must be provided with Aftercare support unless an assessment has evidenced that their welfare does not require it. If the young person is aged between 19 and 26, their application for Aftercare support is subject to a pathway assessment. All care leavers may be eligible for Aftercare support, regardless of their placement type while they were looked after.

The Children and Young People (Scotland) Act 2014²³ inserted a new section into the Children (Scotland) Act 1995²⁴ to create a duty to provide Continuing Care. A young person born after 1 April 1999 who is looked after in foster, kinship or residential care is eligible to remain in their current care placement until they turn 21. Any eligible young person ceasing to be looked after on or after they turn 16 can request Continuing Care. A young person receiving Continuing Care is no longer defined as 'looked after' but continues to receive the same support. When Continuing Care ends the young person is then eligible for Aftercare support until they turn 26.

²¹ [Children \(Scotland\) Act 1995](#)
[Adoption and Children \(Scotland\) Act 2007](#)
[Children's Hearings \(Scotland\) Act 2011](#)

²² [Section 80 Adoption and Children \(Scotland\) Act 2007](#)

²³ [Section 67 Children and Young People \(Scotland\) Act 2014](#)

²⁴ [Section 26 Children \(Scotland\) Act 1995](#)

Corporate parents must identify and implement actions it considers appropriate to help looked after children and care leavers overcome any barriers, so that they can benefit from the opportunities, services and support available to them. This includes practical and financial support. Corporate parenting duties end at a young person's 26th birthday. The Children and Young People (Scotland) Act 2014 sets out the six duties corporate parents must fulfil:

- (1) Be alert to matters which might adversely affect the wellbeing of care experienced children and young people,
- (2) Assess the needs of care experienced children and young people for services and support it provides,
- (3) Promote the interests of care experienced children and young people,
- (4) Provide care experienced children and young people with opportunities to participate in activities designed to promote their wellbeing,
- (5) Take action to help care experienced children and young people to (a) access opportunities (b) make use of services and access the supports available,
- (6) Take any other appropriate action to improve the way the service works with care experienced young people.

The aim of the legislation outlined above is to ensure support for children and young people who are looked after during the period they are being cared for, and beyond, in order to support their wellbeing, and to assist them to realise their potential.

Victims and Community Confidence

Victims should have confidence that their voices will be heard. Victims need access to the right help, information and support. They should feel supported and informed at every stage of the process. The Victims Code for Scotland²⁵ clearly and simply sets out these rights and the standards of service of criminal justice agencies and relevant authorities.

The impact of crime can be significant for victims, regardless of the age of the person responsible. Children who offend can be supported through Early and Effective Intervention (EEI) processes, the children's hearings system or criminal justice system. The level of information shared with victims varies depending on the system in which the crime is being addressed. Regardless of the system used to address the crime all systems acknowledge the imperative of keeping communities safe.

SCRA has a Victim Information Service. This is for people who are victims of a crime where a child is responsible and has been referred to the Reporter. Victims and parents of child victims can access the following:

- Information about the Children's Hearings System
- The outcome of the referral
- Details about how Scotland treats children who do things which are against the law

²⁵ [Victims Code for Scotland](#)

- Help to access victim organisations which can offer practical and emotional support.

Formal support is not offered by the SCRA Victim Information Service - their role is to provide information. SCRA cannot inform victims of:

- The name of the child responsible
- When/where a Children's Hearing is taking place
- Any more information about the child responsible for the harm.

COPFS also have a Victim Information and Advice (VIA) Service which offers help to child victims and victims of crime in cases of domestic abuse, hate crime, sexual crime or where it is likely that a trial will involve a jury. VIA staff can help by:

- Providing information about the criminal justice system
- Assisting in a case where a victim appears to be vulnerable for any reason, or where the prosecutor believes the victim will benefit from VIA involvement
- Keeping the victim up-to-date on key developments in the case that affects them – such as, dates of hearings, decisions about bail, verdicts and sentences – or why no proceedings are taken
- Helping victims get in touch with organisations that can offer practical and emotional support
- Discussing any additional support that might help victims, for example, if they have to give evidence
- Providing information to victims if they are the next of kin in a death enquiry.

During criminal proceedings, COPFS can also help victims by telling the judge about the impact of the crime on the victim and any injury, loss or damage they have suffered, which could result in payment of compensation. In some cases, COPFS can ask for victim's views if the judge is considering making a non-harassment order, which protects the victim from behaviour they find alarming or distressing.

Victims can access support from Victim Support Scotland whether the case is dealt with in the Children's Hearings or Criminal Justice systems.

Variations between the two systems exist to ensure the interference is proportionate by balancing the interests of the victim in the disclosure of information against the interests of the child. Most of the responses to the consultation on raising the age of criminal responsibility in Scotland in 2016 highlighted the importance of balancing the rights and support needs of the victim with those of the child thought to have caused harm²⁶.

The powers available to the children's hearings system and criminal justice system differ. For cases managed via the children's hearings system there is no power to impose bail conditions. The Children's Hearings (Scotland) Act 2011²⁷ allows for children placed on a CSO or interim CSO to be made subject to specific measures,

²⁶ [Age of Criminal Responsibility \(Scotland\) Bill – Policy Memorandum](#)

²⁷ [Section 83 Children's Hearings \(Scotland\) Act 2011](#)

this can include - where the child resides, allowing a person the child is living with to restrict their liberty as appropriate, put in place a movement restriction condition using electronic monitoring, secure accommodation, medical treatment, regulate contact between the child and a specified person or class of person, requirement that the child complies with any specific condition.

Victims Code

The Victims Code for Scotland aims to ensure victims' interests remain at the heart of the criminal justice system and that victims feel supported and informed at every stage of the process. This consultation offers an opportunity to consider the potential for a similar code or set of principles, where children who cause harm are supported via the children's hearings system or via voluntary measures such as Early and Effective Intervention (EEI). The development of principles would require careful consideration to ensure a rights based approach which is underpinned by the Kilbrandon principles, UNCRC and does not increase the risk of harm to any child.

Detailed below are the rights set out in the Victims Code and some considerations for potential principles:

Right to Minimum Standards of Service - Agencies and relevant authorities and victim and witnesses support organisations will work together to provide the best service possible, with fair and equal access throughout. This includes victims being treated in a respectful, sensitive, tailored, professional and non-discriminatory manner.

Right to Information – Victims should be able to obtain information about what is happening in the investigation or proceedings, where it is appropriate and relevant. This includes information on the release of an individual from prison.

Right to Participation – Victims should be able to understand the information they are given and be understood. Where appropriate, victims should be able to participate effectively in the investigation and proceedings. For more serious crimes victims have the right to provide a victim statement to the court and give views on release decisions.

Right to Protection – Victims should be protected from further victimisation, intimidation and retaliation during and after the investigation and proceedings. This can include civil protection measures.

Right to Support – Victims should have access to support services and access to special measures (for vulnerable individuals) in court.

Right to Compensation and Expenses - Victims have the right to claim certain reasonable expenses when attending court to give evidence, access to compensation from the accused if a compensation order is made, access to criminal injuries compensation and return of property.

The code refers to information from Police Scotland, COPFS and Scottish Courts and Tribunals Service. The development of principles for children supported out of the criminal justice system would also need to consider information from these sources and include SCRA. Any code developed would need to recognise the important principles of the children's hearings system, including confidentiality and offer a distinctive approach which preserves the welfare based approach. The code has a victim notification scheme. This is a complex area and would require careful consideration of whether, in certain circumstances, information should be shared e.g. if a child responsible for causing harm was placed in secure care, any time out and release. The code refers to bail conditions, these are only available for cases addressed in the criminal justice system. The development of any principles could consider the use of specific measures as part of a CSO, how this could be monitored and how victims could be supported to understand their rights and who to contact if measures were not adhered to. The core of any principles must be victims having confidence that their voice will be heard and that they have access to information and support. Whilst also giving careful consideration to ensure a rights based approach which is underpinned by the Kilbrandon principles, UNCRC and does not increase the risk of harm to any child.

Data – What we know

In 2018/19 12,869 children in Scotland were referred to the Reporter. 10,881 on care and protection grounds and 2,824 on offence grounds. Of these children 836 were referred on both care and protection and offence grounds²⁸. Lack of parental care was the most common ground of referral followed by the offence, close connection with a person who has carried out domestic abuse and the child's contact harmful to self and others ground.

Where a child is alleged to have committed an offence described in the Lord Advocate's Guidelines²⁹, the police will jointly report to the Procurator Fiscal and the Reporter. Following discussion with the Reporter, the Procurator Fiscal will decide whether to deal with the case or refer to the Reporter. Children should only be joint reported where the offence is of a nature detailed in the Lord Advocate's Guidelines. In 2018/19, 409 16 and 17 year olds were jointly reported to the Reporter and the Procurator Fiscal³⁰. 180 children aged 16 and 17 were retained by the Procurator Fiscal and 311 were referred to the Reporter (several children had joint reports on more than one occasion). The table below details the nature of the offences joint reported and referred to the Reporter in the last 3 years, the most prevalent offences joint reported and retained include those of a violent nature and/or threatening behaviour, vandalism and theft.

²⁸ [Statistical Analysis 2018/19 – Ensuring Positive Futures for Children and Young People in Scotland](#)

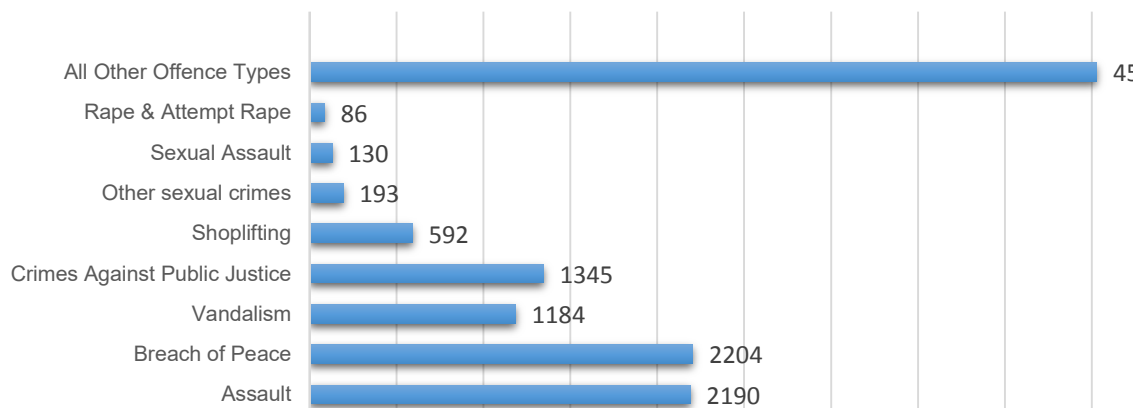
²⁹ [Lord Advocate's Guidelines to the Chief Constable on the Reporting to Procurators Fiscal of offences alleged to have been committed by children](#)

³⁰ Data provided by SCRA January 2020 - This data is based on live operational data and as such may change over time and will not necessarily match data published as part of SCRA's Official Statistics. This data includes offence referrals marked as additional so will include some referrals which are filtered out from the official statistics due to being mis-recorded. Joint report retention is also calculated on the basis of whether a ground has been added or not which is slightly different than current official statistics methodology.

Joint Report – Referred to Reporter - Offence Type	2016/17	2017/18	2018/19
Alcohol/drug/substance use	70	55	64
Assault/serious assault/assault to disfigurement	239	342	342
Breach of Peace/culpable and reckless conduct	31	22	26
Vandalism ³¹ /malicious damage/malicious mischief/reckless damage	165	222	218
Threatening or abusive behaviour ³²	309	359	322
Fire-raising/fireworks	13	17	13
Theft/attempt theft/reset	143	177	224
Housebreaking/shoplifting/fraud/robbery	44	39	44
Sexual offence/rape/indecent communication	10	7	18
Motor vehicle related	11	25	30
Weapon	19	27	38
Others	120	122	113
Total	1174	1414	1452

In 2018-19, 12,452 charges for 16 and 17 year olds were reported to the Procurator Fiscal, 5,852 were for 16 year olds and 6,600 for 17 year olds³³. The most common offence types referred for both age groups were common assault and breach of the peace.

**16 and 17 Year Olds - Reported to Procurator Fiscal - Offence Type
2018-19**



In 2017-18, 1,765 16 and 17 year olds were proceeded against in Scottish Courts. 282 received a custodial sentence and 563 received a community sentence³⁴. The table below summarises the disposals further. 'Other' refers to admonishments and remittals to the children's hearings system and 'Else' includes proceedings discontinued, pleas of not guilty accepted, acquitted not guilty and acquitted not

³¹ [Section 52 Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#)

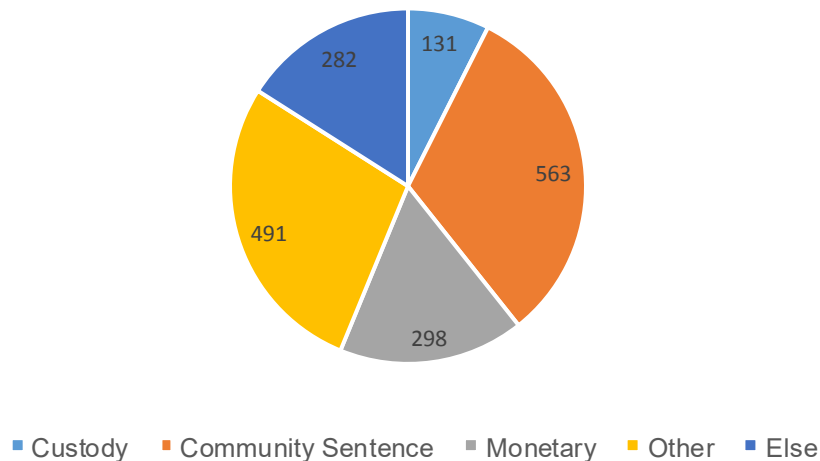
³² [Section 38 Criminal Justice and Licensing \(Scotland\) Act 2010](#)

³³ Data provided by COPFS February 2020 – This data does not provide statistical information for groups of fewer than five. The prosecution service can receive separate requests over a period of time for related but slightly different information e.g. by age, sex, location, crime, etc. and for overlapping time periods or geographies. These separate pieces of information taken together for numbers fewer than five could create the potential risk of identifying individuals.

³⁴ Data provided by Justice Analytical Services (JAS) January 2020 - Scottish Government Criminal Proceedings database.

proven. 18% (91) of the 'Other' cases were remitted to a children's hearing for disposal. 'Other' and 'else' accounted for 44% of disposals. 17% of 16 and 17 year olds received a financial penalty.

2017-18
16 and 17 Year Olds Proceeded Against in Scottish Courts
Disposals



The Thematic Report on the Prosecution of Young People³⁵ published in 2018 identified that from the significant sample of cases, 41% prosecuted in the sheriff summary and Justice of the peace courts could have been addressed via an alternative to prosecution. The data outlined above highlights the potential opportunity for lower level matters to be address by alternative measures.

Proposals for Change

In order to increase the age of referral to the Reporter an amendment would be required to the definition of a child in section 199 of the Children's Hearings (Scotland) Act 2011. This amendment would enable:

1. Any person, including Police Scotland and relevant local authority, to refer any person under the age of 18, in need of protection, guidance, treatment or control to the Reporter where it might be necessary for a CSO to be made.
2. Police to report to the Reporter - or jointly report to the Procurator Fiscal and Reporter – any person up to the age of 18 years who is charged with an offence, unless the Police decide that an option short of referral to the Reporter or joint reporting is appropriate, such as dealing with the matter through EEI arrangements.
3. The Reporter to refer any person up to the age of 18 to a children's hearing.

³⁵ [Thematic Report on the Prosecution of Young People \(2018\)](#)

Consultation Questions

Based on our engagement with stakeholders there is evidence of support for the age of referral to the Reporter to be increased for those 16 and 17 year olds who might require a compulsory supervision order, including the joint reporting of those who offend.

We would welcome your views on increasing the maximum age of referral to the Children's Reporter.

1. Do you agree that the maximum age of referral to the Reporter should be increased to 18?
 - a) Yes – All cases
 - b) Yes - Care and protection cases only
 - c) Yes - Offence cases only
 - d) No change – The existing age criteria should remain

Please provide reason(s) for your answer (free text).

2. If the age of referral is increased to 18, are the existing grounds of referral to a Children's Hearing sufficient (see pages 11-12 for existing grounds)?
 - a) Yes
 - b) No

Please provide reason(s) for your answer (free text).

3. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for local authorities, Police and other service providers/organisations?
4. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for SCRA (the public body which operates the Reporter service)?
5. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for Children's Hearings Scotland (the body which operates the national children's panel)?

6. If the age of referral to the Reporter was increased, are amendments required to ensure sufficient access to information and support for victims harmed by children?

a) Yes

b) No

Please provide further details for your answer, including any extensions or amendments you would wish to see (free text).

7. If there are any further comments you would like to make, which have not been addressed in the questions above, please use the space below to provide more detail.

About you

1. What is your name? (free text)
2. What is your e-mail address? (free text)
3. Are you responding as a: (select relevant)

- a) Public sector organisation
- b) Private sector organisation
- c) Non-government organisation (NGO)
- d) Social enterprise
- e) Membership organisation
- f) Private individual
- g) Other (please detail)

4. What is your organisation's name? (free text)
5. Do you or your organisation work directly with children who are in the children's hearings or criminal justice system?
- a) Yes
- b) No

Please provide more details: (free text)

6. Do you or your organisation work directly with victims?

- a) Yes
- b) No

Please provide more details: (free text)

Impact Assessments

We propose to carry out impact assessments alongside the development of any new legislation which would be required to implement changes to the children's hearings system.

These include a Data Protection Impact Assessment, Child Rights and Wellbeing Impact Assessment, Equality Impact Assessment (related to the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). We would be interested in your views on these areas to help us in developing these assessments.

1. Are there any data protection related issues that you feel could arise from the proposals set out in this paper?
2. Are there any children's rights and wellbeing issues that you feel could arise from the proposals set out in this paper?
3. Are there any equality related issues that you feel could arise from the proposals set out in this paper?

Appendix A

Illustrative examples:

The following scenarios are not uncommon and are offered as a means of demonstrating the potential benefits of the proposed changes to allow 16 and 17 year olds access to the children's hearings system.

Jane

Jane has just turned 16 and lives with her parents and two sisters aged 14 and 12. She has a learning disability and rarely leaves her home. She confides in her sisters that she has been sexually abused by her father for the past three years. Police and social work are informed.

There is not sufficient evidence to prosecute her father and her mother does not believe that anything happened.

Currently Jane's younger sisters could be referred to a Children's Hearing on the basis that they may be in need of compulsory measures of supervision. The standard of proof is less than the criminal standard, and if proven the Hearing could then consider whether both girls should be looked after away from home or other measures put in place to protect them.

At present Jane could not be referred to the Reporter as she is over 16. It may be possible to carry out a Child Protection investigation, however the inability to refer Jane to the Reporter would limit the powers available to those seeking to protect her. She could be made subject to an Adult Support and Protection investigation however that would depend on her capacity and whether she meets the statutory tests.

If children aged 16 and 17 were eligible for referral to the Reporter the benefits to Jane and her siblings would be as follows:

- > All the girls would be within the same system with similar rights and access to supports.
- > Offer an opportunity for a wider assessment of Jane's needs and provide supports. For example a measure that Jane does not reside in the same house as her father or have contact with him
- > An advocate or legal representative could be appointed to ensure Jane's voice is heard during the proceedings if she is unable otherwise to participate effectively.
- > The Hearing could give full consideration to the facts of the case and decide how best to protect Jane and her siblings.
- > Validate Jane's allegations acknowledging her status as a victim.

Harry

Harry was previously subject to a Compulsory Supervision Order (CSO) because his relationship with his parents had deteriorated beyond repair and they were unable to impose parental control. He was placed with foster parents and got on well with them but at 16 the CSO was terminated. Several months later, and after an argument with his foster father he left home.

Harry is now homeless and using heroin. He met his ex-foster mother in the street and talked of ending his own life. He is vulnerable to involvement in offending, accidental overdose, the long term effects of his current situation and risks of self-harm. If not for his age he could be referred to the Reporter on the basis of s67(2)(i) misuse of drugs or s67(2)(m) conduct likely to harm himself. He would qualify for after care support but only if he seeks it voluntarily.

At present Harry could not be referred to the Reporter as he is over 16 years.

If he was eligible for a referral to the Reporter, a children's hearing could be arranged and result in him being made subject to a compulsory supervision order that could lead to stable accommodation, ongoing provision of advice and guidance with review, that would enable him to enjoy greater safety and co-ordination of the various supports that he requires.

Sabina

Sabina is 17 and lives at home with her mother and younger sister. She is in 6th year at school. Sabina's mum has physical and mental health difficulties which mean she cannot work, the family are dependent on benefits.

Sabina is found by the Police breaking into a house. When the police question her she explains that the family have been struggling financially since her father left last year and that she was breaking in to the house for money to buy food for the family. She is charged by the Police, due to the nature of the offence, the matter cannot be dealt with via Early and Effective Intervention. Police submit a report to the Crown Office and Procurator Fiscal Service (COPFS).

At present Sabina could not be referred to the Reporter. If the age of referral to the Reporter was raised Sabina could be jointly reported to the Reporter and COPFS. The judgement as to whether or not the case would be retained in the criminal justice system or referred to the Reporter would be a matter for the Procurator Fiscal.

Lewis

Lewis is 16 and lives with his parents. He is enrolled in an access to construction course at college but his attendance in recent months has been poor. He has been spending time with a new peer group, some of whom look a lot older than him and he has become more withdrawn and distant with his parents. Lewis often fails to return home and can be out of contact with his parents for a couple of days at a time, on occasions he has returned with unexplained injuries and has refused medical attention. Lewis has been open about his cannabis use with his parents but they suspect he may be using other drugs as they have found several small bags in his pockets and in his bedroom.

Police stop Lewis near the house of an adult known for involvement in criminal activity. As a result of him acting suspiciously and attempting to run he is searched and found to be in possession of £600 cash.

Following investigation it is established that Lewis has been subject to criminal exploitation by a serious organised crime group. The group is known to have used Lewis and other children to supply cocaine and heroin to neighbouring towns and cities. Since being found by the Police Lewis has received threats, the family home has been targeted and windows smashed.

At present Lewis could not be referred to the Reporter. It could be possible to carry out a Child Protection investigation, however the inability to refer Lewis to the Reporter would limit the powers available to those seeking to protect him. He is at risk of escalating into the criminal justice system. Referral to the Reporter could allow a children's hearing to take place for consideration to be given to the supports required to keep Lewis safe.



© Crown copyright 2020



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83960-768-4 (web only)

Published by The Scottish Government, June 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS701566 (06/20)

DATA LABEL: OFFICIAL



COUNCIL EXECUTIVE

REVIEW OF STANDING ORDERS FOR THE REGULATION OF CONTRACTS

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To present proposed revised Standing Orders for the Regulation of Contracts (Contract Standing Orders).

B. RECOMMENDATION

It is recommended that the Council Executive approves the proposed revised Contract Standing Orders, attached at Appendix 1.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Public procurement regulations. Local Government (Scotland) Act 1973. Corporate Procurement Strategy.
III	Implications for Scheme of Delegations to Officers	The Scheme of Delegations will be updated where required to reflect the updated roles and responsibilities in the revised Standing Orders
IV	Impact on performance and performance Indicators	The proposed revisions to Contract Standing Orders will support delivery of the Outcomes in the Corporate Procurement Strategy.
V	Relevance to Single Outcome Agreement	Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.
VI	Resources - (Financial, Staffing and Property)	None.
VII	Consideration at PDSP	P&R PDSP - 18 September 2020.

VIII Other consultations

Procurement Board, Governance Manager and all Service areas as part of a Working Group, including Legal Services.

D. TERMS OF REPORT

D1 Background

The Contract Standing Orders ensure that uniform contracting procedures of the highest standard are laid down for use across the Council to secure competition and compliance within the law with respect to all contracts. They also ensure that the council obtains best value in its procurement and contracting and provide a framework for detailed procurement procedures which can be made by Senior Officers under delegated powers, affording protection to the Council and its staff.

D2 Procurement Considerations

Minor updates to the current Contract Standing Orders were made in March 2019. More recently, a working group from across service areas was established to review Standing Orders. The updated document, attached at Appendix 1, incorporates, along with other minor changes, changes to accommodate Brexit, clarification of Works thresholds, integrate health and social care procurement and to clarify and strengthen the Responsible Officer role in respect of Health and Social Care Partnership Contract Advisory Group around exemptions to tender and ensure an escalation process to Council Executive, where applicable. The proposed amendments and how these relate to the current Contract Standing Orders are detailed in Appendix 2. Amendments of particular note are at paragraph C2.2 and C2.3 where it is proposed to change the threshold for reporting Works contracts to Committee. Current Standing Orders require all contracts over a £50,000 threshold to be reported to Committee. This is the regulated procurement threshold for supplies and services contracts. Below that threshold officers can progress procurement via Quick Quotes. The regulated procurement threshold for Works contracts is £249,999, below which threshold officers can progress procurement by way of Quick Quote. The proposed change to Contract Standing orders would require both categories of contracts to be reported only where they are over threshold, i.e. supplies and services over £50,000 and Works over £249,999.

There is also an amendment at paragraph C3.3 to delegate authority to the Responsible Officer to determine the tender award criteria.

Further to the review the Scheme of Delegation will be updated where required to reflect the updated roles and responsibilities in the revised Standing Orders.

The Contract Standing Orders attached at Appendix 1 will become effective from 6 October 2020.

D3 PDSP Feedback

The revised draft Contract Standing Orders were considered at Partnership and Resources PDSP on 18 September. The Panel asked for clarification on the position with regards the potential impact on Procurement Law in Scotland as result of the UK Government's new internal market legislation. There is no indication, as yet, that the Internal Market Bill will impact on the Scottish Government proposals to adopt the European procurement legislation.

The representative from the joint Forum of Community Councils expressed disappointment that figures for procurement spend via quick quote were not published.

E. CONCLUSION

The proposed revised Contract Standing Orders will ensure continued compliance with the law whilst recognising the changing landscape of local authority procurement as a result of Brexit, the integration of health and social care.

F. BACKGROUND REFERENCES

None.

Appendices: One

Appendix 1 – Draft Standing Orders for the Regulation of Contracts (Standing Orders)

Appendix 2 – Amendments to Standing Orders

Contact Person: Angela Gray, Corporate Procurement Manager

Telephone: 01506 283259, e-mail: angela.gray@westlothian.gov.uk

Julie Whitelaw

Head of Corporate Services

Date of meeting: 6 October 2020



STANDING ORDERS

for the

REGULATION OF CONTRACTS

DOCUMENT HISTORY		
24 April 2012	New Standing Orders approved following Corporate Procurement Review	Council Executive (with effect from 1 June 2012)
1 January 2013	Amendment to Clause A.7 in relation to Bribery Act 2010	Head of Finance & Estates in consultation with Chief Solicitor
1 July 2013	Amended to reflect Corporate Procurement Strategy 2013/18	Council Executive, 4 June 2013
31 December 2014	Amended following adoption of Best Value Framework	Council Executive, 5 June 2014
	Amended to reflect changes to procurement and exemption spend thresholds	Council Executive, 19 August 2014
August 2017	Amended under delegated powers to reflect management changes and new legislation	N/A
March 2019	Amended under delegated powers to amend errors in spelling, terminology and formatting	N/A
August 2020	Amended to reflect changes in relation to exit from the European Union, integration health and Social Care and clarification of Responsible Officer role in CAG, along with clarification of Works spend thresholds for tendering and other minor amendments.	P&R PDSP, 18 September 2020 Council Executive, 6 October 2020

CONTENT

- A EXTENT AND INTERPRETATION
- B DEFINITIONS
- C STANDING ORDERS
 - 1 ROLES AND RESPONSIBILITIES
 - 2 APPLICATION AND EXCEPTIONS
 - 3 BEFORE COMMENCING THE PROCUREMENT PROCESS
 - 4 ISSUING DOCUMENTATION AND ADVERTISING
 - 5 RECEIVING QUOTATIONS AND TENDERS
 - 6 EVALUATION
 - 7 SELECTION AND ACCEPTANCE
 - 8 CONTRACT MONITORING
 - 9 EXTENSIONS AND RENEWALS
 - 10 RECORDS AND REPORTING
 - 11 DISPOSALS

APPENDICES

- 1 Current Tender Thresholds (6 October 2020)

A. EXTENT AND INTERPRETATION

1	<p>The purposes of these Standing Orders are:</p> <ul style="list-style-type: none"> • to ensure that uniform contracting procedures of the highest standard are laid down for use throughout the council; • to secure competition and compliance with the law with respect to all contracts; • to ensure the council obtains best value in its procurement and contracting; • to provide a framework for detailed Corporate Procurement Procedures which can be made by Senior Officers under delegated powers; and • to afford protection to the council and its staff
2	<p>The Council makes these Standing Orders in terms of section 81 of the Local Government (Scotland) Act 1973. Section 81 requires the council to make Standing Orders with respect to the making of contracts by or on behalf of the council both for Works and for the supply of goods and materials. Such Standing Orders must include provision for securing competition for such contracts and for regulating the manner in which tenders are invited by the council. Section 81 also gives the council the power to make, if it chooses, Standing Orders for contracts for the supply of services, as distinct from the supply of goods and materials. These Standing Orders also cover contracts for Works and Services, including health and social care services.</p> <p>The Health and Social Care partnership is the name of the umbrella partnership body through which the council and NHS Lothian Health Board co-operate and work together to deliver health and social care services in West Lothian. It takes in delivery of Adult and Older Peoples Services, Children's Services, Criminal and Youth Justice service as directed by the West Lothian Integration Joint Board and the delivery of children's services under direct control of the partners. On 24 April 2012, the Council approved a separate process for health and social care services contracts and decided that approval of contracts covered by the West Lothian Health and Social Care Partnership, which are health and social care services, covered by the schedule in the Procurement (Scotland) Regulations 2016 should be devolved to the Responsible Officer and approval granted with advice and assistance from the Health and Social Care Contracts Advisory Group (CAG). Such contracts are treated differently in public procurement legislation and are of a particular nature where the needs of service users are of over-riding importance. Where applicable, these standing orders make provision for Health and social care contracts to be governed differently and the Corporate procurement procedures provide further information on the procurement and reporting arrangements.</p>
3	<p>These Standing Orders must be interpreted and applied in accordance with the key principles of transparency, equal treatment, non-discrimination and proportionality.</p>
4	<p>These Standing Orders apply to all contracts made by or on behalf of the Council, on or after 6 October 2020, for the procurement of the execution of works, the supply of goods and materials to the Council, and/or for the provision of services, including health and social care services. Where the tender process to make the contracts began prior to the 6 October 2020, the previous Standing Orders will apply.</p>
5	<p>The Standing Orders are subject to the over-riding provisions of public procurement legislation. Officers must also have regard to statutory guidance when using the Standing Orders.</p>

6	<p>Section 81 allows the council to exempt any contract from this requirement for competition where the council decides that it is satisfied that the exemption is justified by special circumstances. However, this exemption from competition can only apply to contracts where the aggregated Estimated Contract Value, for the same procurement requirement, is less than the relevant regulated procurement spend threshold under the applicable public procurement legislation. Even in some of those cases, consideration is still required about the appropriate method and extent of advertising or publicity. These Standing Orders contain procedures for the granting of such exemptions.</p>
7	<p>The Standing Orders must be read in conjunction with (and all Council staff must comply with) the Scheme of Delegation, the Council's Financial Regulations and Corporate Procurement Procedures.</p>
8	<p>Public Procurement legislation regulates the making of contracts by the council. The legislative framework seeks to ensure that public sector bodies such as the council award contracts in an efficient and non-discriminatory manner. It sets out general duties for public bodies to follow and more specific duties for specified types of procurement activity. Public Procurement legislation set out the procedures to be followed at each stage of the procurement process leading to the award of contracts above certain financial spend thresholds (regulated spend thresholds) for works, goods and materials and services, including health and social care services, by the council and other public bodies. They take account of modern techniques such as e-procurement and the provision of framework agreements, as well as the extent to which sustainable procurement and social, economic and environmental issues can be considered during the procurement process.</p> <p>Public Procurement legislation makes provision to exclude some types of spend from its scope and although, grant funding received by the Council, as a grant recipient, may be subject to public procurement legislation when the Council spends it, grant funding paid out by the Council to grant recipients is not subject to public procurement legislation so falls outwith the scope of Standing Orders.</p>
9	<p>In addition, the Local Government in Scotland Act 2003, section 1 requires the council:</p> <ul style="list-style-type: none"> • to secure best value in the performance of its functions; • to balance the quality and cost of the performance of its functions and the cost of council services to service users; • to have regard to efficiency, effectiveness, economy and the need to meet equal opportunity requirements in maintaining that balance; and • to discharge its duty to secure best value in a way which contributes to the achievement of sustainable development. <p>The council has adopted a Best Value Framework to ensure compliance with the relevant legislation and statutory guidance. The Framework applies across the council to all services and areas of activity and is of particular relevance to the procurement process, as part of making the decision to procure goods, materials, services, including health and social care, and works from external providers and in seeking to achieve Best Value procurement. In making decisions about procurement and in applying these Standing Orders, officers must have regard to and comply with that Framework. Best Value procurement is a process that</p>

	<p>considers and returns more than just best price. It is a process that takes account of the whole life cost of buying products, services or works.</p> <p>Best Value includes financial and non-financial elements such as time, administration, sourcing and benchmarking.</p>
10	<p>The council's Scheme of Delegation to Officers sets out the powers which have been delegated by the council to senior officers. Subject to certain general conditions set out in this Scheme, such as the requirement to follow council policies, the day-to-day running of council services is delegated to the Chief Executive and Depute Chief Executives, and also to Head Teachers under the council's Scheme of Devolution of School Management. These senior officers are also authorised to delegate any of their authority to other officers under their direction and who are appropriately qualified and experienced. This means that, in the context of the making of contracts on behalf of the council, the Chief Executive, Depute Chief Executives, Heads of Service, as well as Head Teachers, must ensure that those officers whom they authorise to perform procurement functions and tasks on their behalf have sufficient training, knowledge and experience to determine compliant and relevant procurement issues and are aware of the extent and limitation of their delegated authority. Regardless of any delegations by them, the final responsibility for ensuring compliance with all applicable regulation's rests with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is currently the Head of Corporate Services.</p>
11	<p>The Responsible Officer will: -</p> <ul style="list-style-type: none"> • ensure compliance with these Standing Orders; • determine disputes amongst officers engaged in the procurement and contracting process and procedures in accordance with clause A.15, below; • ensure that the award of any regulated contract applying to services is advertised within the relevant legislative timescales and contract award notices published; • include the details of regulated contract awards in the annual statistical returns and Annual Procurement Report to the Scottish Government; • add details of the contract awards into the council's corporate contract register; and • comply with provisions of Standing Orders in relation to delegation and training of officers, procurement strategies, use of standard terms of contract, use of the Corporate Contract Register, use of framework agreements and collaborative arrangements, contract monitoring, and reporting to committee and Policy Development and Scrutiny Panel.
12	<p>All officers exercising delegated powers in relation to procurement and contracting functions must comply with these Standing Orders, with the relevant Procurement Procedure as approved by the Head of Corporate Services, and with the Employee Code of Conduct. They must also be aware of the provisions of the Bribery Act 2010 and the Councils Anti-Money Laundering Policy in relation to giving or accepting a financial or other advantage and the potential for personal and corporate criminal liability. Any failure in or disregard of these requirements may amount to gross misconduct or misconduct under the council's Disciplinary Code and may result in disciplinary action.</p>
13	<p>The council's Scheme of Delegation to Officers applies to the signature of contracts. Simple electronic signatures may be used where appropriate.</p> <p>The council's Corporate Procurement Strategy sets out the framework by which the council will ensure it maximises effective service delivery and the provision of best value for money.</p>

	<p>The Strategy is aligned to the pursuit of the Scottish Government's national performance framework and the Sustainable Procurement Duty. It requires, in particular, the use of a Contract strategy template as defined, and updated from time to time, in the Corporate Procurement Procedures.</p> <p>These Standing Orders should be read in conjunction with the relevant Corporate Procurement Procedure and in the context of the Corporate Procurement Strategy.</p>
14	<p>Amendment or replacement of these Standing Orders requires a decision of full council or committee, except that:</p> <ul style="list-style-type: none"> • The Head of Corporate Services, in consultation with the Chief Solicitor, may make minor administrative changes required from time to time to any part of this document without reference to committee (arising from, for example, changes in legislation or changes in management structures); or • The Head of Corporate Services, in consultation with the Chief Solicitor, may revise and amend this section "(A) – Extent and Interpretation", and the documents comprised in the Appendices.
15	<p>Any dispute arising from the application, operation or interpretation of these Standing Orders and Corporate Procurement Procedures shall be resolved by a decision of the Responsible Officer after discussion with the appropriate Head of Service and after consultation with the Chief Solicitor, Head of Finance & Property Services or Governance Manager, as appropriate to the nature of the dispute.</p>

B. DEFINITIONS

TERM	MEANING
2014 Act	Procurement Reform (Scotland) Act 2014
2015 Regulations	The Public Contracts (Scotland) Regulations 2015
2016 Regulations	Procurement (Scotland) Regulations 2016
Annual Procurement Report	Procurement Reform (Scotland) Act 2014 requires that all Contracting Authorities, who are eligible to prepare and publish a Procurement Strategy, must publish an annual procurement report which reports on actual and planned regulated procurement activities; achievement of community benefits; activity with supported businesses; and any regulated procurement, i.e. above £50,000 for goods and services and £2,000,000 for works contracts, that did not comply with the procurement strategy.
Best Value Framework	The regime adopted at Council Executive to guide the council in securing best value and complying with the relevant legislation and statutory guidance.
Collaborative Contracts	All contracts (including framework agreements) placed in conjunction with other contracting authorities or other public bodies, by the council or another authority or body, or through joint committees, or in partnership with other parties.
Committee	Full council, or the committee established by the council with a remit which includes corporate procurement (presently Council Executive)
Contract	<p>Legislation regulates how contracts can be made by or on behalf of the council. In this context, “contract” means any agreement:</p> <ul style="list-style-type: none"> • with an individual, company or other organisation • for the execution of building and civil engineering works or • for the supply of goods, materials or services, and • which is authorised to be entered into by the council or one of its committees or sub-committees, usually in writing, or • which is entered into, either in writing or verbally, by an officer of the council, acting under their delegated powers to do so, and • which commits the council to the outcome of the agreement and, therefore, is legally enforceable by either the council or the other party or parties to the agreement.

TERM	MEANING
Contracting Authority	The term used in public procurement legislation to define those organisations that must comply with it. West Lothian Council is a Contracting Authority.
Contractor	Contractor, also referred to as Supplier and/or service provider in these Standing Orders mean a third party organisation with whom West Lothian Council may contract.
Contract Strategy	A pre-tender template, approved by the Responsible Officer, which is used by officers in carrying out procurement exercises to determine the route to market for regulated tenders, in line with the Sustainable procurement duty. The contract strategy template is defined, and updated from time to time, in the Corporate Procurement Procedures.
Corporate Contract Management System	Council system used to hold information in relation to current and proposed contracts.
Corporate Contract Register	Contract register required, in line with public procurement legislation, which holds information on regulated contracts awarded by the Council.
Corporate Procurement Board	The group of officers chaired by the Depute Chief Executive with responsibility for the oversight and control of the corporate procurement function of the council
Corporate Procurement Procedures	The Corporate Procurement Procedures is a complementary and supportive set of procedures which set out the operational requirements of the Standing Orders for the Regulation of Contracts.
Corporate Procurement Strategy	Council-wide procurement strategy approved at Council Executive
Estimated Contract Value	The aggregate Estimated Contract Value (total Estimated Contract Value), excluding VAT, established prior to tendering, over the entire term of the Contract and use across the whole council, including all options, permitted extensions and variations. (Section 5 of the Procurement Reform (Scotland) Act 2014, Regulation 6 of the Public Contracts (Scotland) Regulations 2015 and Regulation 3 of the Procurement (Scotland) Regulations 2016).
Framework Agreement – External and Internal	<p>An agreement or other arrangement between one or more contracting authorities and one or more suppliers which establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the supplier will enter into one or more contracts with a contracting authority in the period during which the framework agreement applies (Section 6 of the 2014 Act and Regulations 2(1) and 34 of the 2015 Regulations)</p> <p>An “internal framework agreement” is where the council is the body letting the contract to a number of suppliers, an “external framework agreement” is where another body lets the contract but the council is entitled to participate in the contract</p>

TERM	MEANING
General duties	Generally applicable principles of fairness, equal treatment, non-discrimination and transparency and compliance with the sustainable procurement duty (Sections 8 - 10 of the 2014 Act)
Grant	<p>A grant is awarded to individuals or organisations by public authorities for specific purposes, often covered in legislation, and usually following an application process. Grants are issued, depending on eligibility and funding, where:</p> <ul style="list-style-type: none"> • The public authority has a legal basis to pay the grant and the grant will further the public authority's statutory duty • the project or organisation being funded contributes to the public authority's policy aims • The money will be used to deliver something (which can include goods, services or works) to someone other than the public authority itself. <p>Further guidance can be found in the Scottish Public Finance Manual</p>
Health and Social Care services	As defined by Regulation 12(1) and 13(1) of the Procurement Reform (Scotland) Act 2014 Act, Schedule 3 and Regulations 74 to 76 of the Public Contracts (Scotland) Regulations 2015 Regulations and Regulation 5, along with the associated schedule of The Procurement (Scotland) Regulations 2016.
Health & Social Care Partnership Contracts Advisory Group (CAG)	Contracts for social and health care services in the West Lothian Health & Social Care Partnership for which a separate procedure has been approved by the council, including derogations and variations on some of the provisions of these Standing Orders. CAG advise the Responsible Officer on procurement of Health and Social Care contracts. Further information on the approach is provided in the
International Legislation	Any applicable residual European Procurement Legislation and any subsequent law that replaces it, such as a Government Procurement Agreement.
Negotiated Tender Procedure	A procedure leading to the award of a contract whereby the council negotiates the terms of the contract without prior publication of a contract notice or prior information notice. This may only be used in particular circumstances as identified by Regulations 2(1) and 33 of the 2015 Regulations.
Open Procedure	A procedure leading to the award of a contract whereby all interested suppliers may tender for the contract (Regulations 2(1) and 28 of the 2015 Regulations)

TERM	MEANING
Procurement Legislation in Scotland	The Procurement (Scotland) Regulations 2016 The Public Contracts (Scotland) Regulations 2015 Procurement Reform (Scotland) Act 2014
Public Contracts Scotland	The national advertising website for Scottish public sector organisations to post contracts, including those that are subject to public procurement legislation. It also allows contracting authorities to invite suppliers to submit quotations electronically via the website's secure tender post box (Section 22 of the 2014 Act) (http://www.publiccontractsscotland.gov.uk/)
Public Procurement Legislation	Any legislation that applies to procurement processes in Scotland.
Quick Quote	An online request for quotation facility provided through the Public Contracts Scotland website, used to obtain competitive quotes for low value/low risk procurement exercises or procurement mini competitions within framework agreements from suppliers who are registered on the website.
Responsible Officer	The Head of Service, currently the Head of Corporate Services, with overall procurement responsibility for all council contracts (works, services - including health and social care services, supply of goods and materials).
Restricted Procedure	A procedure leading to the award of a contract whereby only economic operators selected by the council may submit tenders for the contract (Regulations 2(1) and 29 of the 2015 Regulations)
Scheme of Delegations (to Officers)	The record maintained of all powers enduring for six months or more delegated to council officers by full council or committee
Services (and Services Contracts)	The provision of services by a person engaged by the council to do so but not including works or supplies/materials as described in Regulation 2(1) of The Public Contracts (Scotland) Regulations 2015
Service Provider	Service Provider, also referred to as Supplier and/or contractor in these Standing Orders mean a third party organisation with whom West Lothian Council may contract.
Standstill Period	The standstill period provides for a short (at least 10 calendar day) pause between the point when the contract award decision is notified to bidders, and the final contract conclusion, during which time suppliers can challenge the decision. It is a legal requirement imposed through public procurement legislation.

TERM	MEANING
Supplier	Supplier, also referred to as Contractor and/or service provider in these Standing Orders mean a third party organisation with whom West Lothian Council may contract.
Supplies (and Supplies Contracts)	The purchase or hire of goods, or their siting or installation as defined in paragraph 2(1) of the 2015 Regulations .
Thresholds	<p>Regulated spend thresholds, also known as tender thresholds, are the limits specified in legislation which determine applicable law and procedures (Regulation 5 of the 2015 Regulations) or as updated by Scottish Procurement through Scottish Procurement Policy Notes from time to time which determine which procurement procedure should be followed.</p> <p>West Lothian Council also sets local spend thresholds below the regulated spend threshold values. All thresholds are set out in the Corporate Procurement Procedures. The thresholds in the Corporate Procurement Procedures will be amended from time to time. The current thresholds are at Appendix 1.</p>
Works (and Works Contracts)	The carrying out of a work or works for the council, or under an arrangement whereby the council engages a person to procure by any means the carrying out for the council of a work corresponding to specified requirements Regulation 2(1) and Schedule 2 of the 2015 Regulations .

C. STANDING ORDERS

1. ROLES AND RESPONSIBILITIES

1.1	The Responsible Officer carries ultimate responsibility for the actions of all staff engaged in the procurement and contracting process.
1.2	It is the duty of the Responsible Officer to ensure that all staff engaged in the procurement and contracting process are properly authorised to act, are properly trained and supervised, understand these Standing Orders and related Corporate Procurement Procedures, and that they comply with them.
1.3	All staff engaged in the procurement and contracting process must be properly authorised to act, must be properly trained and supervised, must understand these Standing Orders and related Corporate Procurement Procedures, and must comply with them.
1.4	In carrying out functions and in the procurement and contracting process all staff must have regard to the need to take legal advice, shall ensure that legal advice is timeously taken where required, and shall record and retain a record of the advice requested and provided.
1.5	External specialist procurement advice shall only be purchased when approved by the Responsible Officer in consultation with the Chief Solicitor.
1.6	All staff engaged in the procurement and contracting process must act in accordance with these Standing Orders, with the relevant Corporate Procurement Procedures made from time to time by the Responsible Officer, and with the council's Best Value Framework, and must have regard to the Corporate Procurement Strategy.
1.7	All staff must ensure that all information in relation to a contract or proposed contract is entered when and where required in the Corporate Contract register which is currently held in the Corporate Contract Management System.

2. APPLICATION AND EXCEPTIONS

2.1	These Standing Orders shall apply to the placing of any contract. All such contracts, and extensions to contracts, must be made within the terms of all applicable public procurement legislation and statutory guidance, these Standing Orders and the council's Corporate Procurement Procedures issued by the Responsible Officer. The council's duty at all times will be to achieve best value.
2.2	Except where prohibited by legislation, committee may decide that these Standing Orders, or parts of them, shall not apply to a specific contract or to a specific class or category of contract, if it is satisfied that there are circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, to justify the exemption. For supplies/materials and services certain officers may grant such exemptions where the Estimated Contract Value is less than £50,000 (SO2.3) but exemptions where the Estimated Contract Value is £50,000 or more may only be granted by the council committee. For Works certain officers may grant such exemptions where the Estimated Contract Value is less than £250,000 (SO2.3) but exemptions where the Estimated Contract Value is £250,000 or more may only be granted by the council committee. The Responsible Officer, with advice and guidance from The Health and Social Care Partnership Contracts Advisory Group (CAG), will grant any exemption for contracts for health and social care services with an estimated contract value of £50,000 or more.

2.3	<p>In exceptional circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, where the Estimated Contract Value is less than £50,000 for Supplies/Materials and Services (including Health and Social Care Services), and £250,000 for Works, certain officers may decide that the provisions of Standing Order 4.4 to 4.9 in relation to the obtaining of estimates, quotations or tenders shall not apply. Such exemptions may only be granted as follows:</p> <ul style="list-style-type: none"> (a) For an Estimated Contract Value of less than £1,000 (Standing Order 4.5), no exemption is required or available; (b) For an Estimated Contract Value of between £1,000 and £4,999, by the relevant Head of Service (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of a Head of Service Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.6) (c) For an Estimated Contract Value of between £5,000 and £49,999 for supplies/materials and services, by the Responsible Officer (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the Responsible Officer (Head of Corporate Services) Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.7) (d) For an Estimated Contract Value of between £5,000 and £249,999 for Works, by the Responsible Officer (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the Responsible Officer Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.7) (e) For an Estimated Contract Value of £50,000 or more, for supplies/materials and services (excluding Health and Social Care Services), by the council committee on a recommendation from the Responsible Officer (Standing Order 2.2) (f) For an Estimated Contract Value of £50,000 or more, for health and social care services, by the Responsible Officer, with advice and guidance from The Health and Social Care Partnership Contracts Advisory Group (CAG) (Standing Order 2.2) (g) For an Estimated Contract Value of £250,000 or more, for Works, by the council committee on a recommendation from the Responsible Officer (Standing Order 2.2) <p>The officer granting such an exemption shall ensure that a record is kept.</p>
2.4	<p>For spend of £50,000 or more for supplies/materials and services and for Works of £2m or more, except where Scottish Government and Scotland Excel Frameworks for Category A and B spend are utilised, external Framework Agreements may only be used with the prior written approval of the Responsible Officer and as required in accordance with the council's Corporate Procurement Procedures.</p>
2.5	<p>Pilot Schemes set up in accordance with the council's Corporate Procurement Procedures may only be used where approved by the Responsible Officer and only when a business case has been prepared and the Pilot Scheme provider has been identified following a competitive tender exercise.</p>

3. BEFORE COMMENCING THE PROCUREMENT PROCESS

3.1	<p>Heads of Service shall, subject to advice and guidance from the Responsible Officer, ensure compliance with the council's Best Value Framework in relation to the contract strategy and decision, and shall determine:</p> <ul style="list-style-type: none"> • The nature of the contract (wholly works, wholly supplies/materials and services, wholly Health and Social Care Services or, where the contact shall include a mix, the category into which it falls); • Where the contract is for supplies/materials and services, the type of services (whether or not within the category of Health and Social Care Services or, where the contact shall include both, the category into which it falls); • Whether or not the Estimated Contract Value will be less than £1,000; • Whether or not the Estimated Contract Value will be greater than or equal to £1,000 but less than £5,000; • Whether or not the Estimated Contract Value will be greater than or equal to £5,000 but less than £50,000; • Whether or not the Estimated Contract Value will be greater than or equal to £50,000 but less than the relevant regulated spend threshold; • Whether or not the Estimated Contract Value will fall within the regulated spend threshold; • Whether or not the Estimated Contract Value will be greater than the relevant regulated spend threshold; • Whether the Estimated Contract Value is within the regulated spend threshold which indicates that wider advertising is needed; • Whether there are any existing, forthcoming or potential Collaborative Contracts or Framework Agreements, internal or external, which may be utilised. <p>Regardless of any delegations, the final responsibility for ensuring compliance with all applicable public procurement legislation rests with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is currently the Head of Corporate Services.</p>
3.2	<p>For Works, Supplies/Materials and Services contracts (including health and social care contracts), where the Responsible Officer identifies an existing Collaborative Contract or Framework Agreement (Internal or External) this may be utilised provided it is compliant with public procurement legislation and presents best value.</p>
3.3	<p>The Responsible Officer shall determine the quotation or tender award criteria and the proposed contract strategy for the proposed procurement but the Responsible Officer may ask committee to do so if they believe there is good reason.</p>
3.4	<p>The Responsible Officer shall prepare such documentation as is necessary to obtain competitive quotations or tenders for all contracts. The documentation shall be prepared and issued in accordance with the council's Corporate Procurement Procedures.</p>

4. ISSUING DOCUMENTATION AND ADVERTISING

4.1	Officers shall ensure compliance with public procurement legislation and the Sustainable Procurement Duty and shall have regard to guidance relating to the extent of advertising and publicity required which is proportionate to the Estimated Contract Value, under reference to the spend thresholds in Appendix 1.
4.2	The Responsible Officer shall issue contract documents and invitations to quote and to tender for all contracts in accordance with the council's Corporate Procurement Procedures.
4.3	Contract documentation shall utilise the relevant set of the council's standard Terms and Conditions of Contract, and any departure from them must be approved in writing by the Responsible Officer and, where applicable, the Chief Solicitor.
4.4	The Responsible Officer may utilise electronic tendering and electronic auction techniques where appropriate and as required in accordance with the council's Corporate Procurement Procedures.
4.5	Where the Estimated Contract Value is less than £1,000 the procurement shall be carried out in such manner as the relevant Head of Service may determine, subject to the requirements to demonstrate best value and retain adequate records to substantiate the decision.
4.6	Where the Estimated Contract Value is £1,000 or more but less than £5,000, the procurement shall be carried out in such manner as the relevant Head of Service may determine, subject to the requirement to obtain at least two competitive quotations.
4.7	Where the Estimated Contract Value is £5,000 or more but less than £50,000 for Supplies/Materials and Services, the procurement shall be carried out by using Quick Quote and a minimum of three quotations must be sought. For Works, where the Estimated Contract Value is £5,000 or more but less than £250,000, the procurement shall be carried out by using Quick Quote and a minimum of three quotes must be sought.
4.8	Quick Quotes must be carried out through Public Contracts Scotland (PCS) and, except where exempted by public procurement legislation, regulated tenders must be carried out through Public Contracts Scotland Tender (PCS-Tender) but the Responsible Officer shall, in addition, consider and arrange for such additional advertising or publicity as may be required to secure compliance with public procurement legislation.
4.9	<ul style="list-style-type: none"> (a) For spend up to £999 there is no requirement to seek quotes. However, there is a requirement to ensure best value. (b) For spend between £1,000 and £4,999 a minimum of 2 quotations must be sought. (c) For Supplies/Materials and Services (including Health and Social Care) for spend between £5,000 and £49,999 a minimum of 3 quotes must be sought. (d) For Works spend between £5,000 and £250,000 a minimum of 3 quotes must be sought. (e) Except where exempted by public procurement legislation, for spend over £50,000 to £189,329 for regulated contracts for supplies/materials and services (including Health and Social Care), the procurement must be carried out through Public Contracts Scotland-Tender and, where there is a high level of bidders, selecting a minimum of 3 tenders (f) A minimum of 5 tenders should be selected, where there is a high level of bidders, for spend of £189,330 and above.

	<p>(g) For Works spend between £250,000 to £3.999m, the procurement must be carried out through Public Contracts Scotland-Tender and, where there is a high level of bidders, select a minimum of 3 tenders.</p> <p>(h) For Works spend over £4m, where there is a high level of bidders, a minimum of 5 tenders must be sought.</p>
4.10	If the Estimated Contract Value to carry out work under any one Works Contract is more than £1,000,000 the council shall ask for security for completing the contract. The Head of Service, subject to advice and guidance from the Responsible Officer, shall ensure that the tender and conditions of contract shall set out the nature and amount of the security.
4.11	The council may ask for security on any other contract where considered appropriate and the Head of Service, subject to advice and guidance from the Responsible Officer, shall ensure that the tender and conditions of contract shall set out the nature and amount of the security.
4.12	After due consideration, but only where permitted by law, committee may decide that a tenderer or a contractor shall not be invited to or be allowed to quote or tender for any future contract for any part of the council.

5. RECEIVING QUOTATIONS AND TENDERS

5.1	All quotations and tenders shall be received and opened by the Responsible Officer in accordance with the relevant Procurement Procedure.
5.2	In the event that Public Contracts Scotland or Public Contracts Scotland-Tender has not been utilised, all quotations and tenders not received at the specified return address by the specified closing date and time will not be considered, and shall be returned unopened. Quotations and tenders must be submitted in the form specified.
5.3	In the case of unsatisfactory performance or conduct by any person submitting a quotation or tender before a decision is made as to which should be accepted, the Responsible Officer may, in consultation with the Chief Solicitor, as far as permitted by law, disqualify that person from further participation or reject the quotation or tender, after considering any representations made.

6. EVALUATION

6.1	Quotations and tenders shall be evaluated by the Head of Service, in consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures.
6.2	Quotations and tenders shall be evaluated in accordance with the quotation or tender award criteria and the agreed contract strategy for the proposed procurement, and on the basis of establishing which offer is the most economically advantageous and provides Best Value to the council.
6.3	A written record must be maintained outlining the evaluation process, recording the process followed and the criteria applied, and detailing the reasons for the decision.

7. SELECTION AND ACCEPTANCE

7.1	The decision as to which quotation or tender to accept shall be taken by Heads of Service, after consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures, unless the Responsible Officer is required by a decision of the council to refer the decision to committee, or in any other case in which the Responsible Officer decides that committee approval is desirable.
7.2	Quotations and tenders shall thereafter be accepted by Heads of Service, after consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures. In particular, Heads of Service, with advice and guidance from the Responsible Officer, shall observe any standstill period required before acceptance of a quotation or tender.

8. CONTRACT MONITORING

8.1	The Responsible Officer shall ensure that the performance of the contract is monitored and reviewed, and shall maintain a record of those processes which is proportionate in light of the value, duration, subject matter, risk rating and complexity of the contract.
8.2	In a case of unsatisfactory performance or conduct by a contractor following the award of a contract, the Responsible Officer may, in consultation with the Chief Solicitor, and subject to any failure to implement any applicable improvement action by the contractor, take action in terms of the contract to terminate the contract.

9. EXTENSIONS AND RENEWALS

9.1	Subject always to compliance with public procurement legislation and the relevant Corporate Procurement Procedures, the Responsible Officer may vary, alter, extend (but only where the contract allows the council those options) or re-negotiate any part of a contract to achieve best value for the council.
9.2	A Responsible Officer business case, in compliance with the relevant renewal/extension procedure documented in the Corporate Procurement Procedures, justifying the reasons for this course of action together must be prepared and retained before proceeding.
9.3	A detailed written record of all negotiations and discussions with the contractors must be maintained and retained.

10. RECORDS AND REPORTING

10.1	Heads of Service shall report to the Head of Corporate Services all contracts let and other information required under the Corporate Procurement Strategy, and shall comply with the reporting procedures put in place by the Corporate Procurement Board.
10.2	Unless an exception is made by the council for any class or value of contracts, the Responsible Officer shall ensure that reports are brought to the Corporate Procurement Board, on a quarterly basis, on those matters specified in the Corporate Procurement Strategy and otherwise as required by the Council Executive or the Corporate Procurement Board.
10.3	An annual Procurement Strategy review will be conducted and reported annually to the Policy Development and Scrutiny Panel.
10.4	The Annual Procurement Report, as required by the Procurement Reform (Scotland) Act 2014 will be brought to the Council Executive prior to publication. An update, reporting on the first 6 month of the financial year, will also be reported to Council Executive.
10.5	As well as ensuring amendments and updates are made as required, the Responsible Officer shall carry out a review of these Standing Orders at least once in each administrative term and shall report the outcome to PDSP and Council Executive.
10.6	Reporting on H&SCP contract activity will be carried out as follows: - <ul style="list-style-type: none"> • Annually to the Council Executive on the regulated contracts awarded, extended or renewed as a result of recommendations from the Health and Social Care Partnership Contract Advisory Group. • Biannually to Social Policy Policy Development and Scrutiny Panel on the regulated contracts awarded, extended or renewed as a result of recommendations from the Health and Social Care Partnership Contract Advisory Group.
10.7	The Responsible Officer shall maintain a corporate contract register, comply with the statutory requirements for annual procurement reports, and comply with publication duties, all in accordance with the 2014 Act.

11. DISPOSALS

11.1	The Head of Finance and Property is responsible for disposing of assets and materials (including land and buildings) which are not needed on behalf of all council services, except for the disposal of IT hardware and software which is the responsibility of the Depute Chief Executive (Corporate, Operational & Housing Services).
11.2	All disposals of assets and materials except for IT hardware and software shall be undertaken in accordance with procedures approved by committee or issued by the Head of Finance and Property under delegated powers.
11.3	All disposals of IT hardware and software shall be undertaken in accordance with the procedure issued by the Depute Chief Executive Corporate, Operational & Housing Customer and Building and Services).

Appendix 1

WEST LOTHIAN COUNCIL TENDER THRESHOLDS

Supplies/Materials and Services

Procurement Type	Aggregate Estimated Contract Value**	Tender Advertising Requirement	Minimum No of Quotations/Tenders Sought
Informal Quotation/PECOS Order	£0-£999	N/A	Requirement to ensure best value
Informal Quotation	£1,000-£4,999	N/A	Two Quotes
Quick Quote	£5,000 to £49,999	PCS - Quick Quotes	Three Quotes
Tender	£50,000 to £189,329	PCS – Tender	Three Tenders
Tender	£189,330 and above	PCS – Tender	Five Tenders

Health and Social Care Services

Procurement Type	Aggregate Estimated Contract Value**	Tender Advertising Requirement	Minimum No of Quotations/Tenders Sought
Informal Quotation/PECOS Order	£0-£999	N/A	Requirement to ensure best value
Informal Quotation	£1,000-£4,999	N/A	Two Quotes
Quick Quote	£5,000 to £49,999	PCS - Quick Quotes	Three Quotes
Tender	£50,000 to £663,539	PCS – Tender	Three Tenders
Tender*	£663,540 and above	PCS – Tender	Five Tenders

Works

Procurement Type	Aggregate Estimated Contract Value**	Tender Advertising Requirement	Minimum No of Quotations/Tenders Sought
Informal Quotation/PECOS Order	£0-£999	N/A	Requirement to ensure best value
Informal Quotation	£1,000-£4,999	N/A	Two Quotes
Quick Quote	£5,000 to £249,999	PCS - Quick Quotes	Three Quotes
Tender	£250,000 to £3.999m	PCS – Tender	Three Tenders
Tender	£4m and above	PCS – Tender	Five Tenders

*Some Health and Social Care tenders in this threshold may be exempt, in line with public procurement legislation, from tendering requirements. Please contact CPU for guidance.

**Updated from time to time in line with regulatory amendments.

Amendments to Standing Orders for the Regulation of Contracts

Appendix 2

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
1	Contents, Appendices	<p>APPENDICES</p> <p>1 Contract Strategy Template 14 (A.9)</p> <p>2 Business Case Template for 23 Renewal or Extension (SO9.2)</p> <p>3 Cross Border Interest and 24 Adequate Advertising (SO3.1, SO4.7)</p> <p>4 Health & Social Care 26 Partnership Contracts Advisory Group (A.3)</p>	<p>APPENDICES</p> <p>1 Current Tender Thresholds (6 October 2020)</p>
2	Paragraph A2	<p>Legislation regulates how contracts can be made by or on behalf of the council. In this context, “contract” means any agreement:-</p> <ul style="list-style-type: none"> • with an individual, company or other organisation • for the execution of building and civil engineering works or • for the supply of goods, materials or services, and • which is authorised to be entered into by the council or one of its committees or sub-committees, usually in writing, or • which is entered into, either in writing or verbally, by an officer of the council, acting under their delegated powers to do so, and • which commits the council to the outcome of the agreement and, therefore, is legally enforceable by either the council or the other party or parties to the agreement. 	<p>This wording has been moved to Section B, definitions under “Contracts”.</p>
3	Paragraph A3	<p>In particular, the Local Government (Scotland) Act 1973, section 81 requires the council to make Standing Orders with respect to the making of contracts by or on behalf of the council for both works and for the supply of goods and materials. Such Standing Orders must include provision for securing competition for such contracts and for regulating the manner in which tenders are invited by the council. Section 81 also gives the council the power to make, if it chooses, Standing Orders for contracts for the supply of services, as distinct from the supply of goods and materials. These Standing Orders cover contracts for services as well.</p> <p>Section 81 allows the council to exempt any contract from this requirement for competition where the council decides that it is satisfied that the exemption is justified by special circumstances. However, this exemption from competition can only apply to contracts where the aggregated estimated cost is less than the relevant regulated procurement threshold under the procurement regulations in Scotland or the European Procurement Directives. Even in some of those cases, consideration is still required about the appropriate method and extent of advertising or publicity. These Standing Orders contain procedures for the granting of such exemptions.</p>	<p>Now Paragraph A2:</p> <p>The Council makes these Standing Orders in terms of section 81 of the Local Government (Scotland) Act 1973. Section 81 requires the council to make Standing Orders with respect to the making of contracts by or on behalf of the council both for Works and for the supply of goods and materials. Such Standing Orders must include provision for securing competition for such contracts and for regulating the manner in which tenders are invited by the council. Section 81 also gives the council the power to make, if it chooses, Standing Orders for contracts for the supply of services, as distinct from the supply of goods and materials. These Standing Orders also cover contracts for Works and Services, including health and social care services.</p> <p>The Health and Social Care partnership is the name of the umbrella partnership body through which the council and NHS Lothian Health Board co-operate and work together to deliver health and social care services in West Lothian. It takes in delivery of Adult and Older Peoples Services, Children's Services, Criminal and Youth Justice service as directed by the West Lothian Integration Joint Board and the delivery of children's services under direct control of the partners. On 24 April 2012, the Council approved a</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
		<p>The council has in particular decided that contracts covered by the West Lothian Health & Social Care Partnership which are health and social care services, covered by the Schedule in The Procurement (Scotland) Regulations 2016 should be exempt from the full rigour of these Standing Orders. The Health & Social Care Partnership is the name of the umbrella partnership body through which the council and NHS Lothian Health Board cooperate and work 3</p> <p>together to deliver health and social care services in West Lothian. It takes in delivery of adult and older people's services as directed by the West Lothian Integration Joint Board and the delivery of children's services under direct control of the partners. Such contracts are treated differently in procurement legislation and regulations, and are of a particular nature where the needs of service users are of over-riding importance. They are governed by a separate set of procurement and reporting arrangements (Appendix 4).</p>	<p>separate process for health and social care services contracts and decided that approval of contracts covered by the West Lothian Health and Social Care Partnership, which are health and social care services, covered by the schedule in the Procurement (Scotland) Regulations 2016 should be devolved to the Responsible Officer and approval granted with advice and assistance from the Health and Social Care Contracts Advisory Group (CAG). Such contracts are treated differently in public procurement legislation and are of a particular nature where the needs of service users are of over-riding importance. Where applicable, these standing orders make provision for Health and social care contracts to be governed differently and the Corporate procurement procedures provide further information on the procurement and reporting arrangements.</p> <p>Now Paragraph A6: Section 81 allows the council to exempt any contract from this requirement for competition where the council decides that it is satisfied that the exemption is justified by special circumstances. However, this exemption from competition can only apply to contracts where the aggregated estimated contract value, for the same procurement requirement, is less than the relevant regulated procurement spend threshold under the applicable public procurement legislation. Even in some of those cases, consideration is still required about the appropriate method and extent of advertising or publicity. These Standing Orders contain procedures for the granting of such exemptions.</p>
4	Paragraph A4	<p>European legislation also regulates the making of contracts by the council. Some is of direct effect and some is translated into UK and Scots law by domestic legislation. This legislative framework seeks to ensure that public sector bodies such as the council award contracts in an efficient and non-discriminatory manner. It sets out general duties for public bodies to follow and more specific duties for specified types of procurement activity. Regulations set out the procedures to be followed at each stage of the procurement process leading to the award of contracts above certain financial thresholds for works, supplies/materials and services by the council and other public bodies. They take account of modern techniques such as e-procurement and the provision of framework agreements, as well as the extent to which sustainable procurement and social and environmental issues can be considered during the procurement process.</p>	<p>Now Paragraph A3: These Standing Orders must be interpreted and applied in accordance with the key principles of transparency, equal treatment, non-discrimination and proportionality.</p> <p>Now Paragraph A8: Public Procurement legislation regulates the making of contracts by the council. The legislative framework seeks to ensure that public sector bodies such as the council award contracts in an efficient and non-discriminatory manner. It sets out general duties for public bodies to follow and more specific duties for specified types of procurement activity. Public Procurement legislation set out the procedures to be followed at each stage of the procurement process leading to the award of contracts above certain financial spend thresholds for works, goods and materials and services, including health and social care services, by the council and other public bodies. They take account of modern techniques such as e-procurement and the provision of framework agreements, as well as the</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
			<p>extent to which sustainable procurement and social, economic and environmental issues can be considered during the procurement process.</p> <p>Public Procurement legislation makes provision to exclude some types of spend from its scope and although, grant funding received by the Council, as a grant recipient, may be subject to public procurement legislation when the Council spends it, grant funding paid out by the Council to grant recipients is not subject to public procurement legislation so falls outwith the scope of Standing Orders.</p>
5	Paragraph A5	<p>In addition, the Local Government in Scotland Act 2003, section 1 requires the council:</p> <ul style="list-style-type: none"> • to secure best value in the performance of its functions; • to balance the quality and cost of the performance of its functions and the cost of council services to service users; • to have regard to efficiency, effectiveness, economy and the need to meet equal opportunity requirements in maintaining that balance; and • to discharge its duty to secure best value in a way which contributes to the achievement of sustainable development. <p>The council has adopted a Best Value Framework to ensure compliance with the relevant legislation and statutory guidance. The Framework applies across the council to all services and areas of activity and is of particular relevance to the procurement process, as part of making the decision to procure goods, materials, services, including health and social care, and works from external providers and in seeking to achieve Best Value procurement. In making decisions about procurement and in applying these Standing Orders, officers must have regard to and comply with that Framework. Best Value procurement is a process that considers and returns more than just best price. It is a process that takes account of the whole life cost of buying products, services or works. Best Value includes financial and non-financial elements such as time, administration, sourcing and benchmarking.</p>	<p>This wording has been moved to Paragraph A9.</p>
6	Paragraph A6	<p>The council's Scheme of Delegation to Officers sets out the powers which have been delegated by the council to senior officers. Subject to certain general conditions set out in this Scheme, such as the requirement to follow council policies, the day-to-day running of council services is delegated to the Chief Executive and Depute Chief Executives, and also to Head Teachers under the council's Scheme of Devolution of School Management. These senior officers are also authorised to delegate any of their authority to other officers under their direction and who are appropriately qualified and experienced.</p>	<p>Now Paragraph A10: The council's Scheme of Delegation to Officers sets out the powers which have been delegated by the council to senior officers. Subject to certain general conditions set out in this Scheme, such as the requirement to follow council policies, the day-to-day running of council services is delegated to the Chief Executive and Depute Chief Executives, and also to Head Teachers under the council's Scheme of Devolution of School Management. These senior officers are also authorised to delegate any of their</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
		This means that, in the context of the making of contracts on behalf of the council, the Chief Executive, Depute Chief Executives, Heads of Service, as well as Head Teachers, must ensure that those officers whom they authorise to perform procurement functions and tasks on their behalf have sufficient training, knowledge and experience to determine relevant procurement issues and are aware of the extent and limitation of their delegated authority. Regardless of any delegations by them, the final responsibility for ensuring compliance with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is presently the Head of Corporate Services.	authority to other officers under their direction and who are appropriately qualified and experienced. This means that, in the context of the making of contracts on behalf of the council, the Chief Executive, Depute Chief Executives, Heads of Service, as well as Head Teachers, must ensure that those officers whom they authorise to perform procurement functions and tasks on their behalf have sufficient training, knowledge and experience to determine compliant and relevant procurement issues and are aware of the extent and limitation of their delegated authority. Regardless of any delegations by them, the final responsibility for ensuring compliance with all applicable regulations rests with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is currently the Head of Corporate Services.
7	Paragraph A7	All officers exercising delegated powers in relation to procurement and contracting functions must comply with these Standing Orders, with the relevant Procurement Procedure as approved by the Head of Corporate Services, and with the Employee Code of Conduct. They must also be aware of the provisions of the Bribery Act 2010 in relation to giving or accepting a financial or other advantage and the potential for personal and corporate criminal liability. Any failure in or disregard of these requirements may amount to gross misconduct or misconduct under the council's Disciplinary Code and may result in disciplinary action.	Now Paragraph A12 All officers exercising delegated powers in relation to procurement and contracting functions must comply with these Standing Orders, with the relevant Procurement Procedure as approved by the Head of Corporate Services, and with the Employee Code of Conduct. They must also be aware of the provisions of the Bribery Act 2010 and the Councils Anti-Money Laundering Policy in relation to giving or accepting a financial or other advantage and the potential for personal and corporate criminal liability. Any failure in or disregard of these requirements may amount to gross misconduct or misconduct under the council's Disciplinary Code and may result in disciplinary action.
8	Paragraph A8	<p>The council's Scheme of Delegation to Officers sets out which officers can sign formal deeds to which the council is a party. Apart from certain named officers for deeds dealing with particular council functions, the Chief Solicitor and senior colleagues in Legal Services are the officers designated to sign formal deeds on behalf of the council. This means that these officers must sign contracts where they are constituted on the basis of requiring formal execution, such as a minute of agreement. The majority of contracts, however, do not require such formal signature and can be signed by the Chief Executive, relevant Depute Chief Executive, or Head Teacher, or any officer to whom they have delegated authority to do so.</p> <p>The council's Corporate Procurement Strategy 2019/23 sets out the framework by which the council will ensure it maximises effective service delivery and the provision of best value for money through a corporate and strategic approach to procurement.</p> <p>The Strategy is aligned to the pursuit of the Scottish Government's objectives of promoting collaborative procurement opportunities and the implementation of</p>	<p>Now Paragraph A13: The council's Scheme of Delegation to Officers applies to the signature of contracts. Simple electronic signatures may be used where appropriate.</p> <p>The council's Corporate Procurement Strategy sets out the framework by which the council will ensure it maximises effective service delivery and the provision of best value for money.</p> <p>The Strategy is aligned to the pursuit of the Scottish Government's national performance framework and the Sustainable Procurement Duty. It requires, in particular, the use of a Contract strategy template as defined, and updated from time to time, in the Corporate Procurement Procedures.</p> <p>These Standing Orders should be read in conjunction with the relevant Procurement Procedure and in the context of the Corporate Procurement Strategy.</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
		<p>leading practice whilst promoting economic wellbeing and sustainable development. It requires in particular the use of a Contracts Strategy Template (Appendix 1).</p> <p>These Standing Orders should be read in conjunction with the relevant Procurement Procedure and in the context of the Corporate Procurement Strategy.</p>	
9	Paragraph A9	<p>Amendment or replacement of these Standing Orders requires a decision of full council or an appropriate committee, except that:</p> <ul style="list-style-type: none"> The Head of Corporate Services, in consultation with the Chief Solicitor, may make minor administrative changes required from time to time to any part of this document without reference to committee (arising from, for example, changes in legislation or changes in management structures) The Head of Corporate Services, in consultation with the Chief Solicitor, may revise and amend this Introduction section (A), and the documents comprised in the Appendices. 	<p>Now Paragraph A14: Amendment or replacement of these Standing Orders requires a decision of full council or committee, except that:</p> <ul style="list-style-type: none"> The Head of Corporate Services, in consultation with the Chief Solicitor, may make minor administrative changes required from time to time to any part of this document without reference to committee (arising from, for example, changes in legislation or changes in management structures); or The Head of Corporate Services, in consultation with the Chief Solicitor, may revise and amend this section "(A) – Extent and Interpretation", and the documents comprised in the Appendices.
10	-	-	<p>New Paragraph A4: These Standing Orders apply to all contracts made by or on behalf of the Council, on or after 6 October 2020, for the procurement of the execution of works, the supply of goods and materials to the Council, and/or for the provision of services, including health and social care services. Where the tender process to make the contracts began prior to the 6 October 2020, the previous Standing Orders will apply.</p>
11	-	-	<p>New Paragraph A5: The Standing Orders are subject to the over-riding provisions of public procurement legislation. Officers must also have regard to statutory guidance when using the Standing Orders.</p>
12	-	-	<p>New Paragraph A7: The Standing Orders must be read in conjunction with (and all Council staff must comply with) the Scheme of Delegation, the Council's Financial Regulations and Corporate Procurement Procedures.</p>
13	-	-	<p>New Paragraph A11: The Responsible Officer will:-</p> <ul style="list-style-type: none"> ensure compliance with these Standing Orders; determine disputes amongst officers engaged in the procurement and contracting process and procedures in accordance with Paragraph A.15, below; ensure that the award of any regulated contract applying to services is advertised within the relevant legislative timescales

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
			<ul style="list-style-type: none"> and contract award notices published; include the details of regulated contract awards in the annual statistical returns and Annual Procurement Report to the Scottish Government; add details of the contract awards into the council's corporate contract register; and comply with provisions of Standing Orders in relation to delegation and training of officers, procurement strategies, use of standard terms of contract, use of the Corporate Contract Register, use of framework agreements and collaborative arrangements, contract monitoring, and reporting to committee and Policy Development and Scrutiny Panel.
14	-	-	New Paragraph A15: Any dispute arising from the application, operation or interpretation of these Standing Orders and Corporate Procurement Procedures shall be resolved by a decision of the Responsible Officer after discussion with the appropriate Head of Service and after consultation with the Chief Solicitor, Head of Finance & Property Services or Governance Manager, as appropriate to the nature of the dispute.
15	-	-	New Paragraph A15: Any dispute arising from the application, operation or interpretation of these Standing Orders and Corporate Procurement Procedures shall be resolved by a decision of the Responsible Officer after discussion with the appropriate Head of Service and after consultation with the Chief Solicitor, Head of Finance & Property Services or Governance Manager, as appropriate to the nature of the dispute.
16	B - Definitions	-	Alphabetical and numerical order.
17	B - Definitions	Current: Contract Strategy Template Contract Value Social and Other Specific Services Corporate Procurement Strategy 2019/23 Responsible Officer - - Health and Social Care Advisory Group (CAG) - - - - - - - - - - - - - - Supplier	New or Updated Contract Strategy Estimated Contract Value Health and Social Care Services Corporate Procurement Strategy Responsible Officer (Amended wording only) Service Provider Standstill Period Health and Social Care Advisory Group (CAG) (Amended wording only) 2016 Regulations Annual Procurement Report Contract Contracting Authority Contractor Contract Strategy Corporate Contract Management System Corporate Contract Register Corporate Procurement Procedures Grant International Legislation Public Procurement Legislation

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
18	B - Definitions	Current: Cross Border Interest OJEU or Official Journal	New: Removed Removed
19	Paragraph C1.6	All staff engaged in the procurement and contracting process must act in accordance with these Standing Orders, with the relevant Procurement Procedures made from time to time by the Head of Corporate Services, and with the council's Best Value Framework, and must have regard to the Corporate Procurement Strategy 2019/23.	All staff engaged in the procurement and contracting process must act in accordance with these Standing Orders, with the relevant Corporate Procurement Procedures made from time to time by the Responsible Officer, and with the council's Best Value Framework, and must have regard to the Corporate Procurement Strategy.
20	Paragraph C2.1	These Standing Orders shall apply to the placing of any contract. All such contracts, and extensions to contracts, must be made within the terms of the relevant legislative framework and statutory guidance, the EU procurement rules, these Standing Orders and the council's Procurement Procedures issued by the Head of Corporate Services. The council's duty at all times will be to achieve best value.	These Standing Orders shall apply to the placing of any contract. All such contracts, and extensions to contracts, must be made within the terms of all applicable public procurement legislation and statutory guidance, these Standing Orders and the council's Corporate Procurement Procedures issued by the Responsible Officer. The council's duty at all times will be to achieve best value.
21	Paragraph C2.2.	Except where prohibited by legislation, committee may decide that these Standing Orders, or parts of them, shall not apply to a specific contract or to a specific class or category of contract, if it is satisfied that there are circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, to justify the exemption. Certain officers may grant such exemptions where the contract value is less than £50,000 (SO2.3) but exemptions where the contract value is £50,000 or more may only be granted by the relevant council committee.	Except where prohibited by legislation, committee may decide that these Standing Orders, or parts of them, shall not apply to a specific contract or to a specific class or category of contract, if it is satisfied that there are circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, to justify the exemption. For supplies/materials and services certain officers may grant such exemptions where the estimated contract value is less than £50,000 (SO2.3) but exemptions where the estimated contract value is £50,000 or more may only be granted by the council committee. For Works certain officers may grant such exemptions where the estimated contract value is less than £250,000 (SO2.3) but exemptions where the estimated contract value is £250,000 or more may only be granted by the council committee. The Responsible Officer, with advice and guidance from The Health and Social Care Partnership Contracts Advisory Group (CAG), will grant any exemption for contracts for health and social care services with an estimated value of £50,000 or more.
22	Paragraph C2.3	In exceptional circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, where the contract value is less than £50,000 certain officers may decide that the provisions of Standing Order 4.4 to 4.8 in relation to the obtaining of estimates, quotations or tenders shall not apply. Such exemptions may only be granted as follows:- a) For a contract value of less than £1,000 (Standing Order 4.4), no exemption is required or available b) For a contract value of between £1,000 and £4,999, by the relevant Head of Service (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of a	In exceptional circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, where the estimated contract value is less than £50,000 for Supplies/Materials (including health and social care services) and Services, and £250,000 for Works, certain officers may decide that the provisions of Standing Order 4.4 to 4.9 in relation to the obtaining of estimates, quotations or tenders shall not apply. Such exemptions may only be granted as follows: a) For an estimated contract value of less than £1,000 (Standing Order 4.5), no exemption is required or available; b) For an estimated contract value of between £1,000 and £4,999,

			by the relevant Head of Service (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of a Head of Service Business Case Exemption form and compliance with Corporate Procurement Procedures (Standing Order 4.5)
		<p>c) Head of Service Business Case Exemption form and compliance with Corporate Procurement Procedures (Standing Order 4.5)</p> <p>d) For a contract value of between £5,000 and £49,999, by the Head of Corporate Services (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the Head of Corporate Services Business Case Exemption form and compliance with Corporate Procurement Procedures (Standing Order 4.6)</p> <p>e) For a contract value of £50,000 or more, by the relevant council committee on a recommendation from the Head of Corporate Services (Standing Order 2.2)</p> <p>The officer granting such an exemption shall ensure that a record is kept.</p>	<p>c) For an estimated contract value of between £5,000 and £49,999 for supplies/materials and services, by the Responsible Officer (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the Responsible Officer Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.7)</p> <p>d) For an estimated contract value of between £5,000 and £249,999 for Works, by the Responsible Officer (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the Responsible Officer Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.7)</p> <p>e) For an estimated contract value of £50,000 or more, for supplies/materials and services (excluding Health and Social Care Services), by the council committee on a recommendation from the Responsible Officer (Standing Order 2.2)</p> <p>f) For an Estimated Contract Value of £50,000 or more, for health and social care services, by the Responsible Officer, with advice and guidance from The Health and Social Care Partnership Contracts Advisory Group (CAG) (Standing Order 2.2)</p> <p>g) For an estimated contract value of £250,000 or more, for Works, by the council committee on a recommendation from the Responsible Officer (Standing Order 2.2)</p> <p>The officer granting such an exemption shall ensure that a record is kept.</p>
23	Paragraph C2.4	External Framework Agreements may only be used with the prior written approval of the Responsible Officer (except for Health & Social Care Partnership Contracts Advisory Group Contracts) and as required in accordance with the council's Procurement Procedures.	For spend of £50,000 or more, except where Scottish Government and Scotland Excel Frameworks for Category A and B spend are utilised, external Framework Agreements may only be used with the prior written approval of the Responsible Officer and as required in accordance with

			the council's Corporate Procurement Procedures.
24	Paragraph C3.1	<p>The Responsible Officer shall ensure compliance with the council's Best Value Framework in relation to the procurement strategy and decision, and shall determine:-</p> <ul style="list-style-type: none"> • The nature of the contract (wholly works, wholly supplies/materials and services, or, where the contact shall include both, the category into which it falls) • 	<p>Heads of Service shall, subject to advice and guidance from the Responsible Officer, ensure compliance with the council's Best Value Framework in relation to the contract strategy and decision, and shall determine:</p> <ul style="list-style-type: none"> • The nature of the contract (wholly works, wholly supplies/materials and services, wholly Health and Social

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
		<ul style="list-style-type: none"> • Where the contract is for supplies/materials and services, the type of services (whether or not within the category of social and other specific services, or, where the contact shall include both, the category into which it falls) • Where the contract is for social or health care services, whether or not it is a Health & Social Care Partnership Contracts Advisory Group Contract • Whether or not the Contract Value will be less than £1,000 • Whether or not the Contract Value will be greater than £1,000 but less than £5,000 • Whether or not the Contract Value will be greater than £5,000 but less than £50,000 • Whether or not the Contract Value will be greater than £50,000 but less than a relevant threshold • Whether or not the Contract Value will be greater than the relevant threshold • Whether there is Cross Border Interest (Appendix 3) which indicates a wider advertising is needed despite the value of the contract being below the relevant EU threshold <p>Whether there are any existing, forthcoming or potential Collaborative Contracts or Framework Agreements, internal or external, which may be utilised</p>	<p>Care Services or, where the contact shall include a mix, the category into which it falls);</p> <ul style="list-style-type: none"> • Where the contract is for supplies/materials and services, the type of services (whether or not within the category of Health and Social Care Services or, where the contact shall include both, the category into which it falls); • Whether or not the estimated Contract Value will be less than £1,000; • Whether or not the estimated Contract Value will be greater than £1,000 but less than £5,000; • Whether or not the estimated Contract Value will be greater than £5,000 but less than £50,000; • Whether or not the estimated Contract Value will be greater than £50,000 but less than the relevant regulated threshold; • Whether or not the estimated Contract Value will fall within the regulated threshold; • Whether or not the estimated Contract Value will be greater than the relevant regulated threshold; • Whether the estimated contract value is within the regulated threshold which indicates that wider advertising is needed; • Whether there are any existing, forthcoming or potential Collaborative Contracts or Framework Agreements, internal or external, which may be utilised. <p>Regardless of any delegations, the final responsibility for ensuring compliance with all applicable public procurement legislation rests with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is currently the Head of Corporate Services.</p>
25	Paragraph C3.2	Where the Responsible Officer identifies an existing Collaborative Contract or Framework Agreement (Internal or External) which may be utilised then (except for Health & Social Care Partnership Contracts Advisory Group Contracts) that must be used unless the	For Works, Supplies/Materials and Services contracts (including health and social care contracts), where the Responsible Officer identifies an existing Collaborative Contract or Framework Agreement (Internal or External) this may

		Responsible Officer obtains committee approval to proceed in another way.	be utilised provided it is compliant with public procurement legislation and presents best value.
26	Paragraph C3.3	Committee approval must be obtained for the tender award criteria and the proposed strategy for the proposed procurement for all contracts where the contract value is over the relevant threshold (other than those which are Health & Social Care Partnership Contract Advisory Group Contracts).	The Responsible Officer shall determine the quotation or tender award criteria and the proposed contract strategy for the proposed procurement but the Responsible Officer may ask committee to do so if they believe there is good reason.

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
27	Paragraph C3.4	In all other cases, the Responsible Officer shall determine the quotation or tender award criteria and the proposed strategy for the proposed procurement but the Responsible Officer may ask committee to do so if he believes there is good reason.	See Paragraph C3.3: The Responsible Officer shall determine the quotation or tender award criteria and the proposed contract strategy for the proposed procurement but the Responsible Officer may ask committee to do so if they believe there is good reason.
28	Paragraph C3.5	The tender award criteria may include price, period for completion, running costs, profitability, technical merit, health and safety competence, and social, economic and environmental sustainability, community benefits or any other permitted criteria which committee or the Responsible Officer choose to adopt.	See Paragraph 3.3 The Responsible Officer shall determine the quotation or tender award criteria and the proposed contract strategy for the proposed procurement but the Responsible Officer may ask committee to do so if they believe there is good reason.
29	Paragraph C3.6	The Responsible Officer shall prepare such documentation as is necessary to obtain competitive quotations or tenders for all contracts. The documentation shall be prepared and issued in accordance with the council's Corporate Procurement Procedures.	This wording has been moved to Paragraph C3.4
30	-	-	New Paragraph C4.1: Officers shall ensure compliance with public procurement legislation and the Sustainable Procurement Duty and shall have regard to guidance relating to the extent of advertising and publicity required which is proportionate to the estimated contract value, under reference to the thresholds in Appendix 1.
31	Paragraph C4.1	The Responsible Officer shall issue contract documents and invitations to quote and to tender for all contracts in accordance with the council's Corporate Procurement Procedures.	This wording has been moved to Paragraph 4.2
32	Paragraph C4.2	Contract documentation shall utilise the relevant set of the council's standard Terms and Conditions of Contract, and any departure from them must be approved in writing by the Responsible Officer.	This wording has been moved to Paragraph 4.3
33	Paragraph C4.3	The Responsible Officer may utilise electronic tendering and electronic auction techniques where appropriate and as required in accordance with the council's Procurement Procedures.	This wording has been moved to Paragraph 4.4
34	Paragraph C4.4	Where the estimated contract value is less than £1,000 the procurement shall be carried out in such manner as the relevant Head of Service may determine, subject to the requirements to demonstrate best value and retain adequate records to substantiate the decision.	This wording has been moved to Paragraph 4.5
35	Paragraph 4.5	Where the estimated Contract Value is £1,000 or more but less than £5,000, the procurement shall be carried out in such manner as the relevant Head of Service may determine, subject to the requirement to obtain at least two competitive quotations.	This wording has been moved to Paragraph 4.6
36	Paragraph 4.6	Where the Contract Value is £5,000 or more but less than £50,000, the procurement shall	Now Paragraph 4.7: Where the estimated Contract Value is £5,000 or more but less than £50,000 for

		be carried out by using Quick Quote and a minimum of three quotations must be sought.	Supplies/Materials and Services, the procurement shall be carried out by using Quick Quote and a minimum of three quotations must be sought. For Works, where the value is £5,000 or more but less than £250,000, the procurement shall be carried out by using Quick Quote and a minimum of three quotes must be sought.
--	--	---	---

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
37	Paragraph C4.7	Where the Contract Value is £50,000 or more but below the relevant threshold the procurement (except for Health & Social Care Partnership Contracts Advisory Group Contracts) must be carried out through Public Contracts Scotland, seeking a minimum of three tenders, but the Responsible Officer shall in addition consider and arrange for such additional advertising or publicity as may be required to secure compliance with the law in relation to Cross Border Interest (Appendix 3).	Now Paragraph 4.8: Quick Quotes must be carried out through Public Contracts Scotland (PCS) and, except where exempted by public procurement legislation, regulated tenders must be carried out through Public Contracts Scotland Tender (PCS-Tender) but the Responsible Officer shall, in addition, consider and arrange for such additional advertising or publicity as may be required to secure compliance with public procurement legislation.
38	Paragraph C4.8	Except for CHCP Health, Care and Support Services Contracts Advisory Group contracts, where the Contract Value is over the relevant threshold), the procurement must be carried out through Public Contracts Scotland, seeking a minimum of five tenders for use of the open and restricted procedures and three for use of the negotiated procedure and the competitive dialogue procedure. By using Public Contracts Scotland or otherwise, the Responsible Officer shall advertise the commission in the Official Journal and ensure that the procurement process complies with the appropriate EU procurement rules and the council's Procurement Procedures.	Now Paragraph 4.9: (a) For spend up to £999 there is no requirement to seek quotes. However, there is a requirement to ensure best value. (b) For spend between £1,000 and £4,999 a minimum of 2 quotations must be sought. (c) For Supplies/Materials and Services (including Health and Social Care) for spend between £5,000 and £49,999 a minimum of 3 quotes must be sought. (d) For Works spend between £5,000 and £250,000 a minimum of 3 quotes must be sought. (e) Except where exempted by public procurement legislation, for spend over £50,000 to £189,329 for regulated contracts for supplies/materials and services (including Health and Social Care), the procurement must be carried out through Public Contracts Scotland-Tender and, where there is a high level of bidders, selecting a minimum of 3 tenders (f) A minimum of 5 tenders should be selected, where there is a high level of bidders, for spend of £189,330 and above. (g) For Works spend between £250,000 to £3.99m, the procurement must be carried out through Public Contracts Scotland-Tender and, where there is a high level of bidders, select a minimum of 3 tenders. (h) For Works spend over £4m, where there is a high level of bidders, a minimum of 5 tenders must be sought.
39	Paragraph C4.9	If the estimated cost of carrying out work under any one Works Contract is more than £1,000,000 the council shall ask for security for completing the contract, and the tender and conditions of contract shall set out the nature and amount of the security.	Now Paragraph C4.10: If the estimated cost of carrying out work under any one Works Contract is more than £1,000,000 the council shall ask for security for completing the contract. The Head of Service, subject to advice and guidance from the Responsible Officer, shall ensure that the tender and conditions of contract shall set out the nature and amount of the security.

40	Paragraph C4.10	The council may ask for security on any other contract where considered appropriate and the tender and conditions of contract shall set out the nature and amount of the security.	The council may ask for security on any other contract where considered appropriate and the Head of Service, subject to advice and guidance from the Responsible Officer, shall ensure that the tender and conditions of contract shall set out the nature and amount of the security.
41	Paragraph C4.11	After due consideration, but only where permitted by law, committee may decide that a tenderer or a contractor shall not be invited to or be allowed to quote or tender for any future contract for any part of the council.	This wording has moved to Paragraph C4.12.

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
42	Paragraph C5.2	In the event that Public Contracts Scotland has not been utilised, all quotations and tenders not received at the specified return address by the specified closing date and time will not be considered, and shall be returned unopened. Quotations and tenders must be submitted in the form specified.	In the event that Public Contracts Scotland or Public Contracts Scotland-Tender has not been utilised, all quotations and tenders not received at the specified return address by the specified closing date and time will not be considered, and shall be returned unopened. Quotations and tenders must be submitted in the form specified.
43	Paragraph C5.3	In the case of unsatisfactory performance or conduct by any person submitting a quotation or tender before a decision is made as to which should be accepted, the Responsible Officer may, in consultation with the Chief Solicitor, disqualify that person from further participation or reject the quotation or tender, after considering any representations made.	In the case of unsatisfactory performance or conduct by any person submitting a quotation or tender before a decision is made as to which should be accepted, the Responsible Officer may, in consultation with the Chief Solicitor, as far as permitted by law, disqualify that person from further participation or reject the quotation or tender, after considering any representations made.
44	Paragraph C6.1	Quotations and tenders shall be evaluated by the Responsible Officer in accordance with relevant Procurement Procedure.	Quotations and tenders shall be evaluated by the Head of Service, in consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures.
45	Paragraph C6.2	Quotations and tenders shall be evaluated in accordance with the quotation or tender award criteria and the agreed strategy for the proposed procurement, and on the basis of establishing which offer is the most economically advantageous and provides Best Value to the council.	Quotations and tenders shall be evaluated in accordance with the quotation or tender award criteria and the agreed contract strategy for the proposed procurement, and on the basis of establishing which offer is the most economically advantageous and provides Best Value to the council.
46	Paragraph C7.1	The decision as to which quotation or tender to accept shall be taken by the Responsible Officer, unless the Responsible Officer is required by a decision of the council to refer the decision to committee, or in any other case in which the Responsible Officer decides that committee approval is desirable.	The decision as to which quotation or tender to accept shall be taken by Heads of Service, after consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures, unless the Responsible Officer is required by a decision of the council to refer the decision to committee, or in any other case in which the Responsible Officer decides that committee approval is desirable.
47	Paragraph C7.2	Quotations and tenders shall thereafter be accepted by the Responsible Officer, in accordance with EU rules, Procurement Legislation in Scotland and the relevant Procurement Procedure. In particular, the Responsible Officer shall observe any standstill period required before acceptance of a quotation or tender.	Quotations and tenders shall thereafter be accepted by Heads of Service, after consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures. In particular, Heads of Service, with advice and guidance from the Responsible Officer, shall observe any standstill period required before acceptance of a quotation or tender.
48	Paragraph C8.2	In a case of unsatisfactory performance or conduct by a contractor following the award	In a case of unsatisfactory performance or conduct by a contractor following the

		of a contract, the Responsible Officer may, in consultation with the Chief Solicitor, take action in terms of the contract to terminate the contract.	award of a contract, the Responsible Officer may, in consultation with the Chief Solicitor, and subject to any failure to implement any applicable improvement action by the contractor, take action in terms of the contract to terminate the contract.
49	Paragraph C9.1	Subject always to compliance with EU procurement rules, Procurement Legislation in Scotland and the relevant Procurement Procedures, the Responsible Officer may vary, alter, extend (but only where the contract allows the council those options) or renegotiate any part of a contract to achieve best value for the council.	Subject always to compliance with public procurement legislation and the relevant Corporate Procurement Procedures, the Responsible Officer may vary, alter, extend (but only where the contract allows the council those options) or re-negotiate any part of a contract to achieve best value for the council.

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
50	Paragraph C9.2	A written business case (Appendix 2) justifying the reasons for this course of action together must be prepared and retained before proceeding.	A Responsible Officer business case, in compliance with the relevant renewal/extension procedure documented in the Corporate Procurement Procedures, justifying the reasons for this course of action together must be prepared and retained before proceeding.
51	Paragraph C10.2	Unless an exception is made by the council for any class or value of contracts, the Responsible Officer shall ensure that reports are brought to committee in months 4, 6, 9 and 12 of each financial year on those matters specified in the Corporate Procurement Strategy and otherwise as required by the Council Executive or the Corporate Procurement Board. The Responsible Officer shall maintain a contracts register, comply with the statutory requirements for annual procurement reports, and comply with publication duties, all in accordance with the 2014 Act.	Unless an exception is made by the council for any class or value of contracts, the Responsible Officer shall ensure that reports are brought to the Corporate Procurement Board, on a quarterly basis, on those matters specified in the Corporate Procurement Strategy and otherwise as required by the Council Executive or the Corporate Procurement Board.
52	-	-	New Paragraph C10.3: An annual Procurement Strategy review will be conducted and reported annually to the Policy Development and Scrutiny Panel.
53	-	-	New Paragraph C10.4 The Annual Procurement Report, as required by the Procurement Reform (Scotland) Act 2014 will be brought to the Council Executive prior to publication. An update, reporting on the first 6 month of the financial year, will also be reported to Council Executive.
54	-	-	New Paragraph C10.5 As well as ensuring amendments and updates are made as required, the Responsible Officer shall carry out a review of these Standing Orders at least once in each administrative term and shall report the outcome to PDSP and Council Executive.
55	-	-	New Paragraph C10.6 Reporting on H&SCP contract activity will be carried out as follows:- <ul style="list-style-type: none"> Annually to the Council Executive on the regulated contracts awarded, extended or renewed as a result of recommendations from the Health and Social Care Partnership Contract Advisory Group.

			<ul style="list-style-type: none"> • Biannually to Social Policy Policy Development and Scrutiny Panel on the regulated contracts awarded, extended or renewed as a result of recommendations from the Health and Social Care Partnership Contract Advisory Group.
56	-	-	<p>New Paragraph C10.7</p> <p>The Responsible Officer shall maintain a corporate contract register, comply with the statutory requirements for annual procurement reports, and comply with publication duties, all in accordance with the 2014 Act.</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
57	Paragraph C11.1	The Head of Finance and Estates is responsible for disposing of assets and materials (including land and buildings) which are not needed on behalf of all council services, except for the disposal of IT hardware and software which is the responsibility of the Depute Chief Executive (Corporate, Operational & Housing Services).	The Head of Finance and Property is responsible for disposing of assets and materials (including land and buildings) which are not needed on behalf of all council services, except for the disposal of IT hardware and software which is the responsibility of the Depute Chief Executive (Corporate, Operational & Housing Services).
58	Paragraph 11.2	All disposals of assets and materials except for IT hardware and software shall be undertaken in accordance with procedures approved by committee or issued by the Head of Finance and Estates under delegated powers.	All disposals of assets and materials except for IT hardware and software shall be undertaken in accordance with procedures approved by committee or issued by the Head of Finance and Property under delegated powers.
59	Appendix 1	Contract Strategy Template	Include in Corporate Procurement Procedures
60	Appendix 2	Business Case Template for Renewal or Extension	Include in Corporate Procurement Procedures
61	Appendix 3	Cross Border Interest and Adequate Advertising and Publicity	Removed
62	Appendix 4	Remit and Scope of the Health and Social Care Partnership Contracts Advisory Group	Some wording merged into main standing order Paragraphs. Include relevant information in Corporate Procurement Procedures, as applicable.
63	-	-	New Appendix 1 – West Lothian Council Tender Thresholds

DATA LABEL: OFFICIAL



COUNCIL EXECUTIVE

REVIEW OF POLICY AND PROCEDURE FOR SUPPORTING ATTENDANCE AT WORK

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To present the outcome of a review of the council's Policy and Procedure for Supporting Attendance at Work, which was concluded in December 2019, together with a Supporting Attendance Action Plan to improve the effectiveness of the policy going forward.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. Notes that, prior to the COVID-19 pandemic, sickness absence rates across the council had been rising despite the introduction of the council's Policy and Procedure for Supporting Attendance at Work on 1 September 2018;
2. Notes the summary position on absence rates and in particular, the prevalence of stress-related absence as set out in Section D.2 of the report;
3. Notes the proposed adjustments to the policy and its application set out in Section D.3 aimed at improving its effectiveness.
4. Notes the package of measures currently in place to support the management of stress-related absence outlined in Section D.4;
5. Endorses the additional support measures proposed in the Supporting Attendance Action Plan at Appendix 1 of the report;
6. Considers the proposal that the policy should continue to be reviewed on an annual basis to ensure that improvement in the council's sickness absence levels are being delivered;
7. Notes that quarterly sickness absence monitoring reports will continue to be submitted to the Partnership & Resources Policy Development and Scrutiny Panel in the normal manner and that regular update meetings with the recognised Trade Unions will also continue on an ongoing basis.

C. SUMMARY OF IMPLICATIONS

I Council Values

- Focusing on our customers' needs
- being honest, open and accountable

- providing equality of opportunities
 - making best use of our resources
- II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)** The Policy and Procedure approved by the Council Executive on 26 June 2018 seeks to strike a balance between effective management of sickness absence and the promotion of a healthy workforce that takes account of the council's obligations under equality legislation.
- III Implications for Scheme of Delegations to Officers** An amendment to the policy and procedure will involve minor adjustments to service Schemes of Officer delegations enabling Heads of Service to delegate responsibility for Stage 3 meetings and Capability Review meetings to Service and Group Managers as appropriate.
- IV Impact on performance and performance Indicators** Since the implementation of the current policy on 1 September 2018, and the conclusion of the policy review in December 2019, SPI figures for sickness absence had increased from 4.99% to 5.63 %
- Since the COVID-19 pandemic, absence rates have decreased and are currently at 4.30% which is the lowest rate recorded since 2014/15.
- V Relevance to Single Outcome Agreement** High attendance levels assist the council in providing continuity of quality service delivery to customers.
- VI Resources - (Financial, Staffing and Property)** The proposed improvement measures arising from the policy review include the funding of an additional temporary HR Adviser to support the application of the policy together with continued funding of an existing temporary HR Adviser post for a further 12 months.
- VII Consideration at PDSP** The PDSP on 7 February 2020 noted the outcome of the review of the Policy & Procedure for Supporting Attendance at Work together with the range of measures proposed for improving attendance.
- VIII Other consultations** Consultation has taken place with the council's recognised Trade Unions.

D. TERMS OF REPORT

D.1 BACKGROUND

The council's Policy and Procedure for Supporting Attendance at Work was approved by the Council Executive on 26 June 2018 with an implementation date of 1 September

2018. The policy and procedure replaced the former council Policy and Procedure on Managing Sickness Absence which had proved unsuccessful in reversing the upward trend in sickness absence rates.

The overall rationale behind the introduction of the revised policy was to strike a balance between proactively addressing the council's high levels of sickness absence while doing so in a manner that was supportive and sufficiently flexible to enable discretion to be applied where extenuating circumstances called for a compassionate application of the policy.

In approving the new policy, the Council Executive also instructed that it be reviewed after 12 months to assess its effectiveness particularly in addressing long-term sickness absence. The outcome of that review, which concluded in December 2019, together with a Supporting Attendance Action Plan for implementing improvements going forward is set out in this report.

D.2 SPI PROFILE ANALYSIS

At the time of conclusion of the policy review in December 2019, the Statutory Performance Indicator (SPI) was 5.63%, which was 0.45% higher than the SPI figure of 5.18% for December 2018. This was reflective of the rising trend in absence across the authority at that time.

Mental & behavioural absences accounted for 31.41 % of all absence over the period 1 April 2019 to 31 December 2019 and since the council's Policy and Procedure for Supporting Attendance at Work was introduced on 1 September 2018, 56% of cases recorded under that category were stress-related.

During the review period, those cases of absence where the source of the stress was specified, 42% related to personal stress factors while 15% specified work-related factors. A further 4% specified both personal and work-related factors. The remaining 39% was non-specified.

The main factors recorded as accounting for personal stress (non-work related) were bereavement and carer responsibilities. The other cases were wide ranging and included stress arising from health worries, awaiting medical test results and family, domestic issues.

At this time, whilst overall absence rates have reduced since the COVID-19 pandemic, Mental & behavioural absences have remained high and now account for 38.32% of all absence over the period 1 April 2020 to 31 July 2020 with stress being the top reason within this category.

D.3 ADJUSTMENTS TO POLICY AND MONITORING ARRANGEMENTS

Extended Management Discretion

The new policy removed the provision for the automatic disregard of absence relating to *non - elective hospital treatment, industrial injury, and bereavement* and replaced it with additional flexibility for relevant managers to apply discretion in extenuating circumstances.

Under the previous approach periods of absence disregarded for trigger purposes were open-ended and therefore often resulted in lengthy absences. The new policy enables relevant managers to apply temporary relaxation of trigger levels at any point

up to Stage 2 of the procedure. The periods of absence in respect of which discretion is exercised, are subject to review which enables greater control to be exercised over the length of absences. The requirement for managers to consult HR Services on each occasion that discretion is being considered also ensures a consistent, corporate approach is maintained.

Following an analysis of cases where discretion has been applied under the new policy, it is considered that the monitoring and control of discretionary decisions would benefit from undertaking a Mandatory Case Review of all discretionary absences that extend to 6 weeks. In addition, the requirement for services to provide further supporting information in support of requests to extend initial periods of discretionary absence before an extension is agreed, will be more robustly enforced.

Additional Policy Compliance Monitoring

Under the new policy, trigger action points now apply to cases of continuous (long-term absence) at 4 weeks, 3 months, 6 months, and 9 months. Instead of long-term absences of employees becoming open-ended under the former policy and resulting in the tendency for individuals to become disenfranchised from the organisation, the application of trigger action points now ensures earlier and more regular contact and engagement with individuals thus increasing the possibility of a quicker return to work.

In addition to the monitoring information currently issued by HR Services to services, it is proposed that Heads of Service will be provided with additional monitoring reports going forward to assist in tracking ongoing cases. Improved visibility of cases for Heads of Service will ensure that appropriate action is being taken timeously at the relevant stages of the policy by the relevant managers in their services.

Extended Management Delegation (Procedural Stages 2 and 3)

With a view to ensuring a more flexible and effective day to day application of the Policy and Procedure for Supporting Attendance, responsibility for chairing Capability Assessment Review Panels and Stage 3 Capability Assessment meetings (formerly Final Absence meetings) will be delegated to Service and Group Manager level facilitated by the necessary adjustments to service Schemes of Officer Delegations.

In addition, responsibility will be further delegated to Service Managers and Group Managers to exercise discretion at Stage 2 of the procedure in determining whether or not a Capability Review Panel requires to be convened subject to consultation with HR Services.

At the Partnership & Resources Policy Development and Scrutiny Panel (PDSP) on 7 February 2020, the trade union side expressed concerns that these particular changes could introduce potential inconsistencies in the application of the policy. It should be noted however that briefing workshops are to be held for managers who will be responsible for implementing the changes and that access to Human Resources support and advice will continue to be available to managers to ensure consistency of application.

D.4 CURRENT SUPPORT MEASURES – STRESS RELATED ABSENCE

Given that stress – related absence constitutes the highest contributor to absence in the authority, a number of resources are in place aimed at supporting staff to either remain at work during stressful periods/situations or if absent to assist employees to return to work. Details of these resources are set out below:

Employee Assistance Programme (EAP)

The EAP is a confidential service run independently by Help EAP (a subsidiary of Optima Health) who provide a 24/7/365 telephone helpline service. The telephone helpline provides instant access for employees to a professional service on a range of work-related and personal issues such as stress, anxiety, addiction, bullying & harassment, bereavement, ill health etc. In addition, Help EAP is able to provide legal and financial information such as property issues, personal injury claims, consumer rights and debt management.

Although initial contact is by telephone Help EAP is able to provide face to face counselling services where appropriate and also has a free online resource which provides comprehensive information on a range of issues including life stage events such as pregnancy, caring for others as well as stress/anxiety.

Employee Financial Support Service

Employees of the council who are worried about money matters can access free, confidential advice tailored to individual needs through the Advice Shop. The Employee Financial Support Service provides a three-step process, which supports employees to maximise income by looking at ways to reduce outgoing costs and develop practical skills to put them in control of their money.

Learning and Development Support

The Learning and Development Team in HR Services have a number of online eLearning modules and bitesize training courses including mentally healthy workplace, developing resilience, dealing with sensitive conversations and supporting attendance at work, all designed to equip managers with the appropriate skills and tools to manage stress related absences.

Workplace Chaplain

The council currently engages with Work Place Chaplaincy Scotland who offers confidential pastoral support for all employees. The Chaplain is available every Tuesday morning in the Civic Centre. This service is offered on a drop in basis and a room has been made available for confidential discussions away from the general office.

Employee Mental Well-Being Policy

Under the council's Employee Mental Wellbeing Policy recommends that line managers offer to meet with staff as soon as possible at the point that an employee reports a stress related absence. The key objective is to identify the issues that are giving rise to the employee's stress so that an appropriate support plan can be put in place.

In cases where the employee struggles to articulate the cause of work related stress, or where recommended by OH, the line manager can provide the employee with a stress audit. This audit was developed by the Health & Safety Executive based on six management standards (demands, control, support, relationships, role, and change) and is presented in a questionnaire to be completed by the employee.

Healthy Working Lives (HWL) Initiatives

The Healthy Working Lives (HWL) group hold two health weeks per year, one in the summer and one in the winter. During these health weeks there are a number of activities held and at least one activity is based on mental health. For example, the 2019 programme of activities included the Steps in Work challenge, Office yoga classes and Mindfulness classes.

Online Resources

In addition to the above supports, Westspace is West Lothian's partnership online source of mental health and wellbeing information, which is managed by Health in Mind in conjunction with NHS Lothian and Changes CHP. This website provides a database which aims to signpost individuals to appropriate mental health and wellbeing services within West Lothian, enabling them to access services and information which may be of benefit to them or someone they support.

D.5 ADDITIONAL SUPPORT MEASURES PROPOSED

In addition to the proposed minor adjustments to the policy and the increased compliance monitoring arrangements outlined earlier at Section D.3, a range of other supplementary measures are proposed to support the application of the policy as set out below;

Recruitment of an additional HR Adviser

An additional HR Adviser will be recruited to specifically support those services with the highest levels of stress-related absence. The role of the Adviser will be to support managers apply the Employee Mental Wellbeing Policy ensuring that meetings take place timeously and that individual Employee Stress Action Plans are developed. While the line manager and employee will be responsible for driving forward any actions, HR Services will support and record the necessary interventions/actions.

Procurement of Specialist Training

To supplement the training currently delivered through the council's Learning & Development team, additional specialist training will be procured through the Health & Social Care Partnership (HSCP) promotion team to support managers in managing difficult and sensitive issues;

Four Pillars of Wellbeing Initiative

In attempts to draw together the various resources available both online and locally, HR Services in partnership with Healthy Working Lives (HWL) Group, Health, & Safety and Anti-poverty Services launched the Four Pillars of Wellbeing Programme with effect from 24 February 2020. This initiative focuses on the four main themes of mental health, physical health, financial wellbeing, and workplace wellbeing. It is designed to provide valuable information and designated pathways to help employees navigate their own wellbeing journey as well as equipping line managers with tools to signpost staff to the various supportive options available.

A website is available on the Council's intranet accessible to all staff and provides an extensive source of information to signpost staff to various professional local and nationally provided sources of support as well as providing some self-help tools and

guidance including increased promotion of the council's Employee Assistance Programme (EAP).

In addition, a quarterly Wellbeing Employee Briefing Script (WEBS) was distributed to Line Managers for cascading within their teams, the first of which focussed on work-related and personal stress, how to recognise the signs in themselves and colleagues, and where to access appropriate support.

Mental Health First Aiders

Given remote working and the requirement to maintain physical distancing, when it is appropriate to do so, the introduction of Mental Health First Aiders in certain areas of the service will be piloted. A Mental Health First Aider provides a support contact in the workplace for anyone experiencing mental health issues. The first aider will be present to help guide the person in distress to the relevant help they need.

Once trained the person will have the relevant knowledge to be able to identify someone who is developing a mental health issue. Introducing Mental Health First Aiders will ensure employees are involved directly in supporting the council's health and wellbeing strategy.

HR Services will liaise with Heads of Service to agree appropriate areas to pilot this service. This will involve an agreed selection process to ensure suitable individuals are appointed to undertake the training required.

Accessing Treatment Interventions in the Community

When it is appropriate to do so, a pilot will be conducted to assess the feasibility of council employees accessing community treatment services for mental health/addiction issues through the Health & Social Care Partnership (HSCP).

Prior to the restrictions imposed by lockdown, access to these services was available through a GP or social work referral for all West Lothian residents and is based in Wellbeing Hubs situated in St John's Hospital and Bathgate. The service provides 1:1 support to individuals for low level stress/distress and mental health conditions including but not exclusively bereavement issues.

West Lothian Drug & Alcohol Services (WLDAS) are also able to offer adult counselling and support services for all West Lothian residents and provide a number of drop-in services available throughout the region at various times throughout the week allowing people with an alcohol or drug problem easy access to local services without an appointment.

Initial discussions have taken place with the Director of the HSCP on the potential to create a pathway for all West Lothian Council employees to access these services without the requirement for either a GP referral or West Lothian residency. These discussions have not progressed any further at this time as a result of lockdown restrictions.

Champion of Healthy Working Lives (HWL)

While the HWL group will continue to promote health activities including awareness of mental health issues throughout the year, it is considered that a more visible and high level promotion of HWL issues might help raise greater awareness.

As a result, the Depute Chief Executive – Social Policy and HSCP has agreed to champion the HWL initiative going forward. The Trade Unions that are already represented on the council's HWL Steering Group have also been asked to input to the programme.

Development of Carers Policy

An analysis of sickness absence cases in the council indicates that a proportion of absences can be attributed to employees who themselves are not sick but take time off to care for other members of their family.

While the council's Policy on Leave for Family Care Purposes does include provision for time off to care for an ill dependent, the policy is not sufficiently flexible in scope to deal with employees with on-going, longer term caring responsibilities.

It is considered that the development of a specific Carers Policy for the council may have the added benefit of reducing employee stress and sickness absence. The peak age for caring is the 45-64 age group which accounts for approximately 52% of the council's workforce and in terms of retention, represents a group of employees with a vast amount of valuable skills and experience.

D.6 COVID-19 RECOVERY

Consideration of the Supporting Attendance Review and proposals by Council Executive, originally scheduled for 24 March 2020, was delayed as a result of COVID-19 and the impact on working arrangements. Actions to support the deployment of the proposals have also been delayed.

An amended action plan is therefore attached at Appendix 1 which indicates earliest target completion dates from October 2020 onwards with implementation of policy amendments from 1 January 2021 and all other interventions by 31 March 2021. Delayed implementation will allow arrangements for Supporting Attendance to take account of the 'new normal' way of working as the council remobilises after lockdown.

E. CONCLUSION

The Policy and Procedure for Supporting Attendance at Work has had limited success in impacting sickness absence rates in the authority since its introduction on 1 September 2018 and in overall terms during the period of its application, rates have marginally increased.

Prior to the changes in absence rates seen since the COVID-19 pandemic, it had become evident that applied in isolation, the policy itself has been an insufficient tool for reducing sickness absence and that further supplementary support measures are required. With that in mind, a Supporting Attendance Action Plan has been developed to address the root causes of sickness absence which includes a package of positive and targeted measures aimed primarily at tackling stress – related absence which to date tends to be the highest contributor to absence in the authority.

Progress on implementation and monitoring of the effectiveness of the planned measures and initiatives will be reported regularly to the Panel. Regular updates meetings with the council's recognised Trade Unions will also continue as part of the consultative process.

It is proposed that the policy and procedure should continue to be reviewed on an annual basis to ensure that sustained improvement in sickness absence levels is delivered subject to appropriate solutions being proposed where sustained improvement is not delivered.

F. BACKGROUND REFERENCES

- Policy and Procedure for Supporting Attendance at Work
(Approved Council Executive : 26 June 2018)

Appendices/Attachments:

Appendix 1: Supporting Attendance at Work - Action Plan

Contact Person: Sophie McKinney, Senior HR Adviser, 01506 281422,
sophie.mckinney@westlothian.gov.uk

Julie Whitelaw
Head of Corporate Services
6 October 2020

SUPPORTING ATTENDANCE AT WORK

ACTION PLAN – REVIEW OF POLICY AND STRATEGY

AREA OF ACTIVITY	ACTION	ACTION BY	START DATE	TARGET COMPLETION DATE
Review of Policy	<ul style="list-style-type: none"> Report to Council Executive 	HR Services	6 October 2020	6 October 2020
	<ul style="list-style-type: none"> Managers Briefing/Workshops on review outcome 	HR Services	1 November 2020	31 December 2020
	<ul style="list-style-type: none"> Implement policy amendments (officer delegations/application of discretion) 	HR Services	1 January 2021	1 January 2021
Supporting Application of Policy	<ul style="list-style-type: none"> Continue funding of Temporary HR Adviser resource 	HR Services	Current	31 March 2021
	<ul style="list-style-type: none"> Recruitment of additional HR Adviser 	HR Services	1 January 2021	31 December 2021
	<ul style="list-style-type: none"> Develop employee Stress Action Plans 	HR Advisers /Heads Of Service	1 November 2020	Ongoing
	<ul style="list-style-type: none"> Ongoing monitoring of employee stress action plans 	HR Advisers /Heads Of Service	1 November 2020	Ongoing
	<ul style="list-style-type: none"> Apply revised policy compliance monitoring – absence management reporting and application of discretion 	HR Advisers /Service & Line Managers	1 January 2021	Ongoing
Accessing Treatment Interventions in the Community	<ul style="list-style-type: none"> Assess feasibility of providing access to Community Wellbeing Hubs for council employees via HSCP 	HR Services /Depute Chief Executive (HSCP)	1 November 2020	31 March 2021
	<ul style="list-style-type: none"> Conduct Pilot 	HR Services /Depute Chief Executive (HSCP)	TBC	TBC
Training & Management Support	<ul style="list-style-type: none"> Review content of NHS training module on managing difficult and sensitive conversations/employee engagement 	HR Services	1 November 2020	30 November 2020
	<ul style="list-style-type: none"> Procure training as appropriate 	HR Services	1 December 2020	31 March 2021

AREA OF ACTIVITY	ACTION	ACTION BY	START DATE	TARGET COMPLETION DATE
	<ul style="list-style-type: none"> Review options for Mental Health First Aider Training Identify areas to introduce Mental First Aiders in conjunction with Heads of Service 	HR Services HR Services	1 November 2020 1 January 2021	31 December 2020 31 March 2021
Promotion of Employee Well-Being Initiatives	<ul style="list-style-type: none"> Launch and promote Four Pillars of Wellbeing initiative through council Intranet and Quarterly Employee Briefing Scripts Subject to physical distancing measures, promote Workplace Chaplain service through INSIDE NEWS publication Develop Healthy Working Lives programme of activities for 2021. 	HR Services HR Services HR Services /HWL Steering Group	Done 1 January 2021 1 November 2020	Ongoing 31 March 2021 December 2020
Policy Development	<ul style="list-style-type: none"> Develop Carers Policy 	HR Services	1 January 2021	31 March 2021

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

COMMUNITY COUNCIL SPECIAL PROJECT GRANTS

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To invite the Council Executive to consider an application for a special project grant which has been received from Kirknewton Community Council.

B. RECOMMENDATION

That the Council Executive determines the valid application received from Kirknewton Community Council as detailed in the appendix.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; making best use of our resources; and working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Section 22 of the Local Government (Scotland) Act 1994 and the Special Project Grant Guidelines
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)	£3000 in the special project grant budget for financial year 2020/21.
VII	Consideration at PDSP	None.
VIII	Other consultations	None.

D. TERMS OF REPORT

A special project grant scheme currently operates for community councils in West Lothian to allow them to carry out projects in their areas. Community councils can apply for a maximum of £750 special project funding in each financial year. There is no minimum grant. The total budget for financial year 2020/21 is £3000. Applications are dealt with on a first come first served basis. Community councils who retain more than £75 of their annual grant from the previous financial year are expected to contribute 10% towards projects less than £750.

Two valid applications have been received so far in financial year 2020/21. The most recent application to be received is detailed in Appendix 1. The balance remaining in the budget for the current financial year is £2250. The amount requested in the application is £750.

If the application is granted in full, there will be £1500 remaining in the special project grant scheme budget available for distribution.

E. CONCLUSION

The special project grant scheme allows community councils to carry out projects which they consider to be of benefit to their area. It is recommended that the Council Executive determines the application received from Kirknewton Community Council.

F. BACKGROUND REFERENCES

Minute of Meeting of the Partnership & Resources PDSP held on 18th February 2011.

Minute of Meeting of the Council Executive held on 22nd March 2011.

Appendices/Attachments: One

Contact Person: Lorraine McGrorty, Committee Officer, 01506 281609

Julie Whitelaw

Head of Corporate Services

6th October 2020

APPENDIX

Application 1

Community Council	Project	Cost	Total Grant Requested
Kirknewton Community Council	To purchase games for the children/youths and indoor carpet bowls for the senior citizens and all age groups.	£1523.97	£750

Comments

1. The Community Council wishes to purchase games for the children/youths and indoor carpet bowls for the senior citizens and all age groups. There is currently very little for the youngsters of the village and it is proposed that the games are situated at the pavilion which is becoming a hub with development from The Town Centre Fund. The village youth club is run by Kirknewton Community Development Trust and the community council would like to contribute with by purchasing various games.
2. The indoor bowls would be kept within the village hall which would be useful for exercise by senior citizens and would greatly help their mental wellbeing. This is a further development of providing events and purpose for the senior members of their community. The database of active senior group members now stands at over 200, following expansion during the support offered during the Covid-19 lockdown. The Community Council states it has worked extremely hard to ensure that the senior citizens feel part of the community over the last two years. They have organised many events which have been very well attended and appreciated. They asked what additional things they would like and indoor carpet bowls featured amongst the many ideas put forward.
3. The community council plans to ensure that all age groups come together both outdoors and indoors both at the village hall and the pavilion.
4. The Community Council is very conscious of current social distancing regulations. They indicate that the equipment in the application will only be used when the regulations permit and when West Lothian Council give permission for the Village Hall and/or Pavilion to be used. The Community Council fully understands that the items cannot be used during the current restrictions but should the application be approved they will be very beneficial in the long term.
5. The cost of the project is greater than the maximum sum available through the special project grant scheme. However, the community council has indicated that it will meet the shortfall from the balance of funds it retains.
6. The project is acceptable and meets the criteria for assistance.

Recommendation

That the Council Executive considers and determines the application received from Kirknewton Community Council.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

FAMILY LEAVE PROVISIONS – ELECTED MEMBERS

REPORT BY GOVERNANCE MANAGER AND HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To present draft Guidance on Family Leave for Elected Members and related resources that may be made available to members

B. RECOMMENDATIONS

It is recommended that Council Executive:-

1. Note the updated Guidance on Family Leave for Elected Members circulated to Scottish Councils (Appendix 1)
2. Approve the proposed draft Family Leave Scheme for Elected Members to provide a mechanism for Elected Members to access family leave provisions, including the additional provision for surrogacy leave which goes beyond the COSLA guidance.
3. To note the additional provisions not specifically referenced in the scheme, the reasons for that and how Elected Members may access such provisions.
4. To note that if the Scheme is adopted a report will be required to full council to recommend changes to Standing Orders for the Regulation of Meetings and the Scheme of Administration, and that changes to the Scheme of Delegations and the Scheme of Elected Member Remuneration, Allowances and Reimbursement of Expenses can be sought at the same time.

C SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable, providing equality of opportunities, making best use of our resources
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	No legal right to family leave currently exists for people in elected office. Local Government (Scotland) Act 1973; Local Governance (Scotland) Act 2004; Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007 ("the remuneration rules")

III	Implications for Scheme of Delegations to Officers	The Scheme of Delegations will be amended to include responsibility for administering the Family Leave Scheme
IV	Impact on performance and performance Indicators	None
V	Relevance to Single Outcome Agreement	None
VI	Resources - (Financial, Staffing and Property)	Costs arising will be absorbed into existing budgets
VII	PDSP consideration	Partnership and Resources Policy Development and Scrutiny Panel 18 September 2020
VIII	Other Consultations	COSLA policy development team

D TERMS OF REPORT

D.1 Background

On 27 September 2019, Council Leaders endorsed Family Leave Guidance with a view to increasing the diversity of experience, age and background of councillors by removing barriers to participating in local government and public office. It aims to set out key principles to support elected members during periods of maternity, paternity, shared parental and adoption leave. The Family Leave Guidance subsequently updated in April 2020 was circulated to Scottish councils for adoption on a voluntary basis. The updated Guidance is in Appendix 1.

Following discussion at PDSP on 7 February 2020 to consider the adoption and implementation of such Family Leave provisions, a draft Family Leave Scheme for Elected Members (Appendix 2) has been developed to provide Elected Members with a mechanism to access the leave provisions outlined in the COSLA guidance.

D.2 Family Leave Scheme for Elected Members

While there is no legal right to family leave of any kind for people in elected public office, the objective of the scheme is to ensure that as far as possible, Elected Members can take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio holders and others in receipt of Senior Councillor payments during any period of leave taken.

The provisions of this guidance confer no contractual or worker/employment status and can be amended or withdrawn at any time. Councillors continue to retain their status as office holders.

As proposed in the COSLA guidance leave has been limited to 6 months with the requirement in mind that elected members have a legal duty to attend at least one qualifying meeting in a period of six months.

The leave provisions covered by the proposed scheme are summarised in the table below:

Type of Leave	Provision
Maternity Leave	Up to 6 months (26 weeks) leave from 28 days before the expected due date. In the event of premature birth (before the 37 th week of pregnancy), maternity leave may be extended by a period equivalent to the period between the date of birth and the expected due date.
Paternity Leave	Up to 2 weeks leave for the father or nominated carer of the mother.
Shared Parental Leave	Up to 6 months (26 weeks) shared parental leave where maternity leave is appropriately curtailed. Leave is limited to 6 months (26 weeks) in total even where both parents are elected members.
Adoption Leave	Up to 6 months (26 weeks) leave from the date of placement.
Surrogacy Leave	Up to 6 months (26 weeks) leave from the date of placement or from a fixed date up to 14 days before the expected date of placement.

Surrogacy Leave is not included in the COSLA guidance but it was felt appropriate to include surrogacy leave as a provision for Elected Members to allow those becoming parents by means of a surrogate access to the same provisions as other new parents. The provisions of surrogacy leave will largely mirror those of maternity leave. Where an Elected Member acts as a surrogate, the Elected Member will be entitled to maternity leave provisions.

D.3 Pay Provisions

The basic councillor remuneration is guaranteed by legislation and all members will continue to receive their basic allowance in full while on maternity, paternity, shared parental, adoption or surrogacy leave.

The challenges to continuity of senior councillor payments as presented in the report to PDSP on 7th February have been addressed with effect from 1 April 2020 by changes to the remuneration rules, referred to in the updated COSLA guidance. Elected Members entitled to a Senior Councillor Payment, and Provosts and Council Leaders, will continue to receive their additional pay during a period of maternity, paternity, shared parental, adoption or surrogacy leave for a period of up to six months, or until the date when the member taking the leave stands for re-election, whichever date is sooner. If re-elected, the position will be reviewed and may, where appropriate, be extended to allow the member to remain on leave for the remainder of the 6 month period with the appropriate remuneration.

An Elected Member appointed to replace the Senior Councillor on maternity, paternity shared parental, adoption or surrogacy leave will also receive the relevant senior councillor payment until the return of the Member on leave or until that Member stands for re-election, whichever date is sooner.

Should a Member appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one senior councillor payment shall apply.

D.4 Member Responsibilities During Leave

Any member taking a period of maternity, paternity, shared parental, adoption or surrogacy leave retains their legal duty under the Local Government (Scotland) Act 1973 to attend a qualifying meeting within a six-month period unless the reason for the failure to attend is accepted by the council. Attendance at outside bodies to which members have been appointed by the council count as qualifying meetings. It is therefore not felt to be an onerous task for members on leave to avoid such a period of absence from meetings.

Arrangements should be made prior to a period of leave for other duties to ensure there is minimal impact on the relevant ward. This may include arranging for another councillor to attend surgeries to represent and pursue constituents' interests, or arranging substitutes for committee meetings as permitted by council standing orders. In making such arrangements consideration must be taken of data sharing legislation in relation to constituents' personal information.

In relation to committee and PDSP meetings, Standing Orders permit the attendance of substitutes for almost all meetings. For those, a member on leave can ask for another councillor to attend. The bodies where substitutes are not allowed are Development Management Committee, Local Review Body, Asset Transfer Committee, Asset Transfer Review Committee, and Local Area Committees. It is possible for replacement members to be appointed at meetings of full council and that could be attended to when notice is given of the start of a leave period.

Substitutes are not possible at meetings of full council and only members present (physically or, subject to conditions, remotely) may vote. Councils are generally finely balanced in political terms and the absence of a member on leave may have a significant impact on decisions taken in their absence. However, even if a councillor has taken a period of leave there is nothing to prevent them from carrying out some of their duties such as attending and voting at full council meetings.

Attending council meetings or undertaking other duties whilst on leave will not affect the period of leave which has been agreed or bring it to an end prematurely. Similarly, any time spent on duties during the period of leave will not extend the period of leave beyond the maximum period.

D.5 Additional provisions for the benefit of members

With the exception of surrogacy leave, the additional provisions currently extended to employees of the council, and as considered in the February report to PDSP, have not been included in the Elected Members Family Leave Scheme. They fall out with the COSLA Guidance. Those provisions however are further addressed below.

Special Leave

It is considered that leave extended to employees of the council for the purposes of the planned health care of a young child, care of an ill dependant and bereavement are all short term (limited to five working days) and could be accommodated by Elected Members through the management of their workload and diary commitments without the need for specific leave provisions.

Leave to care for a seriously ill dependant could be extended to an employee of the council for up to 12 months however this is unpaid leave and it is considered that it would not be possible to adopt such provisions for Elected Members.

Employee Assistance Programme

The Employee Assistance Programme (EAP) is a telephone based counselling service which is available to staff 24 hours a day, 7 days a week. As there would be no requirement for contractual amendment to allow Elected Members access to the EAP, it is proposed that this provision be extended to Elected Members.

To ensure access via self-referral Elected Members would need to be added as a staffing group for the purposes of recharging.

Elected Members would need to be informed of this provision and arrangements for accessing the services of the EAP but it would not be necessary to include this provision in the Family Leave Scheme.

Physiotherapy Services

It is considered appropriate to extend access to physiotherapy services to Elected Members, however access to this service is by management referral only. It is therefore necessary to identify an officer responsible for management referral and it is proposed that this role be undertaken by an officer delegated by the Head of Corporate Services who will have overall responsibility for the administration of the new scheme.

As with the Employee Assistance Programme, there would be no need for contractual amendment however Elected Members would need to be added as a staffing group for the purposes of recharging.

Elected Members would need to be informed of this provision and arrangements for accessing the physiotherapy services but it would not be necessary to include this provision in the Family Leave Scheme.

Further information on how to access the Employee Assistance Programme and Physiotherapy Services is contained in appendix 3.

D.6 Changes to Standing Orders, etc.

Amendments will be needed to Standing Orders for the Regulation of meetings and other internal rules and procedures, as follows:-

- The definitions in Standing Order 1 will be amended to add “Acting Executive Councillor”, “Acting Provost” and “Acting Council Leader”. The amended definitions and underlying procedures will require the member taking leave to make a nomination, to communicate that to the Clerk to the Council and then for that to be communicated off-line to members and confirmed at the earliest available meeting of council
- Standing Order 12 (minutes) will be amended to require an absence or apology of a member on leave under the proposed scheme to be noted in those terms, and, if that is done, the reason for non-attendance will be deemed to have been accepted by the council for the purposes of the six-month absence rule
- The Scheme of Administration shall be amended to include relevant references to those in “acting” positions, and, where necessary and competent, to clarify if the chair will be taken by the Vice-Chair or the member acting up

- The Scheme of Delegations will be amended to add the administration of the new scheme to the responsibilities of the Head of Corporate Services
- The Scheme of Elected Member Remuneration, Allowances and Reimbursement of Expenses will be amended to reflect the new legal provisions and the council's adoption of the new scheme. The annual Publication of Elected Members Remuneration, Expenses and Allowance Information will include information about its use and will show any additional sums paid to "acting" members

The proposed changes to Standing Orders for the Regulation of Meetings and the Scheme of Administration can only be made by full council. The adoption of the scheme and approval of the other recommendations can be competently done by Council Executive.

E. CONCLUSION

The proposed Family Leave Scheme for Elected Members supports COSLA aims to encourage participation as councillors by individuals who may otherwise have been unable or reluctant to do so.

Proposals to arrange access for Elected Members to the provisions of the Employee Assistance Programme and Physiotherapy Services will further support elected members in office.

F. BACKGROUND REFERENCES

Family Leave Guidance for Councils – COSLA

Appendices / Attachments: 1. Family Leave Guidance for Councils – COSLA
2. Draft Family Leave Scheme for Elected Members
3. EAP and Physiotherapy Services – Elected Member Access

James Millar, Governance Manager, james.millar@westlothian.gov.uk, 01506 281613;
Julie Whitelaw, Head of Corporate Services, julie.whitelaw@westlothian.gov.uk, 01506 281626

6 October 2020



Family Leave Guidance for Councils

The Family Leave Guidance outlined below was endorsed by Council Leaders in September 2019 for circulation to Scottish Councils for adoption on a voluntary basis. Subsequently guidance was updated in April 2020 to reflect amendments to the Local Government (Scotland) Act 1973.

The term Special Responsibility Allowances (SRA) is used within the document to describe allowances paid to Council Leaders, Civic Head, Senior Councillors, Conveners and Vice Convener etc. where a Councillor receives a higher remuneration due to a specific role undertaken on behalf of the Council.

Introduction

This Guidance sets out some key principles which Local Authorities may wish to adopt to support Elected Members during periods of maternity, paternity, shared parental and adoption leave. **There is no legal right to family leave of any kind for people in elected public office.**

The objective of this guidance is to ensure that insofar as is possible, Elected Members can take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

This Guidance is to be implemented on a voluntary basis and confers no contractual, nor worker / employment status. The Guidance can be amended or withdrawn at any time. Councillors continue to retain their status as office holders. The rights as set out in this Guidance extend to (1) maternity, paternity, shared parental and adoption leave and (2) pay during maternity, paternity, shared parental and adoption related leave only. Individuals who are employees or workers of the Local Authority will be entitled to any additional rights associated with family leave by virtue of their employment status and associated policies. No such additional rights, over and above what is set out in this Guidance, shall apply to Elected Members and nothing in this Guidance shall render Elected Members as employees or workers.

Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of Local Authority councillors. It will also assist with retaining experienced councillors – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it.

1. Leave Periods

1.1 Members giving birth are entitled to up to 6 months maternity leave from 28 days before their due date.

1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period.

1.3 Members shall be entitled to take a maximum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).

1.4 A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from the Council.

1.5 Where both parents are Members leave may be shared up to a maximum of 26 weeks. Special and exceptional arrangements may be made in cases of prematurity.

1.6 A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months' adoption leave from the date of placement.

1.7 Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1973 to attend a meeting of the Council within a six-month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six-month period.

1.8 Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return. (It is recommended that a minimum of 28 days' notice is provided to take leave. A MatB1 form or an adoption matching certificate should be provided when applying for maternity and adoption leave respectively).

1.9 Any Member taking leave should ensure that they respond to reasonable requests for information from the Council as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

1.10 In the event of an Elected Member taking family-related leave, Councils are encouraged to consider:

- how to ensure there is minimal impact on the relevant ward by arranging, where possible, reasonable and appropriate cover to ensure the needs of constituents continue to be met; and
- providing what additional support may be required to facilitate an Elected Member's return from family related leave to ensure they feel supported and ready to return to the Council.

2. Basic Allowance

2.1 All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

3. Special Responsibility Allowances

3.1 Members entitled to a Special Responsibility Allowance (SRA) shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.

3.2 The payment of SRA, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months, or until the date when the Member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six-month period.

3.3 Should a Member appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one SRA shall apply.

3.4 Unless the Member taking leave is removed from their post whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

4. Resigning from Office and Elections

4.1 If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

4.2 If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.



FAMILY LEAVE SCHEME FOR ELECTED MEMBERS

1. Introduction

- 1.1 While there is no legal right to family leave of any kind for people in elected public office, the objective of this guidance is to ensure that as far as possible, Elected Members can take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio holders and others in receipt of Senior Councillor payments during any period of leave taken.
- 1.2 The provisions of this guidance confer no contractual or worker/employment status and can be amended or withdrawn at any time. Councillors continue to retain their status as office holders.

2. Leave Provisions

- 2.1 The provisions of this guidance extend to Maternity, Paternity, Shared Parental, Adoption and Surrogacy Leave only as detailed below:

Type of Leave	Provision
Maternity Leave	<p>Up to 6 months (26 weeks) leave from 28 days before the expected due date.</p> <p>In the event of premature birth (before the 37th week of pregnancy), maternity leave may be extended by a period equivalent to the period between the date of birth and the expected due date.</p> <p>In the event of a stillbirth or death of a child after 24 weeks of pregnancy, the Elected Member will retain the entitlement to Maternity Leave.</p>
Paternity Leave	<p>Up to 2 weeks leave for the father or nominated carer of the mother.</p>
Shared Parental Leave	<p>Up to 6 months (26 weeks) shared parental leave where maternity leave is appropriately curtailed. Only any unused statutory maternity leave will be available to be taken as shared parental leave up to a maximum of 6 months (26 weeks). Leave is limited to 6 months (26 weeks) in total even where both parents are elected members.</p>
Adoption Leave	<p>Up to 6 months (26 weeks) leave from the date of placement.</p>

	Where a couple jointly adopt a child or children, they must decide which partner will take leave as the main carer. The Elected Member will only be granted adoption leave under these provisions if their partner is not also taking a period of adoption leave.
Surrogacy Leave	Up to 6 months (26 weeks) leave from the date of placement or from a fixed date up to 14 days before the expected date of placement.

3. Pay Provisions

- 3.1 All members will continue to receive their basic remuneration in full while on maternity, paternity, shared parental, adoption or surrogacy leave.
- 3.2 Members entitled to a Senior Councillor Payment and the Provost and Council Leader will continue to receive their additional remuneration during a period of maternity, paternity, shared parental, adoption or surrogacy leave for a period of up to six months, or until the date when the member taking the leave stands for re-election, whichever date is sooner. At such a point, the position will be reviewed and may, where appropriate, be extended by council to allow the member re-elected to remain on leave for the remainder of the 6 month period with the appropriate additional remuneration.

4. Notice Requirements

- 4.1 A minimum of 4 weeks notice is required prior to a Member taking maternity, paternity, shared parental, adoption or surrogacy leave. The Elected Member Family Leave Notification form can be used for this purpose.
- 4.2 Notification must be accompanied by the following certification as appropriate:

Type of Leave	Certification Required
Maternity Leave	Maternity Certificate (MATB1)
Adoption Leave	Matching Certificate
Shared Parental Leave	Confirmation of the curtailment of maternity leave.
Surrogacy Leave	Parental Order and copy of the Maternity Certificate (MATB1)

5. Member Responsibilities during Leave

- 5.1 Any member taking a period of maternity, paternity, shared parental, adoption or surrogacy leave retains their legal duty under the Local Government (Scotland) Act 1973 to attend a qualifying meeting of the Council or an outside body within a six-month period unless the reason for non-attendance is accepted by the council. Absence whilst on family leave taken under this Scheme will be deemed to be an acceptable reason for non-attendance.
- 5.2 Arrangements should be made prior to a period of leave for other duties to ensure there is minimal impact on the relevant ward. This may include arranging for another councillor to attend surgeries to represent and pursue constituents' interests, or

arranging substitutes for committee meetings as permitted by council standing orders. In making such arrangements consideration must be taken of data sharing legislation in relation to constituents' personal information.

- 5.3 Members on maternity, paternity, shared parental, surrogacy or adoption leave may choose to attend council meetings or undertake other duties during their period of leave. Doing so will not affect the period of leave which has been agreed or bring it to an end prematurely. Similarly, any time spent on duties during the period of leave will not extend the period of leave beyond the maximum period.

6.1 Senior Councillor Substitution

Should a Member appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one senior councillor payment shall apply.

Members appointed to replace the Member on maternity, paternity, shared parental or adoption leave will continue to receive the additional remuneration until the return of the Member on leave or until that Member stands for re-election, whichever date is sooner.

7. Return from Leave

- 7.1 Unless the Member taking leave is removed from their post whilst on leave they will return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.
- 7.2 If a Member decides not to return at the end of their leave and so to resign as a councillor they must notify the council in writing with at least 4 weeks' notice. All allowances will cease from the effective resignation date.
- 7.3 If an election is held during a Member's leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and senior councillor payment, if appropriate, will cease from the date they cease to be a councillor.

8. Administration and Review

- 8.1 The Head of Corporate Services is responsible for the administration of the Scheme.
- 8.2 The Scheme shall be reported to the statutory first meeting of full council after each local government election for re-adoption as part of the approval of the Scheme of elected Member Remuneration, Allowances and Reimbursement of Expenses.



EMPLOYEE ASSISTANCE PROGRAMME AND PHYSIOTHERAPY SERVICES

ELECTED MEMBER ACCESS

Employee Assistance Programme

You can self-refer for employee assistance services by calling Help EAP on 0800 0285 148. This helpline service is free and available 24 hours a day, 365 days per year and is highly confidential. No report is provided to the council and all consultations remain strictly private.

Further information on the services available through the employee assistance programme can be accessed [here](#).

Physiotherapy Services

Physiotherapy Services are provided by Connect Health Ltd. You cannot self-refer for physiotherapy, services must be accessed via the Human Resources Manager by emailing Lesley.henderson@westlothian.gov.uk who will complete the necessary paperwork. You will then be required to call Connect Health on 0330 1245 741 where you will speak with a trained physiotherapist.

The physiotherapist will triage you to the most appropriate intervention which may include a face to face appointment. Normally, physiotherapy sessions are held at Strathbrock Partnership Centre in Broxburn. The Human Resources Manager will receive initial, interim and discharge reports from the physiotherapist following your consultation.

You will be given a total of 4 treatment sessions including treatment/consultation but excluding telephone consultation. If the Physiotherapist recommends further sessions, authorisation will be required from the Human Resources Manager although this will not be unduly withheld. There is no limit on how many times you can access this service, however should you fail to attend or cancel with less than 48 working hours on two or more occasions, your right to access these services will be withdrawn for a 6 month period.

DATA LABEL: OFFICIAL



COUNCIL EXECUTIVE

SUPPORTING PERFORMANCE FRAMEWORK

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To present to Council Executive a framework to support staff (non – teaching) achieve improved performance.

B. RECOMMENDATION

That Council Executive:

1. Approves the framework set out in Appendix 1 of this report for implementation on 1 January 2021; and
2. Notes that it has been requested by the recognised Trade Unions that following implementation the framework is kept under review with the option to make amendments as necessary.

C. SUMMARY OF IMPLICATIONS

I Council Values	<ul style="list-style-type: none">• Focusing on our customers' needs• being honest, open and accountable• providing equality of opportunities• making best use of our resources
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>The proposed framework reflects ACAS guidance on managing employee performance.</p> <p>The Equality Act 2010 requires the council to take account of the impact of its policies functions, activities and decisions on employees from protected groups. An Integrated Impact Assessment has been conducted on the proposed framework.</p>
III Implications for Scheme of Delegations to Officers	None
IV Impact on performance and performance Indicators	The proposed framework is designed to manage and support employee performance and maintain service delivery standards.

V Relevance to Single Outcome Agreement	Failure to effectively manage individual performance can impact adversely on the council's ability to meet its strategic service objectives.
VI Resources - (Financial, Staffing and Property)	None
VII Consideration at PDSP	The draft framework was considered at PDSP on 7 February 2020.
VIII Other consultations	Consultation has taken place with the council's recognised trade unions.

D. TERMS OF REPORT

D.1 Background

A key element of the council's People Strategy 2018/23 is to promote a performance culture and encourage individuals to develop themselves, providing support and learning for those whose performance falls below required standards.

The council has in place processes that support staff in achieving improved performance in the form of the Teachers Competency Framework and the Policy and Practice on Supervision of Social Policy staff. However, there are currently no equivalent arrangements in place for other non – teaching staff. Whilst used infrequently, the only mechanism available to managers to address under performance in this employee group is the council's disciplinary procedure.

In a benchmarking exercise, thirteen other councils confirmed that they had a Capability and Performance framework in place, typically a three-stage incremental process which in the majority of cases, applies independently of their disciplinary procedures.

The proposed Supporting Performance Framework attached as Appendix 1 to this report will ensure a standard approach to employee performance management across non-teaching roles and will ensure individuals receive structured and clear feedback when performance improvement is required. In this regard the framework highlights the need to clearly record what is agreed between the manager and employee and also for a reasonable period of time to be afforded to the employee to demonstrate improved performance.

D.2 Difference Between ADR Process and Performance Framework

It is important to draw a distinction between the purpose and aims of the council's existing ADR process and the proposed Supporting Performance Framework.

The council's Appraisal and Development Review (ADR) process is underpinned by a Competency Framework that sets out core behaviours associated with effective performance for jobs at all levels in the authority. The framework is regarded as a positive and motivational tool which emphasises positive engagement with employees with the following purposes;

- To communicate and agree work outcomes and performance standards

- To give and receive feedback on all aspects of performance
- To identify development needs based on core and job specific competencies
- To implement and monitor performance improvement and development plans

The engagement process involves an annual cycle of performance reviews for all employees across the council directly linked to the councils corporate and service planning process.

While the ADR process by its very nature is likely to touch upon strengths and weaknesses in an individual's performance; it is not the mechanism for addressing fundamental under – performance.

Any corrective management intervention required in the latter circumstances sits more appropriately under a separate performance management process to be invoked on an 'as required' basis where an individual's work performance consistently dips below satisfactory levels. It is proposed that the Supporting Performance Framework would fulfil this purpose and by definition, unlike the cyclical nature of the ADR process, would not require to be frequently invoked.

Although the ADR process and the proposed Supporting Performance Framework are designed to address employee engagement and performance from different perspectives, the overall aim of both is to ensure the delivery of efficient and effective public services.

D.3 ACAS Guidance

ACAS stress the need for regular performance reviews and support to help minimise under-performance. However, it is recognised that where an employee's performance consistently fails to reach the required standard despite receiving support, then line managers must be prepared to hold frank and pointed conversations with under-performing individuals and in order to do so they require to be trained accordingly.

ACAS further advise that where informal approaches fail, it may be appropriate to take more formal action which could eventually result in dismissal if employees do not make the necessary improvement. Where this is the case, an employer is advised to follow its disciplinary procedure (or the capability procedure if there is one).

In cases of unsatisfactory performance, the first formal stage should include setting out the following matters in writing;

- The areas of under- performance
- The improvement that is required
- The timescale for achieving the improvement
- A review date
- Any support, including any training, that the employer will provide to assist the employee

The employee should be advised of the action that will be taken if they fail to improve. For example, the next stage in the employer's procedure may be a final written warning and, ultimately dismissal.

Employment tribunals are legally required to take the ACAS Code of Practice on disciplinary and grievance procedures into account when considering relevant cases.

Tribunals will also be able to adjust any compensatory awards made in these cases by up to 25% for unreasonable failure to comply with any provision of the Code.

D.4 Capability & Performance – Key Issues

A Focus Group was held with managers, a number of whom had first-hand experience of dealing with under-performing staff members. The group discussed some of the practical issues involved in trying to manage such cases with a view to identifying how a uniform process for dealing with performance and capability might assist managers in those circumstances.

It was agreed that there were a number of key factors that required to be considered in developing a Supporting Performance Framework for the council;

- The need to be able to define what constitutes satisfactory performance given that under-performance can only be assessed with reference to that measure.
- That there is no 'one size fits all' approach in terms of individual performance assessment and any improvement plans and timescales agreed with individuals must reflect the nature and complexity of the job and align with any existing standards of professional practice (e.g. supervision arrangements in Social Policy).
- That while each individual case of performance management would be dealt with according to its own merits as indicated above, the same, common process framework should be adopted uniformly across the council to ensure consistency of application.
- Clarification on the interface that the performance and capability process would have with other key council employment policies and procedures including the disciplinary procedure, the ADR process and the Policy on Supporting Attendance at Work.
- That in keeping with ACAS guidance and in common with the approach applied to the introduction of the ADR process, adequate training is provided to managers.

D.5 Raising Awareness, Training and Support for Managers

It is recognised that the introduction of a Supporting Performance Framework will require to be supported by appropriate awareness raising, training and support for managers and supervisory staff and that training content will require to be targeted to those officers responsible for performance management at the various levels of delegated authority within services. This would be similar to the approach adopted for delivering the training on the Policy on Supporting Attendance at Work.

Raising awareness of the Framework would be undertaken in the usual manner which involves briefings at Service Management Teams and Employee Information Briefing Scripts.

The HR Learning and Development Team currently run Bite-Size sessions on subjects such as Managing Performance Improvement, Discipline and Grievance Handling and Dealing with Sensitive Conversations which will be modified to accommodate the introduction of a Supporting Performance Framework.

The training will provide managers with advice on dealing with staff that are underperforming and in particular how to distinguish between conduct/poor attitude as opposed to genuine lack of capability/ ability and the appropriate procedural route to be taken in each case.

As it is anticipated that the framework will be used infrequently, the HR Policy and Advice team will also provide direct support to managers on its application.

D.6 Review

During consultation with the recognised Trade Unions it was generally agreed that implementation of the framework will be helpful in supporting employees to maintain the required standards of performance. However, a minor concern was expressed in relation to the structure of the Performance Review and Record Action Plan and ensuring that managers provide evidence of under-performance and clear expectations.

The Performance Review and Record Action Plan was amended to address these concerns and requires managers to identify and evidence under performance, to agree with employees what actions and support are required to improve performance and record progress against such actions at interim meetings. A final review meeting will be held to identify and evidence whether the employee has achieved or failed to achieve the necessary performance improvement.

Managers conducting performance review meetings and completing the Performance Review and Record Action Plan will also be required to undergo training and will be supported by members of the Human Resources team to ensure that plans provide clarity for employees on the standards of performance required.

As a result, the recognised Trade Unions have agreed to the implementation of the framework with an option to review if the plans implemented by managers prove not to provide the clarity required to support performance improvement.

D.7 COVID-19 Recovery

Consideration of the draft Supporting Performance Framework by Council Executive, originally scheduled for 24 March 2020, was delayed as a result of COVID-19 and the impact on working arrangements. Development of roll-out arrangements and necessary training has also been delayed.

It is therefore proposed that Council Executive approve the Supporting Performance Framework for implementation on 1 January 2021 to allow for the necessary roll-out of e-learning to support managers to effectively manage performance under the new framework while managing a remote workforce.

E. CONCLUSION

The Supporting Performance Framework has been developed to address an identified gap in the council's current employment policy and procedures and to implement a key action in the council's People Strategy to support underperforming employees and improve their performance.

The proposed framework is intended to provide a uniform and structured process for dealing with unsatisfactory employee work performance and is regarded as a more

appropriate mechanism for doing so than the Disciplinary Procedure particularly where unsatisfactory performance cannot be attributed to any conduct related issue.

Unlike the council's ADR process which is a cyclical system of ongoing appraisal and employee development, the Supporting Performance Framework is a tool to be used in cases of individual under-performance and as and when they arise and as such the expectation would be that it is not invoked on a frequent basis.

F. BACKGROUND REFERENCES

- How to Manage Performance – ACAS Guidance
- Benchmarking Information – Other Local Authorities

Appendices/Attachments: Appendix 1 – Draft Supporting Performance Framework

Contact Person: Sophie McKinney, Senior HR Policy and Advice Adviser,
01506 281432, sophie.mckinney@westlothian.gov.uk

Julie Whitelaw
Head of Corporate Services
6 October 2020



Supporting Performance Framework



Approved Council Executive:

WEST Lothian Council

SUPPORTING PERFORMANCE FRAMEWORK

(Covering all employees except the Chief Executive and Teachers)

CONTENTS

Section	Page
1. PURPOSE	3
2. MEASURING PERFORMANCE	4
3. PRINCIPLES OF MANAGING PERFORMANCE.....	4
4. INFORMAL DISCUSSION	5
5. INFORMAL REVIEW.....	5
6. FORMAL PERFORMANCE MANAGEMENT - STAGE 1	6
7. REVIEW MEETING(S) – STAGE 1.....	6
8. OUTCOME OF STAGE 1	6
9. FORMAL PERFORMANCE MANAGEMENT – STAGE 2.....	7
10. REVIEW MEETING(S) – STAGE 2.....	7
11. OUTCOME OF STAGE 2.....	8
12. RECURRING UNDERPERFORMANCE	8
13. CAPABILITY & PERFORMANCE ASSESSMENT – STAGE 3.....	9
14. OCCUPATIONAL HEALTH REFERRAL.....	10
15. REDEPLOYMENT.....	10
16. DISCIPLINARY PROCEDURE.....	11
17. RECORD KEEPING.....	11
18. RESPONSIBILITIES	11
19. REVIEW	12
Appendix 1 - Performance Review Record and Action Plan	13
Appendix 2 - Template Letters	23

WEST LoTHIAN COUNCIL

SUPPORTING PERFORMANCE FRAMEWORK

(Covering all employees except the Chief Executive and Teachers)

1. PURPOSE

- 1.1 The Supporting Performance Framework aims to promote fairness, equity and consistency in the management of employee performance. The framework is a means of supporting employees to meet and maintain the required standards of performance as outlined in relevant job descriptions, person specifications, professional competencies and council values.
- 1.2 During their induction period, employees should be told what is expected of them and the standards they must meet. This should be reinforced by managers going forward during one-to-one meetings and the Appraisal Development Review (ADR) process.
- 1.3 Continuous development is important in ensuring that employees continue to do their jobs to the standard expected of them. Employees should be encouraged to improve/maintain their performance through formal or informal training including on-the-job training where appropriate.
- 1.4 On occasion there may be situations, when the performance of an employee falls below an acceptable level. Under performance may occur at any time during employment, and may, for example, be the result of:
 - a recently recruited employee not performing to the expected standard;
 - promotion of an employee to a post which subsequently proves to be beyond their level of competence;
 - changes in job demands, advancements in technology, new work methods or legislation.
 - a health condition or disability.
 - difficult personal circumstances.
- 1.5 Under performance may manifest itself in different ways including:
 - failure to meet a specific standard, level of performance or work output;
 - failure to meet agreed targets or deadlines;
 - failure to apply specified core competencies;
 - complaint(s) or criticism(s) of the employee's work.
- 1.6 Under performance can be categorised into four broad areas:
 - the employee does not possess the **fundamental skill(s)** to undertake the post effectively;
 - the employee does not have the **ability/aptitude** needed to undertake the job effectively;
 - the employee is **unwilling** to apply themselves to duties/tasks despite possessing the necessary skills/ability;
 - the employee is **negligent/careless** in undertaking their duties.
- 1.7 Where an employee is failing to meet the required standards for one or both of the first two reasons above, the matter will be dealt with as one of **capability**. In these circumstances, the emphasis should be on providing assistance, training, coaching, setting goals and monitoring progress, rather than applying sanctions.
- 1.8 Where it is established that an employee is wilfully failing to properly apply him/herself to their duties, or is consistently negligent in performing their duties, this will be dealt with as a **conduct** matter under the Council's Disciplinary Policy.

2. MEASURING PERFORMANCE

2.1 In assessing an employee's competence, the manager should compare the requirements and demands of the post against the abilities and performance of the employee. The manager should make reference to the following sources of information to ensure that assessment of work performance can be measured as objectively and fairly as possible:

- job description
- person specification - outlining the minimum standards of the post
- work-plans (identifying targets to be met)
- appraisal development review records
- feedback and/or complaints/compliments from customers
- records of any discussions in relation to performance or poor standard of work e.g. frequent mistakes, missed deadlines

2.2 In measuring performance the manager should be careful to:

- measure performance against the requirements of the specific post rather than other fellow employees - one employee should not be compared against another
- avoid any personal prejudices
- ensure the standards expected are reasonable and the minimum required to undertake the job – setting unreasonable standards may make any subsequent dismissal unfair.

3. PRINCIPLES OF MANAGING PERFORMANCE

3.1 In general, the procedure to be followed will take account of the following principles:

- **Concerns relating to unsatisfactory performance should be dealt with informally in the first instance** – informally alerting an employee to their failure in performance may be sufficient in motivating the employee to achieve the necessary improvement or in ensuring that the employee is aware of the standards required.
- **Concerns relating to unsatisfactory performance should be dealt with timeously** – early intervention where under performance is identified will provide the employee with the opportunity to address the matter quickly and limit the impact of the under performance
- **A careful and thorough appraisal of the employee's performance should be carried out** – where the employee's performance reaches the accepted standard, no further action will be taken under these procedures. Any future concerns/omissions in performance will however be similarly managed in line with the council's Capability and Performance Framework.
- **Concerns will be discussed constructively with the employee** – a positive and constructive approach should be taken when dealing with capability issues.
- **The employee should be given the opportunity to achieve the required improvement** – reasonable time and necessary support should be provided that takes account of individual circumstances. Given the wide range of factors that may impact on work performance in any given situation, it is not possible to attach timescales to the individual stages. Instead, reasonable time for improvement should be allowed at each stage of the process in order to ensure fairness to the employee while balancing this with the effect on service delivery.
- **Failure to engage in the performance improvement process may result in disciplinary action** – if the employee is unwilling to engage in the process despite all relevant support being offered, the matter will be addressed under the Council's Disciplinary Procedure.

- **The employee will be advised of the consequences of failure to achieve satisfactory improvement** - if it becomes apparent that referral to a capability hearing and subsequent termination of employment may be a potential outcome, it is essential that the employee is informed that this is a possible consequence. However this should not be conveyed as a threat to an employee and should only be discussed with them if it is a genuine, potential outcome of the capability process.

4. INFORMAL DISCUSSION

- 4.1 The aim at this stage of the procedure is for the line manager to make the employee aware of any instances of underperformance, to discuss how improvements can be made and consider any assistance that could be offered to help achieve those improvements. It should be emphasised to the employee that this is an informal measure at this point.
- 4.2 As the objective at this stage is to try to achieve an informal solution without the need to resort to more formal measures, the discussion will be on a 'one to one' basis in order to maintain the informality of discussions. In common with the approach taken during informal counselling meetings under other council policies, the right to be accompanied will not apply at this early stage.
- 4.3 During the informal meeting, the discussion will typically involve the following;
- the employee should be made aware of the shortfall in their performance using examples of poor workmanship, mistakes, complaints etc. where possible.
 - there should be a two-way discussion to try and identify any underlying causes for the under performance. Consideration should be given to all circumstances potentially affecting performance i.e. difficult personal circumstances; changes in management or supervision; health issues; changes in working procedures or technology;
 - the manager should offer/agree any suitable training to assist the employee in improving his/her skills and abilities;
 - identify any health issues which may be contributing to under performance and arrange referral to Occupational Health if appropriate.
 - the emphasis should be on finding ways for the employee to improve and to agree reasonable measurable targets for performance improvement with the employee;
 - a suitable period should be agreed in which to review the performance. The timescales agreed should allow adequate time for improvement, taking into account the nature of the concerns raised and the support mechanisms which have been agreed;
 - the employee should be made aware that failure to demonstrate an improvement in their performance within this period is likely to result in the situation being dealt with on a formal basis in accordance with the Supporting Performance Framework.
- 4.4 The discussion and action agreed at the meeting along with targets for improvement will be recorded on the Performance Review Record and Action Plan (Appendix 1) and updated as necessary at review meetings.

5. INFORMAL REVIEW

- 5.1 A review meeting should be held to determine whether the required standards have been met. Depending on the circumstances, it may be appropriate to hold more than one such meeting at appropriate intervals.
- 5.2 If the employee's performance has improved to satisfactory levels, progress will continue to be monitored through regular one-to-one meetings and the ADR process.
- 5.3 If there is insufficient or no improvement, the employee should be informed that it is necessary to move to the formal process and of their right to be accompanied at formal stages of the process.

6. FORMAL PERFORMANCE MANAGEMENT - STAGE 1

- 6.1 Where informal measures have proved unsuccessful and the performance of the employee continues to cause concern, a formal meeting should be arranged between the line manager and the employee. The employee will have the right to be accompanied at formal meetings by a trade union representative or some other person of their choice.
- 6.2 The manager should advise the employee of the meeting in writing, giving 5 working days' notice (Template Letter 1).
- 6.3 At the meeting the manager should:
- confirm previous informal discussions relating to under performance and how/why requirements for improvements discussed at this stage have not been met, making reference to the Performance Review Record and Action Plan completed previously;
 - raise concerns regarding under performance and, in particular, discuss any shortfalls in skills and/or abilities. Where possible, examples of poor workmanship, mistakes, complaints etc. should be produced. The manager should refer to clearly defined standards expected and provide specific examples of how performance has fallen below those standards. Reference to any relevant professional standards should also be made in this regard;
 - discuss any underlying causes contributing to under performance and how they might have changed. Consideration should be given to all circumstances potentially affecting performance i.e. difficult personal circumstances; changes in management or supervision; health issues; changes in working procedures or technology;
 - discuss the impact of the underperformance for example safety issues, legislative compliance, complaints and impact on colleagues and/or service delivery.
 - agree reasonable and measurable targets for performance improvement with the employee;
 - offer/agree any suitable training/coaching to assist the employee in improving his/her skills and abilities;
 - advise the employee that continued under performance may result in further action at Stage 2 of the capability and performance framework;
 - agree the duration of the performance review period with interim review meetings as appropriate.
- 6.4 The discussion and action agreed at the meeting along with targets for improvement will be recorded on the Performance Review Record and Action Plan and updated as necessary at review meetings.

7. REVIEW MEETING(S) – STAGE 1

- 7.1 The purpose of a review meeting is to discuss progress made in meeting the set targets. The number and frequency of review meetings will depend on the circumstances, the tasks or standards to be met and the type and level of support required.
- 7.2 The review meeting(s) provide the opportunity to ensure that appropriate consideration has been given to any mitigating circumstances affecting performance. It also ensures that adequate opportunity is given for improvement.
- 7.3 The review meeting(s) should follow a similar format to the Stage 1 meeting.
- 7.4 A final review meeting will be arranged at the end of the review period to assess performance improvement and consider the outcome of the Stage 1 process.

8. OUTCOME OF STAGE 1

Satisfactory Improvement in Performance

- 8.1 Where performance has improved to acceptable levels and no further action is considered necessary, the manager will advise the employee within 5 working days of the meeting (Template Letter 2). The

employee will be expected to maintain their performance at a satisfactory level and the line manager will continue to monitor progress through regular one-to-one meetings and the ADR process.

Limited Improvement in Performance

- 8.2 Where there has been limited improvement but acceptable levels/standards are still not being consistently met, the reasons for the underperformance should be explored. In these circumstances, it may be appropriate to extend the review period and agree:
- further measurable targets for performance improvement; and
 - the nature of any further support required to assist the employee in improving their performance to the required level.
- 8.3 The action agreed at the meeting will be confirmed in writing to the employee within 5 working days (Template Letter 2). The Performance Review Record and Action Plan will also be updated with targets for improvement and the agreed review period.
- 8.4 There may be occasions where the manager considers that although there has been some improvement, it is has not been sufficient enough to preclude moving to Stage 2 of the procedure. The decision will be confirmed in writing to the employee within 5 working days of the meeting (see Template Letter 2).

Failure to Improve Performance

- 8.5 If there has been no improvement in performance, the employee will proceed to Stage 2 of the procedure. The decision will be confirmed to the employee in writing within 5 working days of the meeting together with the potential implications of continued under performance (Template Letter 2).

9. FORMAL PERFORMANCE MANAGEMENT – STAGE 2

- 9.1 Where formal performance management at Stage 1 has proved unsuccessful and the performance of the employee continues to cause concern, a formal Stage 2 meeting should be arranged. The stage 2 meeting will be conducted by a manager more senior to the manager who conducted the stage 1 meeting.
- 9.2 The employee should be advised in writing and given 5 working days' notice of the Stage 2 meeting (Template Letter 3).
- 9.3 The Stage 2 meeting(s) should follow a similar format to the Stage 1 meeting providing the employee with further examples of poor performance and how performance continues to fall below expected standards and the targets set at earlier stages.
- 9.4 Consideration should be given to the further support that can be provided to assist the employee improve their performance or remove any barriers that may be contributing to the underperformance.
- 9.5 If appropriate, modified targets for performance improvement should be agreed with the employee setting out the duration of the performance review period and timescales for interim review meetings as appropriate.
- 9.6 The discussion and action agreed at the meeting along with targets for improvement will be recorded on the Performance Review Record and Action Plan and updated as necessary at review meetings.

10. REVIEW MEETING(S) – STAGE 2

- 10.1 The review meeting(s) should follow a similar format to the Stage 1 review meeting(s).
- 10.2 A final review meeting will be arranged at the end of the review period to assess performance improvement and consider the outcome of the Stage 2 process.

11. OUTCOME OF STAGE 2

Satisfactory Improvement in Performance

- 11.1 Where performance has improved to acceptable levels and no further action is considered necessary, this will be confirmed in writing to the employee within 5 working days of the meeting (Template Letter 4). The employee will be expected to maintain their performance at a satisfactory level and the line manager will continue to monitor progress during one-to-one meetings and the ADR process.

Limited Improvement in Performance

- 11.2 Where there is some improvement but acceptable levels/standards are not being consistently met, it may be appropriate to extend the review period. At this stage, the manager should explore the reasons why sufficient improvement has not been made and agree:

- further measurable targets for performance improvement; and
- the nature of any further support required to assist the employee in improving their performance to the required level.

- 11.3 The action agreed at the meeting will be confirmed in writing to the employee within 5 working days of the meeting (Template Letter 4). The Performance Review Record and Action Plan will be updated with targets for improvement and the agreed review period.

- 11.4 There may be occasions where the manager considers that although there has been some improvement, it is has not been sufficient enough to preclude moving to Stage 3 of the procedure. The decision will be confirmed in writing to the employee within 5 working days of the meeting (see Template Letter 4).

Failure to Improve Performance

- 11.5 If there has been no improvement in performance, the employee will proceed to Stage 3 of the procedure. The decision will be confirmed in writing to the employee within 5 working days of the meeting together with the potential implications of continued under performance (Template Letter 4).

12. RECURRING UNDER-PERFORMANCE FOLLOWING INITIAL IMPROVEMENT

- 12.1 Where an employee achieves the standards required as a result of performance improvement measures, they will return to normal monitoring. If however performance subsequently falls below the agreed standards, the line manager will consider whether to:

- initiate the procedure again at the informal stage;
- re-start the procedure at the stage that was previously reached; or
- re-start the procedure at an escalated stage.

- 12.2 The line manager will consider the extent of the underperformance and the length of time over which the performance improvement had been sustained. For example, if a significant dip in performance recurs after only a matter of weeks, this may result in the formal process being resumed at an escalated stage of the procedure. A minor relapse after a number of months may merit only a return to the informal stage of the process.

13. CAPABILITY & PERFORMANCE ASSESSMENT – STAGE 3

- 13.1 Where the supporting performance interventions at Stage 2 have proved unsuccessful and the performance of the employee continues to cause concern, a Capability and Performance Assessment - Stage 3 meeting should be arranged.
- 13.2 The Capability and Performance Assessment meeting will be chaired by the relevant Head of Service, Depute Chief Executive/Chief Executive as appropriate who will be supported by a Senior Human Resources Adviser.
- 13.3 The manager who has managed the employee through the Supporting Performance process will attend the meeting and will submit a capability report (Performance Review Record and Action Plan – Appendix 1) in advance of the meeting outlining the circumstances for consideration. Where appropriate, an up to date Occupational Health Adviser's report should be obtained for consideration at the Capability Assessment meeting.
- 13.4 The employee will be given at least 5 working days' written notice of the meeting (Template Letter 5) including their right to be accompanied and a copy of the Capability & Performance report. The employee will already have automatically received a copy of the Occupational Health Adviser's report directly from the OH Adviser where appropriate.
- 13.5 At the meeting, the Capability & Performance report and Occupational Health Adviser's report will be discussed with the employee and any representations from the employee or their representative will be taken into account.
- 13.6 After consideration of all information presented at the meeting, the Head of Service/Depute Chief Executive/Chief Executive will determine which of the following options is appropriate in the circumstances:

Redeployment

- 13.7 Consideration will be given as to whether a search for suitable alternative employment should be undertaken. Where this is considered appropriate, the Capability and Performance Assessment meeting will be adjourned to allow a search for suitable alternative employment to be undertaken in accordance with the procedure outlined in Section 15 below.
- 13.8 Where suitable alternative employment cannot be identified, the Capability and Performance Assessment meeting will be reconvened.

Further Review

- 13.9 Where it is determined that the facts presented do not warrant dismissal on the grounds of capability, the Head of Service/Depute Chief Executive/Chief Executive may adjourn the Capability Assessment meeting in order to:
- give the employee an additional opportunity to improve their performance in order to meet further reasonable agreed targets within defined timescales; or
 - allow for additional information/clarification to be obtained in respect of points raised at the hearing; or
 - trial and assess the outcome of reasonable adjustments requested and agreed at the hearing.
- 13.10 Following reasonable time to allow for further review as agreed, the Capability Assessment meeting will be reconvened.

Dismissal

- 13.11 Where, having considered all the available information, the Head of Service/Depute Chief Executive/Chief Executive concludes that all other options are either inappropriate or have been fully exhausted the employee will be advised that they are to be dismissed on the grounds of capability.
- 13.12 An employee may make an appeal in writing against their dismissal on the grounds of capability to the Head of Corporate Service within 10 working days of the effective date of dismissal indicating the grounds of the appeal.
- 13.13 The Head of Corporate Services will arrange for the appeal to be considered by the Council's Appeals Committee within 20 working days of receipt of the letter of appeal or as soon as possible thereafter. The appeal will be heard in accordance with the procedure set out in Appendix 3 of the council's Disciplinary Procedure.
- 13.14 The outcome of the Stage 3 Capability and Performance Assessment Meeting will be confirmed in writing to the employee within 10 working days (Template Letters 6, 7 & 8).

14. OCCUPATIONAL HEALTH REFERRAL

- 14.1 Where an employee attributes under performance to a health condition, it may be appropriate to refer the employee for assessment by the council's Occupational Health Adviser. Referral can be carried out at any stage of the capability and performance process and should be recorded as an action on the Performance Review Record and Action Plan.
- 14.2 The Occupational Health Adviser can provide information on whether an underlying health condition exists, an employee's fitness to carry out their duties, and any reasonable adjustments that might assist the employee to achieve and maintain the required standards of performance.
- 14.3 Where an employee is referred to a Capability and Performance Assessment Stage 3 meeting and the employee's health has previously been a factor discussed in the course of meetings convened under the Supporting Performance Framework (irrespective of whether or not an Occupational Health report has been obtained at an earlier stage), an up to date Occupational Health report should be obtained prior to the Stage 3 meeting.

15. REDEPLOYMENT

- 15.1 Redeployment may be raised as a possible option by the employee, the manager or Occupational Health at any stage of the formal process. Redeployment may be a suitable option where there is evidence to indicate that there is little prospect of the employee being able to meet and maintain the expected standards of performance within a reasonable timescale. Redeployment will not be an option where an employee is unwilling to engage in the performance improvement process or their underperformance is as a result of negligence/carelessness or failure to apply themselves to the task, despite possessing the necessary skills/ability.
- 15.2 The ability to redeploy an employee will depend on the availability of suitable vacancies at that time within or out with the employing service. The search for alternative employment in these circumstances will normally be undertaken for no longer than 3 months after which the employee may be dismissed on the grounds of capability.
- 15.3 Where a potentially suitable vacancy exists, the employee will be offered a priority interview and in a similar manner to the council's Workforce Management Policy & Procedure, he/she will only be in competition with other employees on the Redeployment List.
- 15.4 Where an employee is successful at priority interview, the employee shall be offered the post on the basis of the terms and conditions that apply to that particular post. No protection of the employee's existing contractual terms will apply. Offers of alternative employment will normally include provision for a trial period in a similar manner to employees offered suitable alternative employment under the terms of the council's Workforce Management Policy & Procedure.

- 15.5 If an employee refuses to accept an offer of alternative employment that is considered to be reasonable in all the circumstances, the reasons for the refusal will be discussed with the employee and his/her representative if applicable. Where the employing service is satisfied that the offer is reasonable but the employee still refuses to accept it, the employee will be dismissed.

16. DISCIPLINARY PROCEDURE

- 16.1 The council's Disciplinary Procedure may be invoked at any stage during the formal Capability and Performance Process where there is evidence to show that the employee has failed to properly engage and cooperate with the supporting performance process despite all relevant support being offered. The decision to resort to the Disciplinary Procedure in any given case will be subject to consultation with Human Resources in line with Section 18 below of this framework.
- 16.2 Where the Disciplinary Procedure is used in the above circumstances, the information recorded as part of the Supporting Performance Process will form the basis of the disciplinary investigation.
- 16.3 In determining the appropriate level of disciplinary action to be taken, the Nominated Officer will take into account the stage that was reached in the Supporting Performance process and any support that was provided to assist the employee to improve their performance.
- 16.4 Where action short of dismissal is taken, the employee's performance will continue to be monitored under the Supporting Performance Framework. Performance improvement targets and a review period will therefore be set under the appropriate stage of the Framework.

17. RECORD KEEPING

- 17.1 Following the conclusion of the Supporting Performance Process, the completed Performance Review Record and Action Plan will be retained in the employee's personal file for a period of 12 months.
- 17.2 The Review Record and Action Plan will be taken account of where performance subsequently falls below the agreed standards set as outlined in section 12 above.

18. RESPONSIBILITIES

Line Manager

- 18.1 Line Managers are expected to:
- ensure that performance standards expected of employees are reasonable
 - ensure that employees are aware of and understand the standards expected of them
 - make employees aware of underperformance at the earliest opportunity
 - provide employees with adequate opportunity, training, assistance and resources to improve their performance
 - agree reasonable performance improvement targets and review periods, while balancing employee support with service delivery
 - advise employees of the consequences of failure to achieve and maintain the expected standards of performance
 - fairly and consistently apply the capability and performance framework within their team
 - maintain confidentiality while applying the capability and performance framework

Employee

- 18.2 Employees are expected to:
- keep up to date with the skills and knowledge required to undertake the duties of their post
 - meet any requirements of relevant professional or regulatory bodies, maintaining records as appropriate

- discuss with their line manager any concerns they have about their own knowledge/skills/ability to undertake the duties of their post effectively
- discuss with their line manager any external factors that may contribute to any failure to achieve the expected standards of performance
- engage in the performance improvement process and proactively complete any recommended actions to help them achieve and maintain the expected standards of performance

Human Resources

18.3 Human Resources will:

- monitor the general application of the supporting performance framework to ensure consistency across services
- provide advice and support to managers in managing individual cases of employee under performance
- liaise with the council's Occupational Health Adviser and advise managers on the preparation of medical referral documentation
- attend Capability and Performance Assessment Stage 3 meetings
- coordinate the council wide search for alternative employment
- advise on the use of the council's disciplinary procedure as appropriate where the supporting performance process has not been successful in remedying the underperformance
- provide advice on equality and discrimination issues as appropriate

Head of Service/Depute Chief Executive/Chief Executive

18.4 The Head of Service/Depute Chief Executive/Chief Executive will:

- chair Capability and Performance Assessment Stage 3 meetings
- determine the outcome of Capability and Performance Assessment Stage 3 meetings
- arrange for the council's Appeals Committee to hear appeals against capability dismissals as appropriate.

19. REVIEW

- 19.1 This procedure will be reviewed in consultation with the recognised trade unions as appropriate at least once every 5 years.

SUPPORTING PERFORMANCE FRAMEWORK

PERFORMANCE REVIEW RECORD AND ACTION PLAN – INFORMAL STAGE

Employee Name:		Post Title:	
Line Manager:		Service:	
Start Date with Council:		Start Date in Current Post:	

INFORMAL STAGE – INITIAL MEETING

Date of Meeting:		
Manager Conducting Meeting:		
PERFORMANCE ISSUES RAISED WITH EMPLOYEE	EVIDENCE PRESENTED TO EMPLOYEE	EMPLOYEE RESPONSE TO PERFORMANCE ISSUES

INFORMAL STAGE - ACTION PLAN

SUPPORT/TRAINING TO BE PROVIDED	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE

ACTIONS/TARGETS TO BE ACHIEVED	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE

INFORMAL STAGE REVIEW ARRANGEMENTS PLAN

Review Period:	
Dates of Interim Review Meetings:	
Date of Final Review Meeting:	

INFORMAL REVIEW MEETING	
Date of Meeting:	
Manager Conducting Meeting:	

PROGRESS TOWARDS ACTIONS/TARGETS	EVIDENCE OF PERFORMANCE IMPROVEMENT	FURTHER ACTION REQUIRED TO ACHIEVE TARGETS	FURTHER SUPPORT TO BE PROVIDED

FINAL INFORMAL REVIEW MEETING	
Date of Meeting:	
Manager Conducting Meeting:	

ACTIONS/TARGETS	OUTCOME	EVIDENCE TO SUPPORT OUTCOME
	Target Achieved <input style="width: 30px; height: 20px;" type="checkbox"/> Target Missed <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Achieved <input style="width: 30px; height: 20px;" type="checkbox"/> Target Missed <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Achieved <input style="width: 30px; height: 20px;" type="checkbox"/> Target Missed <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Achieved <input style="width: 30px; height: 20px;" type="checkbox"/> Target Missed <input style="width: 30px; height: 20px;" type="checkbox"/>	

ACTION TO BE TAKEN FOLLOWING FINAL REVIEW MEETING	REASONS FOR DECISION
Performance Improved to Satisfactory Level <input style="width: 30px; height: 20px;" type="checkbox"/> Return to Normal Monitoring Little or No Improvement <input style="width: 30px; height: 20px;" type="checkbox"/> Move to Stage 1 of the Formal Process	

SUPPORTING PERFORMANCE FRAMEWORK

PERFORMANCE REVIEW RECORD AND ACTION PLAN - STAGE 1 OR 2

Employee Name:		Post Title:	
Line Manager:		Service:	
Start Date with Council:		Start Date in Current Post:	

STAGE 1/2 – INITIAL MEETING

Stage and Date of Meeting:		
Manager Conducting Meeting:		
Others in Attendance (Employee Representative):		
PERFORMANCE ISSUES RAISED WITH EMPLOYEE	EVIDENCE PRESENTED TO EMPLOYEE	EMPLOYEE RESPONSE TO PERFORMANCE ISSUES

STAGE 1 OR 2 - ACTION PLAN

SUPPORT/TRAINING TO BE PROVIDED	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE

ACTIONS/TARGETS TO BE ACHIEVED	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE

STAGE 1 or 2 REVIEW ARRANGEMENTS PLAN	
Review Period:	
Dates of Interim Review Meetings:	
Date of Final Review Meeting:	

STAGE 1 or 2 REVIEW MEETING	
Stage and Date of Meeting:	
Manager Conducting Meeting:	

PROGRESS TOWARDS ACTIONS/TARGETS	EVIDENCE OF PERFORMANCE IMPROVEMENT	FURTHER ACTION REQUIRED TO ACHIEVE TARGETS	FURTHER SUPPORT TO BE PROVIDED

STAGE 1 OR 2 FINAL REVIEW MEETING		
Stage and Date of Meeting:		
Manager Conducting Meeting:		
ACTIONS/TARGETS	OUTCOME	EVIDENCE TO SUPPORT OUTCOME
	Target Achieved <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Missed <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Achieved <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Missed <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Achieved <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Missed <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Achieved <input style="width: 30px; height: 20px;" type="checkbox"/>	
	Target Missed <input style="width: 30px; height: 20px;" type="checkbox"/>	
ACTION TO BE TAKEN FOLLOWING FINAL REVIEW MEETING		REASONS FOR DECISION
Performance Improved to Satisfactory Level <input style="width: 30px; height: 20px;" type="checkbox"/> Return to Normal Monitoring		
Some improvement <input style="width: 30px; height: 20px;" type="checkbox"/> Extend Review Period		
Little or No Improvement <input style="width: 30px; height: 20px;" type="checkbox"/> Move to Capability Assessment		
Invoke Disciplinary Process <input style="width: 30px; height: 20px;" type="checkbox"/>		
Refer to Redeployment List <input style="width: 30px; height: 20px;" type="checkbox"/>		
The Record and Action Plan Form should be signed by the Line Manager and Employee. <div style="display: flex; justify-content: space-between;"> <div>Line Manager: _____</div> <div>Date: _____</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div>Employee: _____</div> <div>Date: _____</div> </div>		

PERFORMANCE REVIEW RECORD AND ACTION PLAN - STAGE 3

STAGE 3 - CAPABILITY ASSESSMENT	
Date of Meeting:	
Manager Conducting Meeting:	
Others in Attendance:	
CAPABILITY REPORT <i>(To be completed by the line manager prior to the capability assessment meeting)</i>	
<p>Provide a summary of the reasons for referral to a Capability Assessment Meeting, the actions taken at earlier stages of the process, the support provided to the employee and evidence of continued failure to achieve satisfactory levels of performance. Include details of any Occupational Health referral where appropriate.</p>	

OUTCOME OF CAPABILITY ASSESSMENT MEETING

Record the decision taken by the officer hearing the Capability Meeting along with the reasons for that decision. Any mitigation offered by the employee should also be recorded here.

ACTION TO BE TAKEN FOLLOWING CAPABILITY ASSESSMENT MEETING

- Referral to the redeployment list
- Further Review
- Dismissal on the Grounds of Capability

☐
☐
☐

The Record and Action Plan Form should be signed by the Line Manager and Employee.

Line Manager: _____ Date: _____

Employee: _____ Date: _____

SUPPORTING PERFORMANCE FRAMEWORK
STANDARD TEMPLATE LETTERS

Standard Template 1

Instruction to attend a Stage 1 Supporting Performance Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 1 SUPPORTING PERFORMANCE MEETING
JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to our recent discussions in relation to capability and performance. Your performance levels continue to be a matter of concern and you are required to attend a Stage 1 Performance Review Meeting on [insert date, time, and location] in line with the Supporting Performance Framework.

The purpose of the meeting is to:

- discuss your levels of performance and how they fall below the standard expected;
- explore the reasons for your under performance and what support can be put in place to assist you to achieve the required standard; and
- prepare an action plan outlining performance improvement targets and agree performance review arrangements

You have the right to be accompanied at the meeting by a trade union representative or some other person of your choice. It is important that you are aware that this is not a disciplinary hearing.

If you are unable to attend this meeting or if you have any queries regarding this matter please contact me as soon as possible on [insert contact details]

Yours sincerely

SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 2

Outcome of Stage 1 Final Review Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

OUTCOME OF STAGE 1 SUPPORTING PERFORMANCE REVIEW

JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to the Stage 1 Performance Review meeting held on and the subsequent review period as detailed in your Performance Review Record and Action Plan.

Following the final review meeting held on I have concluded that:

- your performance has improved to acceptable levels and no further action is considered necessary. You are expected to maintain your performance at a satisfactory level and your performance will continue to be reviewed at one to one meetings and through the ADR process.
- there has been some improvement in your performance but acceptable levels/standards are not being met. It has therefore been agreed to extend your review period for a further Targets for performance improvement along with future review arrangements are detailed in your Performance Review Record and Action Plan.
- there has been some improvement in your performance but acceptable levels/standards are not being met. You have therefore been referred to Stage 2 of the Supporting Performance Framework. Targets for performance improvement under Stage 2 along with future review arrangements are detailed in your Performance Review Record and Action Plan.
- there has been no improvement in performance. You will now therefore progress to Stage 2 of the Supporting Performance Framework. Targets for performance improvement under Stage 2 along with future review arrangements are detailed in your Performance Review Record and Action Plan.
- your under performance is as a result of your unwillingness to undertake duties, even though you possess the necessary skills/ability; OR your negligence in undertaking duties. You have therefore been referred to the Disciplinary Procedure and will receive notice of a disciplinary hearing.
- you have failed to engage in the performance improvement process and/or have

provided no underlying reasons as to why your performance has not improved. You have therefore been referred to the Disciplinary Procedure and will receive notice of a disciplinary hearing.

- you are unlikely to achieve acceptable levels/standards of performance in your current post and, with your agreement, you will be referred to the council's redeployment list. A search for suitable alternative employment will be undertaken in accordance with Section 13 of the Supporting Performance Framework.

Yours sincerely



SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 3

Instruction to attend a Stage 2 Supporting Performance Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 2 SUPPORTING PERFORMANCE MEETING

JOB TITLE: [insert job title for post to which the performance issue relates to]

Following the outcome of your Stage 1 Performance Review meeting, your performance levels continue to be a matter of concern and you are required to attend a Stage 2 Performance Review Meeting on [insert date, time, and location] in line with the Supporting Performance Framework.

The purpose of the meeting is to:

- discuss your levels of performance and how they continue to fall below the standard expected;
- explore the reasons for your continued under performance and what further support can be put in place to assist you to achieve the required standard; and
- prepare an action plan outlining performance improvement targets and agree performance review arrangements

You have the right to be accompanied at the meeting by a trade union representative or some other person of your choice. It is important that you are aware that this is not a disciplinary hearing.

If you are unable to attend this meeting or if you have any queries regarding this matter please contact me as soon as possible on [insert contact details]

Yours sincerely

SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 4

Outcome of Stage 2 Final Review Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

OUTCOME OF STAGE 2 SUPPORTING PERFORMANCE REVIEW **JOB TITLE: [insert job title for post to which the performance issue relates to]**

I refer to the Stage 2 Performance Review meeting held on and the subsequent review period as detailed in your Performance Review Record and Action Plan.

Following the final review meeting held on I have concluded that:

- your performance has improved to acceptable levels and no further action is considered necessary. You are expected to maintain your performance at a satisfactory level and your performance will continue to be reviewed at one to one meetings and through the ADR process.
- there has been some improvement in your performance but acceptable levels/standards are not being met. It has therefore been agreed to extend your review period for a further Targets for performance improvement along with future review arrangements are detailed in your Performance Review Record and Action Plan.
- there has been some improvement in your performance but acceptable levels/standards are not being met. You have therefore been referred to Stage 3 of the Supporting Performance Framework and will receive notice of a Capability Assessment meeting.
- there has been no improvement in performance. You have therefore been referred to Stage 3 of the Supporting Performance Framework and will receive notice of a Capability Assessment meeting.
- your under performance is as a result of your unwillingness to undertake duties, even though you possess the necessary skills/ability; OR your negligence in undertaking duties. You have therefore been referred to the Disciplinary Procedure and will receive notice of a disciplinary hearing.
- you have failed to engage in the performance improvement process and/or have provided no underlying reasons as to why your performance has not improved. You have therefore been referred to the Disciplinary Procedure and will receive notice of a

disciplinary hearing.

- you are unlikely to achieve acceptable levels/standards of performance in your current post and, with your agreement, you will be referred to the council's redeployment list. A search for suitable alternative employment will be undertaken in accordance with Section 13 of the Supporting Performance Framework.



SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 5

Instruction to attend a Stage 3 Capability Assessment Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 3 CAPABILITY ASSESSMENT MEETING

JOB TITLE: [insert job title for post to which the performance issue relates to]

Following the outcome of your Stage 2 Performance Review meeting, your performance levels continue to be a matter of concern and you are required to attend a Stage 3 Capability Assessment Meeting on [insert date, time, and location] in line with the Supporting Performance Framework.

The purpose of the meeting is to:

- discuss your levels of performance and how they have continued to fall below the standard expected;
- review the reasons for your continued under performance and the support that has been put in place to assist you to achieve the required standard or to explore other options;
- discuss [if appropriate] the content of the medical report received following your appointment with the council's Occupational Health Adviser;
- consider the continuation of your employment with the council and any evidence you wish to present which is relevant to the consideration of this; and
- consider any further interventions the service may be able to offer to assist you in improving your performance and sustaining your continued employment with the council, subject to the ability of the service to accommodate such interventions.

At this meeting in-depth discussions will be held about all available options; however, it is very important that you are aware that one of the potential outcomes of those deliberations could result in the termination of your employment with the Council, even though this meeting is not a disciplinary hearing.

You have the right to be accompanied at the meeting by a trade union representative or some other person of your choice.

If you are unable to attend this meeting or if you have any queries regarding this matter please contact me as soon as possible on [insert contact details]

Yours sincerely

A large, faint, diagonal watermark or signature line across the page, possibly reading 'COUNCIL EXECUTIVE'.

SUPPORTING PERFORMANCE FRAMEWORK
STANDARD TEMPLATE LETTERS

Standard Template 6

Outcome of Stage 3 Capability Assessment Meeting - Redeployment

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 3 CAPABILITY ASSESSMENT MEETING
JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to the Capability Assessment Meeting you attended on [insert date]. You were accompanied at the meeting by [insert name]/you confirmed that you were happy not to be accompanied at this meeting *(delete as appropriate)*

The meeting was arranged to discuss:

- your levels of performance and how they have continued to fall below the standard expected;
- the reasons for your continued under performance and the support that has been put in place to assist you to achieve the required standard or to explore other options;
- [if appropriate] the content of the medical report received following your appointment with the council's Occupational Health Adviser;
- the continuation of your employment with the council and any evidence you wish to present which is relevant to the consideration of this; and
- any further interventions the service may be able to offer to assist you in improving your performance and sustaining your continued employment with the council, subject to the ability of the service to accommodate such interventions.

At the meeting, we discussed [insert summary of discussion]

[if appropriate] We also discussed the report received from Occupational Health [insert summary of discussion around the report]

Following our discussions, I have concluded that you are unlikely to achieve acceptable levels/standards of performance in your current post and, with your agreement, you will be referred to the council's redeployment list.

I will now arrange for a search to be conducted for alternative employment for you. You should be aware however that this would depend on the availability of suitable vacancies within or out-with your current service. The redeployment team will contact you and arrange for a skills audit to be completed in order to aid their search. It is in your own best interests to complete this form and send it back to the redeployment team as soon as possible.

All posts for the Council are advertised on myjobscotland website <https://www.myjobscotland.gov.uk/councils/west-lothian-council/jobs> where you can register for email alerts to any new posts. Should you discover any post being advertised that you think would be suitable I would ask you to contact the redeployment team who can arrange a review of the essential qualifications against your skills set.

If following 3 months, the search for alternative employment has been unsuccessful I will arrange to meet with you again. At this meeting, you should be aware that all options surrounding your employment will be discussed and one of the potential outcomes could result in the terminating your employment on the grounds of capability.

Yours sincerely



SUPPORTING PERFORMANCE FRAMEWORK
STANDARD TEMPLATE LETTERS

Standard Template 7

Outcome of Stage 3 Capability Assessment Meeting – Further Review

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 3 CAPABILITY ASSESSMENT MEETING
JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to the Capability Assessment Meeting you attended on [insert date]. You were accompanied at the meeting by [insert name]/you confirmed that you were happy not to be accompanied at this meeting *(delete as appropriate)*

The meeting was arranged to discuss:

- your levels of performance and how they have continued to fall below the standard expected;
- the reasons for your continued under performance and the support that has been put in place to assist you to achieve the required standard or to explore other options;
- [if appropriate] the content of the medical report received following your appointment with the council's Occupational Health Adviser;
- the continuation of your employment with the council and any evidence you wish to present which is relevant to the consideration of this; and
- any further interventions the service may be able to offer to assist you in improving your performance and sustaining your continued employment with the council, subject to the ability of the service to accommodate such interventions.

At the meeting, we discussed [insert summary of discussion]

[if appropriate] We also discussed the report received from Occupational Health [insert summary of discussion around the report]

Following our discussions, I have concluded that your period of performance review should be extended by This further review period is intended to and you are expected to

I will arrange to meet with you again at the end of the review period. At this meeting, you should be aware that all options surrounding your employment will be discussed and one of the potential outcomes could result in the termination of your employment on the grounds of capability.

Yours sincerely



SUPPORTING PERFORMANCE FRAMEWORK
STANDARD TEMPLATE LETTERS

Standard Template 8

Outcome of Stage 3 Capability Assessment Meeting – Further Review

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 3 CAPABILITY ASSESSMENT MEETING
JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to the Capability Assessment Meeting you attended on [insert date]. You were accompanied at the meeting by [insert name]/you confirmed that you were happy not to be accompanied at this meeting *(delete as appropriate)*

The meeting was arranged to discuss:

- your levels of performance and how they have continued to fall below the standard expected;
- the reasons for your continued under performance and the support that has been put in place to assist you to achieve the required standard or to explore other options;
- [if appropriate] the content of the medical report received following your appointment with the council's Occupational Health Adviser;
- the continuation of your employment with the council and any evidence you wish to present which is relevant to the consideration of this; and
- any further interventions the service may be able to offer to assist you in improving your performance and sustaining your continued employment with the council, subject to the ability of the service to accommodate such interventions.

At the meeting, we discussed [insert summary of discussion]

[if appropriate] We also discussed the report received from Occupational Health [insert summary of discussion around the report]

Following our discussions, I have concluded that there has not been an acceptable improvement in your performance and despite the support that has been put in place, you have continued to fall below the required standards of your post.

Therefore I confirm that your employment with the Council has been terminated on the grounds of capability effective from [insert date of meeting]

You will receive [insert weeks] pay in lieu of notice and will receive payment for any outstanding annual leave.

As discussed you have the right to appeal against your dismissal to the Council's Appeals Committee. Should you wish to exercise this right you should submit your appeal in writing to the Head of Corporate Services, West Lothian Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF within 10 working days of this letter.

Yours sincerely



DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

PROCUREMENT ARRANGEMENTS – DIRECT AWARD TO GL EDUCATION GROUP

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To seek approval to directly award a contract for the continued provision of CAT4 testing across the eleven Secondary Schools from GL Education Group. Council Executive are requested to approve service provision for a one-year period from October 2020 with the option to extend for a further year in 2021. The total value of the contract over the full two-year contract period will not exceed £55,000.

B. RECOMMENDATION

It is recommended that Council Executive approves the direct award of a contract for the provision of CAT4 testing in Secondary Schools to GL Education Group.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; developing employees; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None
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)	The procurement costs related to the CAT4 tests in 2020 is £22,724.88. It is estimated the procurement costs in 2021 will not exceed

£32,000. The total cost for a two-year period will not exceed £55,000 which shall be met by Education Services budget.

VII	Consideration at PDSP	None
VIII	Other consultations	Education Services and the Corporate Procurement Unit were consulted. The Corporate Finance Manager was consulted regarding budget implications.

D. TERMS OF REPORT

D.1 Background

CAT tests are unique, non-curricular assessments which measure a pupil's ability and potential in the four main learning modes – verbal, non-verbal, quantitative and spatial. These tests are undertaken by the S1 cohort across the 11 Secondary Schools in the first term. They identify a pupil's learning strengths and weaknesses and are used to indicate future performance in national examinations.

Many schools use these indicators as a benchmark of minimum performance expectation to utilise when undertaking tracking and monitoring. These tests are a vital component when informing schools if pupils are performing below, at or above expectation.

Whilst other Cognitive Abilities Tests (CAT tests) are available these CAT tests have been used in Secondary Schools in West Lothian Council since 2002. GL Education Group own the copyright to these CAT4 tests and are the sole supplier. The Central Education team also use the data produced from these tests to establish value added at our benchmarks of 5+Highers and National 5s. This data is a crucial benchmarking and tracking tool and by allowing procurement of these tests we can ensure a like for like comparison can be utilised going forward.

With the Head of Corporate Services unable to authorise a Business Case Exemption which is in excess of £50,000, Council Executive are required to consider the terms of this Report.

However, notwithstanding contracts for health or social services, the Procurement Reform (Scotland) Act 2014 requires that any regulated contract (in excess of £50,000) is to be awarded through competition. Also, whilst the Public Contracts (Scotland) Regulations Regulation (b) (iii) (the protection of exclusive rights, including intellectual property rights) provides for the Use of the negotiated procedure without prior publication procedure, this is not relevant as the Regulations apply to contracts above the OJEU financial threshold which is presently £189,330 for supplies and services for non Governmental Bodies.

D.2 Budget Implications

GL Education Group have advised the cost for 2020 is £22,724.88 which includes the provision of 2,272 CAT 4 test bundles and relevant reporting. It is estimated the procurement costs in 2021 will not exceed £32,000. The total cost for a two-year period will not exceed £55,000 which shall be met by Education Services budget.

E. CONCLUSION

It is recommended that the Council Executive approves the direct award to GL Education Group for provision of CAT4 testing. The total contract value for a two-year period will not exceed £55,000.

F. BACKGROUND REFERENCES

None

Contact Person: Tom Henderson, Procurement Business Partner,

E mail: tom.henderson@westlothian.gov.uk

Tel no: 01506 281805

Julie Whitelaw
Head of Corporate Services

6 October 2020

DATA LABEL: OFFICIAL



COUNCIL EXECUTIVE

PARENTAL BEREAVEMENT LEAVE AND PAY

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To present to the Council Executive, proposed amendments to the Leave for Family Care Purposes Policy which would enhance the statutory requirements contained within the Parental Bereavement Leave and Pay Act 2018.

B. RECOMMENDATION

It is recommended that the Council Executive:

- a) Notes the statutory provisions of the Parental Bereavement Leave and Pay Act 2018 which came into effect from 6 April 2020;
- b) Approves the amendments to the Leave for Family Care Purposes Policy which will enhance the statutory provisions

C. SUMMARY OF IMPLICATIONS

- | | |
|---|--|
| I Council Values | <ul style="list-style-type: none">• Focusing on our customers' needs• being honest, open and accountable• providing equality of opportunities• making best use of our resources |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | There is a minimum requirement that the council comply with the statutory provisions of the Parental Bereavement Leave and Pay Act 2018 with effect from 6 April 2020. |
| III Implications for Scheme of Delegations to Officers | None |
| IV Impact on performance and performance Indicators | The proposals for enhancement of the statutory provisions have the potential to minimise related sickness absence figures. |

V	Relevance to Single Outcome Agreement	None
VI	Resources - (Financial, Staffing and Property)	Enhancing the statutory provisions to allow up to two weeks paid parental bereavement leave (at the employee's normal pay) will have a financial impact.
VIII	Consideration at PDSP	Policy and Resources PDSP on 18 September 2020.
VII	Other consultations	The recognised trade unions have been consulted on the draft policy amendments.

D. TERMS OF REPORT

D.1 BACKGROUND

As part of the UK Government's Good Work Plan the Parental Bereavement Leave and Pay Act 2018 received Royal Assent in September 2018 and came into force on 6 April 2020.

The Act introduced a new provision for bereaved parents of a child, to allow them to be absent from work with pay for up to 2 weeks.

A parent is defined as any individual who has primary care responsibilities for the child.

A child is defined as a person under the age of 18 including a stillborn child born after 24 weeks of pregnancy.

D.2 SUMMARY OF STATUTORY PROVISIONS

The statutory provisions of the legislation are summarised below and form the minimum requirements implemented with effect from 6 April 2020:

- Statutory Parental Bereavement Leave will be available to all employees who are bereaved parents (including adoptive parents, those who are fostering to adopt, legal guardians and most foster parents – except those in short term fostering arrangements).
- Leave will be available to all employees from day 1 of employment (there is no minimum service requirement).
- Statutory Parental Bereavement Pay will be available to employees with 26 weeks continuous service.
- Where more than one child dies, the parent will have a statutory entitlement to leave and pay in respect of each child.
- The leave must be taken as a single block of 2 weeks, or 2 separate blocks of 1 week.

- The leave can be taken at any time up to 56 weeks from the date of the death of the child (this extended period is intended to allow bereaved parents to take leave around the time of the first anniversary of the child's death).
- Notice to take leave will not be required when the leave is taken immediately after the death of the child. Leave taken at a later date will require notice.
- Bereaved parents will be required to complete a written declaration of eligibility to receive Statutory Parental Bereavement Pay.
- Statutory Parental Bereavement Pay will be paid at the same rate as Maternity/Paternity/Shared Parental Pay, currently £148.88 per week.

D.3 CURRENT BEREAVEMENT LEAVE PROVISIONS

The council currently makes provision for paid bereavement leave of up to 5 working days at the discretion of the Depute Chief Executive or nominated officer. This provision is open to all employees and there is no minimum service requirement.

D.5 PROPOSED ENHANCEMENT TO STATUTORY PROVISIONS

The Government is encouraging employers to extend the statutory right further and provide employees with more than 2 weeks leave, and/or offer full pay for some or all of their absence.

Officers have considered whether the new statutory provisions should be enhanced in line with Government recommendations and whether those provisions should be combined with or additional to the council's existing bereavement leave provisions. It is recommended that, in addition to current bereavement leave provisions, bereaved parents will be entitled to up to two weeks paid parental bereavement leave at normal pay with no minimum service requirement.

It is considered that the proposed enhanced provision constitutes a compassionate and supportive approach which would give bereaved parents the opportunity to take up to 3 weeks paid bereavement leave (made up of 5 days bereavement leave at normal pay and up to two weeks parental bereavement leave at normal pay). In line with statutory provisions, where more than one child dies, the parent will be entitled to leave and pay in respect of each child.

It is acknowledged that bereavement in these circumstances is an extreme life event that is normally likely to result in the bereaved parent taking an extended period of sickness absence. Giving employees the option of taking up to 3 weeks paid bereavement leave not only supports bereaved parents to cope during an extremely difficult time but may also minimise the amount of sickness absence taken.

D.6 CONSIDERATION AT PDSP

The revised Policy was presented to the Policy and Resources PDSP on 18 September. The Panel welcomed the introduction of the policy which was described as "excellent".

E. CONCLUSION

The introduction of the Parental Bereavement Leave and Pay Act 2018 provides the council with the opportunity to further promote the organisation as a caring and supportive employer.

The proposed amendments to the council's current Leave for Family Care Policy and Procedure reflect the proposal to enhance the statutory provisions and is designed to support staff through what would be an extreme life event.

F. BACKGROUND REFERENCES

- Parental Bereavement Leave and Pay Act 2018
- Leave for Family Care Purposes Policy and Procedure

Appendices/Attachments: Appendix 1 – Draft revisions to the Leave for Family Care Purposes Policy and Procedure

Contact Person: Sophie McKinney, Senior HR Policy Adviser, 01506 281432
Sophie.McKinney@westlothian.gov.uk

Julie Whitelaw
Head of Corporate Services
6 October 2020

EXTRACT FROM LEAVE FOR FAMILY CARE PURPOSES POLICY

DRAFT AMENDMENTS

63. BEREAVEMENT

- 63.1 Where a dependant or a family member dies, the Depute Chief Executive or nominated representative has discretion to grant paid leave for a maximum of five working days. In exercising discretion the Depute Chief Executive or nominated representative will take account of:
- the circumstances which justify leave to attend the funeral
 - the requirement for an employee to make funeral arrangements
 - the requirement for an employee to travel over long distances (for travel outside the UK the absence may be part paid and part unpaid)
- 63.2 Where there are special circumstances unpaid leave may be granted for longer periods than five working days and the Depute Chief Executive should judge these cases on their merits.
- 63.3 Where a close friend, West Lothian Council colleague or former colleague dies, the Depute Chief Executive or nominated representative has discretion to grant employee(s) paid leave to attend the funeral.
- 63.4 Requests for Bereavement Leave must be made on an 'Application for Special Leave' form and submitted to the line manager/Head Teacher.
- 63.5 Application forms are available on-line or from Human Resources.

64. PARENTAL BEREAVEMENT LEAVE

- 64.1 In addition to bereavement leave outlined in section 63 above, parents of a child who dies under the age of 18 including a stillborn child born after 24 weeks of pregnancy, will be entitled to up to 2 weeks paid parental bereavement leave.
- 64.1 A parent is defined as any individual who has primary care responsibilities for the child (including adoptive parents, those who are fostering to adopt, legal guardians and most foster parents – except those in short term fostering arrangements).
- 64.3 Parental Bereavement Leave must be taken as a single block of 2 weeks, or 2 separate blocks of 1 week at any time up to 56 weeks from the date of the death of the child.
- 64.4 Parental Bereavement Pay will be equal to normal pay.
- 64.5 Where more than one child dies, the parent will be entitled to leave and pay in respect of each child.
- 65.5 Notice to take leave will not be required when the leave is taken immediately after the death of the child. Leave taken at a later date will require 2 weeks' notice and can be requested on an 'Application for Special Leave' form and submitted to the line manager/Head Teacher.

DATA LABEL: PUBLIC



CONSULTATION RESPONSE: ROLE OF SOCIAL SECURITY IN SCOTLAND'S RECOVERY FROM COVID-19

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

The purpose of the report is to inform Council Executive of the Social Security Committee consultation, which commenced on 1 September, on the role of social security in Scotland's recovery from Covid-19 and to agree a response to be returned by 14 October 2020.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. Notes the content of the proposed consultation response at appendix 1; and
2. Approves the proposed consultation response to be submitted on behalf of West Lothian Council.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Reducing inequalities and poverty are key priorities set out in both the Corporate Plan 2018/19 – 2022/23 and in the Community Planning Partnership Local Outcome Improvement Plan 2013 – 2023.
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 6 – we live longer, healthier lives; Outcome 7 – we have tackled significant inequalities in West Lothian society Outcome 8 – we have improved the life chances for people at risk Outcome 13 – we take pride in a strong, fair and inclusive society.
VI	Resources - (Financial,	None.

Staffing and Property)

- | | | |
|-------------|------------------------------|---|
| VII | Consideration at PDSP | Report circulated to Partnership and Resources PDSP for comment. |
| VIII | Other consultations | Consultation circulated to key stakeholders through the council's Anti-Poverty Service, the Anti-Poverty Practitioner's Network, and Experts by Experience panel linked to the CPP Anti-Poverty Strategy 2018-23. |

D TERMS OF REPORT

D1 Background

The coronavirus pandemic has resulted in a major shift in the landscape of poverty. Necessary measures imposed to control the spread of the virus have had a significant economic impact, the full scale of which is not yet clear. Increased unemployment and poverty are anticipated and research and modelling exercises indicate that people in low paid work are likely to be worst impacted.

Moving forward, it will be more important than ever that individuals experiencing poverty are aware of and able to access social security to provide support through challenging times ahead.

The Scottish Parliament Social Security Committee is seeking to understand how Covid-19 has impacted on people in Scotland and how Scottish social security can respond. The key questions in the consultation are:

1. What will the economic downturn look like for different people in Scotland and how should Scottish social security help them through it? In the context of UK social security and of other ways of providing support, what is the role of Scottish social security in an economic recession?
2. Can, and should, Social Security Scotland do more than meet the expected increased demand for benefits and deliver on existing policy commitments? What should its ambitions be? Within the social security and borrowing powers available to Scottish Ministers what could be achieved and delivered?
3. If we look to do more, or differently, what are the relatively easier changes that could be made to Scottish benefits that would not require significant additional capacity in Social Security Scotland?
4. What changes could be made that would not require significant input from the Department for Work and Pensions (UK)?
5. What are the constraints and barriers of doing more in Scotland?
6. Should the main focus be on discretionary funds or on entitlements? In terms of recovery from Covid-19, is it more effective to provide support through discretionary funds allocated to local authorities or through demand led benefits delivered through Social Security Scotland?

D2 Consultation

The consultation opened on 1 September 2020 and closes on 14 October 2020. The consultation questions have been circulated to the council's Anti-Poverty Service, the Anti-Poverty Practitioners' Network, and the Experts by Experience panel made up of individuals with lived experience of poverty in order to gather feedback from key stakeholders. A response to the consultation has been drafted taking account of this feedback and this has been circulated to Partnership and Resources PDSP for comment and feedback has been incorporated into the draft response.

It is clear that there is a role for Scottish social security post-Covid, but at this stage, it is difficult to identify how this would be best placed to meet the changing needs of those financially impacted by the current crisis.

A range of temporary measures have been put in place at UK level to support those receiving social security benefits including increased rates of Universal Credit and Working Tax Credit and suspension of sanctions and deductions from benefits. Further job losses are expected as businesses struggle with long term recovery plans, particularly once the Coronavirus Job Retention Scheme comes to an end. There is concern amongst stakeholders in West Lothian that such temporary measures put in place to mitigate the impact of coronavirus could create a cliff edge for claimants, leading to increased financial hardship as these measures are removed. It is therefore suggested that Scottish social security could be employed to soften the impact by providing an interim payment with a view of tapering off financial support.

Although the full extent of the impact of Covid is not yet clear, it is apparent that some groups stand to be worse affected than others. Young people are particularly vulnerable to financial hardship due to being more likely to work in sectors such as retail, entertainment and hospitality and less likely to be able to work from home. Research shows that young people are also more likely to be financially vulnerable with less in savings, higher levels of problem debt and are more likely to have had to borrow to make ends meet during the pandemic. A new Social Security Scotland Job Start Grant is now available to help young people with the costs associated with starting a new job, however, more support could be put in place for young people in Scotland who are either unable to work or struggle to find work as the economy recovers. Currently, claimants under 25 receive a lower rate of benefit than those aged 25 plus. It is suggested that Scottish social security could provide a top up payment to bring the rate of the personal allowance for under 25's in line with older claimants and this could be delivered in a similar way to the Scottish Carers Supplement.

Widening the scope of discretionary funds which are administered locally through for example the Scottish Welfare Fund would ensure the necessary referrals to other forms of local support and help, will support those requiring help to take the steps to better manage the situation they find themselves in.

Stakeholders in West Lothian recognise that the range of social security measures that can be implemented in Scotland is limited by the scope of devolved powers. Responsibility for key out of work benefits, including Universal Credit is retained by UK government, so the role Scottish social security should be to complement existing provision and strengthen local links. Social Security Scotland local support services could seek to implement robust referral mechanisms with local advice and income maximisation services in order to ensure that individuals can access support to claim both UK and Scottish social security.

E. CONCLUSION

Responses have been collated from anti-poverty practitioners in West Lothian and individuals with lived experience of poverty through the Experts by Experience panel linked with the West Lothian Anti-Poverty Strategy. These key stakeholders have provided valuable feedback taking account of wider issues of inequalities, existing and proposed social security measures and the ways in which Scottish social security can help the most vulnerable members of our communities.

The feedback indicates there is a strong need to link the role of Scottish social security with local support services and implement a robust referral mechanism to local money advice and income maximisation services.

The Council Executive is asked to agree the submission to the consultation as set out in Appendix 1.

F. BACKGROUND REFERENCES

<https://yourviews.parliament.scot/ssc/role-of-social-security-in-covid19-recovery/>

Appendices/Attachments: Appendix 1 Response to Social Security Committee consultation on the role of social security in Scotland's recovery from Covid-19

Contact Person: Elaine Nisbet, Anti-Poverty Manager, elaine.nisbet@westlothian.gov.uk
01506 282921

Donald Forrest
Head of Finance and Property Services
6 October 2020

Appendix 1 Response to Social Security Committee consultation on the role of social security in Scotland's recovery from COVID-19

1. **What will the economic downturn look like for different people in Scotland and how should Scottish social security help them through it? In the context of UK social security and of other ways of providing support, what is the role of Scottish social security in an economic recession?**

Although the impact of this unprecedented crisis has been widespread, evidence indicates that some workers are more likely to be adversely impacted than others:

- Those in particularly affected industries such as hospitality, tourism, entertainment and non-food retail as well as employees of small businesses reliant on cash flow.
- Those with insecure employment such as self-employed people, those with short term temporary contracts, agency workers, zero hours contracts and individuals who identify as under-employed.
- Those employed in roles with less ability to work from home such as customer facing roles or on-site work.
- Households where all earners are impacted. This is particularly true for households with a single earner such as lone parents or households where an adult is unable to work due to disability, ill health or caring responsibilities.

Scottish Government analysis of the economic impact of coronavirus on individuals and households shows that some key groups are more likely to fall into these categories, including women, young people and minority ethnic individuals.

The introduction of the new Job Start Grant and the Scottish Child Payment may go some way to support people in Scotland to cope with the ongoing impact of the crisis on their household budget. It is suggested however, that more support could be put in place for young people in Scotland who are either unable to work or struggle to find work as the economy recovers. Currently, claimants under 25 receive a lower rate of benefit than those aged 25 plus. It is suggested that Scottish social security could provide a top up payment to bring the rate of the personal allowance for under 25's in line with older claimants and this could be delivered in a similar way to the Scottish Carers Supplement.

2. **Can, and should, Social Security Scotland do more than meet the expected increased demand for benefits and deliver on existing policy commitments? What should its ambitions be? Within the social security and borrowing powers available to Scottish Ministers what could be achieved and delivered?**

Although it is clear that a role exists for Scottish social security to meet the changing needs of people in Scotland who have been financially affected by coronavirus, it is difficult to identify exactly how this could be delivered as the landscape is rapidly changing.

It is recognised that the range of social security measures that can be implemented in Scotland is limited by the scope of devolved powers. Responsibility for key out of work benefits, including Universal Credit is retained by UK government, so the Scottish social security system should aim to complement existing provision through top up measures such as a supplement for under 25s as described above.

Earlier control of all 11 benefits which has currently been pushed back to 2024, would allow for more flexibility and autonomy in how these are delivered.

Appendix 1 Response to Social Security Committee consultation on the role of social security in Scotland's recovery from COVID-19

3. If we look to do more, or differently, what are the relatively easier changes that could be made to Scottish benefits that would not require significant additional capacity in Social Security Scotland?

Stakeholders in West Lothian have identified potential for longer term financial hardship. There is concern that when the range of temporary changes to UK social security come to an end, this could create a cliff edge for many people, leading to financial shock. It is therefore suggested that Scottish social security could look at the feasibility of providing interim payments to help bridge the gap between the higher temporary entitlement and the return to normal rates, thereby softening the impact in the longer term.

Aside from creating new social security entitlements in Scotland, it is also suggested that ways to strengthen links between Social Security Scotland and local advice and income maximisation services should be considered. Robust referral mechanisms between Social Security Scotland and local services could help to ensure that those in financial hardship have access to help and support to access all social security entitlement, from both Scottish and UK sources.

4. What changes could be made that would not require significant input from the Department for Work and Pensions (UK)?

Since responsibility for key out of work benefits is retained by the UK government, significant input is likely to be required from the Department for Work and Pensions either in terms of data matching exercises, financial input or other assistance in order to deliver on meaningful changes.

In the event that this cannot be achieved, it is suggested that more activity to raise awareness of Scottish social security would be beneficial. A national Scottish benefit take up campaign with links to local advice and income maximisation services could help to ensure people in Scotland do not miss out on new entitlements.

5. What are the constraints and barriers of doing more in Scotland?

The main barrier to doing more in Scotland arises from the fact that social security is not a fully devolved matter. The administrative structure of benefits and tax credits can be confusing and difficult to navigate with the Department for Work and Pensions, Social Security Scotland and local authorities all having responsibility for delivery of different sources of support. It is therefore important that individuals who have been financially affected by Covid-19 are able to access quality advice and support locally in order to identify potential entitlement and information about how to claim.

6. Should the main focus be on discretionary funds or on entitlements? In terms of recovery from COVID-19, is it more effective to provide support through discretionary funds allocated to local authorities or through demand led benefits delivered through Social Security Scotland?

Stakeholders in West Lothian feel that there is merit to both demand led entitlements delivered through Social Security Scotland and discretionary funds administered by local

Appendix 1 Response to Social Security Committee consultation on the role of social security in Scotland's recovery from COVID-19

authorities, for example, the Scottish Welfare Fund. A focus on entitlement would provide more certainty and a safety net for those most in need in a very uncertain landscape. Discretionary funds would potentially allow for better targeting of support to those most in need. The widening of the criteria for discretionary funds and more resource to administer effectively whilst linking to local services which can provide other forms of help and support would allow people to better manage the situation they find themselves in.

West Lothian stakeholders believe that local authorities are best placed to understand the needs of local communities but recognise that change will require positive partnership working. Local advice and support services have been adapting and operating successfully during the current crisis and are already engaging with the most vulnerable in our society. Joined up working between Social Security Scotland and local advice and support services is therefore felt to be the best approach.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

PROPOSED 3G SPORTS PITCH AND CHANGING FACILITIES IN ARMADALE

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to:

1. Advise Council Executive of the outcome of an options appraisal undertaken by officers on potential locations for a new 3G sports pitch and changing facilities in Armadale.
2. Seek Council Executive approval that a new 3G sports pitch and ancillary facilities should be located at Volunteer Park, North Street, Armadale should appropriate agreement between the relevant parties be achieved.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Notes the outcome of an options appraisal undertaken by officers on potential locations for a new 3G sports pitch and changing facilities in Armadale.
3. Agrees that the preferred location option for the provision of the new 3G sports pitch and ancillary facilities is Volunteer Park, North Street, Armadale.
2. Agrees that a further report should be presented to Council Executive providing an update on the proposed Volunteer Park option once investigations are completed and providing details of the proposed operating model and delivery timescales for the new facilities.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; Being honest, open and accountable; Making best use of our resources; Working in partnership.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None.
III	Implications for Scheme of Delegations to Officers	None.

IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 4 – We live in resilient, cohesive and safe communities; Outcome 7 – We live longer, healthier lives and have reduced health inequalities; Outcome 8 – We make the most efficient and effective use of our resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	The General Service Capital Programme has an approved budget of £1m in 2020/21 and 2021/22 for a new pavilion and 3G sport pitch and other associated costs.
VII	Consideration at PDSP	None.
VIII	Other consultations	NETs, Land and Countryside Services, Education Services, Housing, Customer and Building Services. The local elected members have been provided with a copy of this report for their information.

D. TERMS OF REPORT

D1 Background

The council's General Services Capital Investment Strategy 2018/19 to 2027/28 approved by Council in February 2018 included in that strategy was a budget of £947,000 for the provision of a new sports changing pavilion and drainage improvement works to the existing grass pitch at Watson Park, North Street, Armadale.

Council Executive on 15 January 2019 agreed that officers should undertake a period of community consultation on alternative proposals submitted by Armadale Community Football Club (ACFC) for the provision of a new synthetic 3G sports pitch and modular changing facilities at Watson Park.

At its meeting on 26 March 2019, Council Executive considered the results of that community consultation and approved delivery of a new 3G sports pitch and modular changing facilities at Watson Park.

The approved project was subsequently initiated by officers with a view to seeing the new 3G sports pitch in place and operational in time for commencement of the 2020/21 football season (August 2020).

At its meeting on 18 August 2020, Council Executive noted that the discovery of adverse ground conditions had rendered the delivery of these new facilities at Watson Park financially unviable. Officers were authorised to undertake an options appraisal to identify alternative locations within Armadale and to provide an update on their findings to the Council Executive meeting on 6 October 2020.

D2 Qualifying Criteria

The criteria used by officers in identifying suitable alternative locations for the new facilities are summarised as follows:

1. The site must be owned by the council and be located within Armadale.
2. The site must be large enough to accommodate a FIFA quality 11-a-side synthetic 3G sports pitch and associated run-off areas.
3. The site must have access to existing changing facilities or have space available to accommodate new modular changing facilities.
4. There must be adequate car parking provisions in close proximity to the site.
5. There must be a realistic prospect of planning permission being secured for the delivery of the project at the given location, subject to the submission of a detailed planning application in compliance with statutory procedures.
6. There must be a realistic prospect of the project being delivered and completed at the given location by August 2021, i.e. by commencement of the 2021/22 football season (subject to any material considerations).

D.3. Potential Alternative Locations

Using the foregoing criteria, officers identified six possible alternative locations for the new facilities. Those alternative locations are detailed in Table 1 below and are labelled 1 to 6 respectively on the location plan at Appendix 1.

Table 1: Potential Alternative Locations

Site No.	Location
1.	Woods Park, Armadale
2.	Nelson Park, Armadale
3.	Southdale Primary School, Armadale
4.	Drove Road Park, Armadale
5.	Avondale Park, Armadale
6.	Volunteer Park, Armadale

D.4. Options appraisal of alternative locations

Having identified these six potential locations, officers from a range of services (including Property Management and Development, NETs, Land and Countryside Services, Education Services and Housing, Customer and Building Services) undertook an options appraisal that considered the advantages and disadvantages of each site.

The detailed views of both Armadale Thistle Football Club (ATFC) and Armadale Community Football Club (ACFC) were also sought with particular reference to the Volunteer Park option.

The detailed findings of the options appraisal are provided in Appendix 2 of this report. In summary, officers have concluded that delivering the new facilities at Volunteer Park would produce the greatest benefits to the Armadale community.

Officers reached that conclusion for the following reasons:

1. Volunteer Park is the most centrally located of all the sites under consideration and, as such, it is the most accessible to the Armadale community as a whole.
2. It is closest to Watson Park, which is where the new facilities were originally to have been located.
3. Volunteer Park is located immediately adjacent to the existing community facilities at both Armadale Xcite and the Armadale Partnership Centre, offering the potential for closer partnership working and enhanced outcomes across all three facilities.
4. There are no known adverse ground conditions at Volunteer Park that could jeopardise the viability of the project, although detailed site investigation works would require to be undertaken to fully verify this.
5. Volunteer Park is owned by the council and is the historic home of ATFC. Investment in new facilities and the potential for greater collaboration between Armadale's two principal footballing organisations (ATFC and ACFC), with shared use and pooled resources could improve financial viability to provide a single fit-for-purpose and self-sufficient community run sports facility.
6. The council has a duty under the Community Empowerment (Scotland) Act 2015 to promote and encourage community asset transfer. A long-term lease of Volunteer Park, or indeed full transfer of ownership in due course, would be in keeping with those duties and could also present new external funding opportunities for both ATFC and ACFC that are not currently available to the community.

D.5. Operating model for the new facilities

Officers have met jointly with representatives from ATFC and ACFC to discuss the prospect of locating the new facilities at Volunteer Park. Both organisations are enthusiastic to progress proposals and have given an agreement in principle that they will formally engage immediately to explore potential operating models for the shared use and maintenance of Volunteer Park should the Council Executive decide that Volunteer Park is the preferred location for these new facilities.

The operating model will require to ensure the needs of both organisations are fully met with binding provisions in place to ensure the new facilities are properly maintained, repaired and ultimately replaced as necessary at nil cost to the council going forward.

The council has experience of delivering similar projects at Albyn Park, Broxburn and Murrayfield Park, Blackburn. It is anticipated that a similar operating model or a suitable alternative could be agreed between the parties at Volunteer Park. The officer recommendation that Volunteer Park be approved as the preferred for the investment is conditional upon ATFC and ACFC working in partnership to agree and implement a suitable operating model and concluding the appropriate agreement for the proposed new facilities.

E. CONCLUSION

Officers consider that Volunteer Park is the best location for the new 3G sports pitch and ancillary facilities in Armadale. That recommendation is conditional upon satisfactory ground conditions being confirmed and upon ATFC and ACFC working in partnership to agree a suitable operating model for the new facilities.

Council Executive is recommended to approve Volunteer Park as the proposed location for a new 3G sports pitch and ancillary facilities and to agree that officers should commission site investigation works and engage further with ATFC and ACFC to agree a suitable operating model for the new facilities, with a further update report being provided to the Council Executive.

F. BACKGROUND REFERENCES

Corporate Asset Management Strategy and General Services Ten Year Capital Investment Strategy 2018/19 to 2027/28 (page 57) – West Lothian Council 13 February 2018.

Council Executive – 15 January 2019 – Watson Park, North Street, Armadale

Council Executive - 26 March 2019 – Watson Park, North Street, Armadale

Council Executive – 18 August 2020 – Proposed 3G pitch and changing facilities at Watson Park, North Street, Armadale

Appendices/Attachments: Appendix 1 - Location Plan

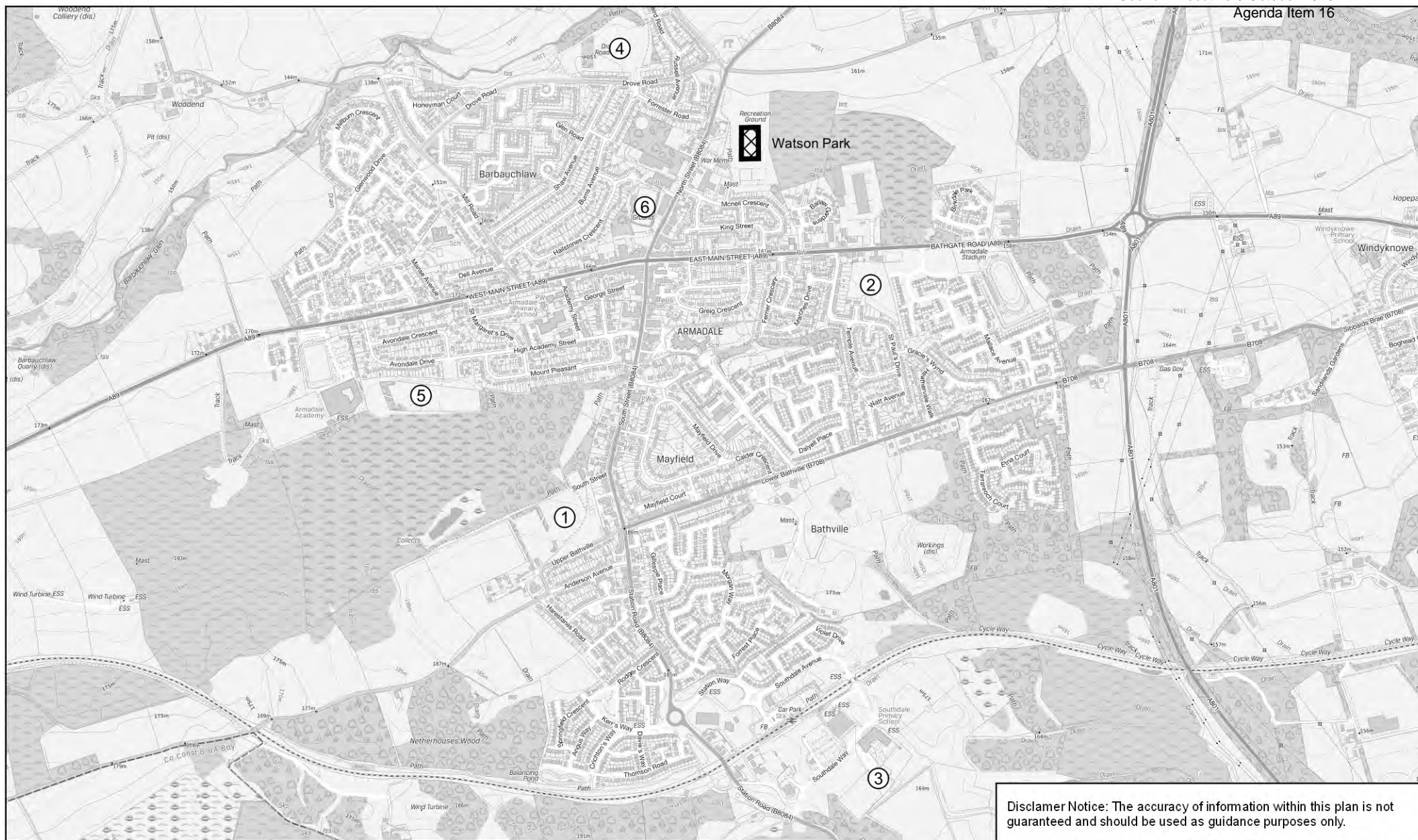
Appendix 2 – Options Appraisal Results


Contact Person: Scott Hughes, Asset Manager, Finance and Property Services

Tel. (01506) 281825; Email – scott.hughes@westlothian.gov.uk

Donald Forrest, Head of Finance and Property Services

Date of meeting: 6 October 2020



	<h2>Appendix 1 – Potential Alternative Locations</h2> <p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p>	<p>5/8/2020</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2020</p>
		<p>Not to Scale</p>	<p>A4</p>
			

APPENDIX 2: OPTIONS APPRAISAL RESULTS

Appraisal Criteria	Potential Location					
	Woods Park	Nelson Park	Southdale Primary School	Drove Road Park	Avondale Park	Volunteer Park
1. Is the site centrally located?	No	No	No	No	No	Yes
2. Is this site free from known or suspected adverse ground conditions?	Yes	No	Yes	No	Yes	Yes
3. Would this site avoid duplication of existing community facilities nearby?	Yes	Yes	Yes	Yes	No	Yes
4. Would this site complement existing community facilities nearby?	No	No	Yes	No	No	Yes
5. Is this site free from potential access issues?	Yes	No	Yes	Yes	Yes	Yes
6. Does this site present an opportunity for collaboration and closer partnership working within the local sporting community?	No	No	No	No	No	Yes
7. Does this site support potential asset transfer / community ownership?	No	No	No	No	No	Yes

Site	Commentary
1. Woods Park	Woods Park offers a similar proposition to the original location, Watson Park, in that it comprises existing public open space that would be lost by being fenced off to create a secure, enclosed 3G facility. There is an existing changing pavilion at Woods Park, however this would require significant renovation to make it fit for use alongside a new 3G pitch. Woods Park is not centrally located and could attract planning objections due to its close proximity to residential areas.
2. Nelson Park	Nelson Park has known adverse ground conditions. It is not centrally located and may attract planning objections due to the close proximity of housing. Access to the site may be problematic. There are no existing changing facilities and limited space to accommodate new changing facilities.
3. Southdale Primary School	A new 3G pitch at this location would require to form part of the school curtilage and the school would require preferential rights of use of it. The provision of new changing facilities could be problematic and operationally challenging going forward, resulting in increased revenue costs for the school. The site is not centrally located and offers limited opportunity for the delivery of a community run facility.
4. Drove Road Park	Part of Drove Road Park is allocated for future housing development in the Adopted West Lothian Local Development Plan 2018. Part of the site is also thought to have adverse ground conditions. The site is less centrally located than other sites under consideration and there are no existing changing facilities at this location.
5. Avondale Park	Avondale Park is located immediately adjacent to the existing sports facilities (including a 3G pitch) at Armadale Academy and a further 3G pitch at this location would represent duplication of provision. The site is not centrally located. There are no existing changing facilities at this location and an enclosed 3G pitch would result in the loss of existing public open space.
6. Volunteer Park	Volunteer Park is in a town centre location and is the most centrally located of all the sites under consideration. It is an established football ground, being the historic home of Armadale Thistle Football Club and benefits from having existing infrastructure in place (floodlighting, changing rooms, function room etc). It is immediately adjacent to the existing community facilities at Armadale Xcite and Armadale Partnership Centre. This site presents the opportunity to bring together Armadale's two principal football organisations (Armadale Thistle Football Club and Armadale Community Football Club) at a single, sustainable and financially viable fit-for-purpose community run facility.

Conclusion

Of the six sites under consideration, Volunteer Park clearly emerges as the location with the strongest attributes. The site is centrally located in Armadale town centre and benefits from its status as a long-established football ground with existing infrastructure in place (including floodlighting, changing rooms, function room etc.). The site is also located immediately adjacent to existing community facilities at Xcite Armadale and Armadale Partnership Centre and further investment in new facilities at Volunteer Park would present the potential for closer partnership working and enhanced outcomes across all three facilities.

The main advantage that this location brings over all others however is that it presents the opportunity to bring together Armadale's two principal football organisation (Armadale Thistle Football Club and Armadale Community Football Club) at a single, sustainable and financially viable fit-for-purpose community run facility.

For the reasons set out above, officers consider that Volunteer Park is the best alternative location for the proposed new facilities.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

LEARNING ESTATE INVESTMENT PROGRAMME UPDATE

JOINT REPORT BY DEPUTE CHIEF EXECUTIVE AND HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to update Council Executive on the council's proposed submission for Learning Estate Investment Programme funding support, to set out the timescales for the development of the councils Learning Estate Strategy (and associated Learning Estate Management and Investment Plan) together with outlining further proposed feasibility work on emerging investment priority schools.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the submission of Deans, Eastertoun, East Calder and St Joseph's Primary Schools for funding under the Learning Estate Investment Programme;
2. Notes the progress on the development of the Learning Estate Strategy 2021/22 to 2031/32 and its associated Learning Estate Management and Investment Plan 2021/22 to 2026/27, together with the timescales for the review and determination;
3. Approves the undertaking of further feasibility assessments and appraisals for alternative investment proposals associated with Deans, Eastertoun, East Calder and St Joseph's Primary Schools, Scottish Government should additional funding not be forthcoming;
4. Approves the undertaking of a feasibility assessment and options appraisal for the emerging potential priority investments at Riverside and Letham Primary Schools; and
5. Notes that updates will be provided, on the outcome of the Learning Estate Investment Programme submissions and the outcomes of the further feasibility assessments and options appraisals for the four schools and the feasibility assessment and options appraisal for Riverside and Letham Primary Schools.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Integrated Impact Assessments have been undertaken for each of the investment projects and these are included within Appendix 4 for information.
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	<p>Improved condition, suitability, accessibility and sustainability of the schools proposed will be achieved.</p> <p>Modern fit for purpose learning environments will enable pupils to achieve their full potential and support the effective delivery of learning.</p>
V	Relevance to Single Outcome Agreement	Outcomes positively supported include: Our children have the best start in life and are ready to succeed; we are better educated and have access to increased and better quality learning and employment opportunities; people most at risk are protected and supported to achieve improved life chances; we make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	Within the General Services Capital Programme 2020/21 to 2027/28 budgets totalling £14.36m are allocated for phase 2 Learning Estate Investment Projects.
VII	Consideration at PDSP	None.
VIII	Other consultations	None.

D1 TERMS OF REPORT

West Lothian Council is recognised as having one of the best performing learning estates in Scotland with all schools being considered in satisfactory or better condition. To sustain the level of performance, significant resources will need to be deployed and the council continues to prioritise investment in the learning estate as a key priority. In addition to its own resources, the council was successful in securing funding under the Scotland's Schools for the Future Programme which supported the delivery of a new Uphall Station and Pumpherston Primary School; the award winning new West Calder High School and a hall extension and modernisation of Toronto Primary, Livingston. These projects required varying levels of match funding by the council.

As part of the General Services Capital Programme 2018/19 to 2027/28 approved in February 2018 and, in advance of any Scottish Government announcement of a new Schools for the Future investment programme, potential projects were identified based on condition, suitability, sufficiency, sustainability, accessibility, whole life costs and wider regeneration benefits, with initial match funding budgets agreed. These included Deans Primary, Livingston (£3.5m); Eastertoun Primary, Armadale (£4m), East Calder Primary (£3.5m) and Beatlie Additional Support Needs (ASN) School, Livingston (£4m). The budget requirements were based on the previous programme requirements and the estimated costs of the projects.

Since approval of the Capital Programme, the council has been successful in securing inclusion as one of the initial eleven pilot projects within phase one of the Learning Estate Investment Programme (which has replaced the Schools for the Future Programme) for a new Beatlie ASN School, Livingston. Officers are progressing the project and undertaking the appropriate design development, negotiating support conditions, evaluating the potential funding model, undertaking the appropriate site investigation and cost appraisals. Progress on the project will be reported upon separately as key milestones are achieved and consideration by Council Executive is required.

Following discussions with the Scottish Futures Trust in early 2020, the council was advised that a further phase (phase 2) of funding would be available with funding submission proposals and confirmation of acceptance expected towards the end of 2020. Further feasibility and project appraisals were undertaken on the four remaining projects (Deans, Eastertoun, East Calder and St Josephs, Whitburn).

D2 Learning Estate Investment Proposals

The council was advised on 15 September 2020 that proposals for funding support were required to be made by 13 October 2020 and should include consideration of the key questions outlined in Appendix 1. As noted in Appendix 1, questions include confirmation that the project is approved and there is a commitment by the council to deliver the projects. Approval is sought to submit the four projects with budgets already included in the approved Capital Programme (namely Deans, Eastertoun, East Calder and St Josephs, Whitburn) for consideration and determination by the Scottish Government. Further detail on each of the projects is included within Appendix 2.

D3 Learning Estate Strategy Development

Officers are currently progressing the development of the Learning Estate Strategy (LES) 2021/22 to 2031/32 which will outline the council's long term vision and approach to ensuring safe, well maintained and suitable school environments that are innovative and adaptive to support life-long learning and improvements in curriculum attainment. The LES is proposed to be reported to Education PDSP and Council Executive.

D4 Learning Estate Management Plan

To compliment the vision set out in the LES and to outline delivery mechanisms and resources required to achieve the objectives it establishes, a Learning Estate Management Plan (LEMP) 2021/22 to 2025/26 will be developed. This will outline the approach to sustaining and improving performance measures such as those already established for property assets, which include statutory compliance, condition, suitability, sustainability, sufficiency and accessibility. In addition, it will outline key investment programmes and projects reflecting the performance priorities. The LES is proposed to be reported to Education PDSP and Council Executive.

D5 Emerging Priority Projects

During the initial development of the LES and LEMP, a review of all schools has been undertaken in terms of their long term performance requirements. As part of this and reflecting upon reactive roof work required at Riverside Primary School and a separate condition assessment of Letham Primary School, both properties have been identified as requiring investment over the next three to five years to improve their condition. Initial assessments have identified that whilst the properties are currently considered satisfactory in terms of condition without significant investment there is a risk of them becoming rated as poor.

It is therefore proposed that, in parallel to the four previously identified projects to be submitted for funding to the Scottish Government and the further feasibility and option appraisals being undertaken on those schools, that similar work is undertaken for both Riverside and Letham Primary Schools.

D6 Further Updates

It is proposed that regular updates will be provided to Council Executive as part of reporting progress on the delivery of the General Services Capital Programme and where key milestones and considerations are required to be reported upon separately.

E. CONCLUSION

The council is committed to investing in our learning estate to improve performance and to enhance the teaching environments. In advance of the wider strategy and management investment plan as number of projects have been identified to sustain and improve performance of the estate and are proposed to be submitted to the Scottish Government due to the tight timescales for inclusion within the second phase of Learning Estate Investment Programme.

As part of the development of the Learning Estate Strategy and Learning Estate Management Plan investment requirements at both Riverside and Letham Primary Schools have been identified. It is proposed feasibility and options appraisals to develop proposals to sustain and improve their property performance are undertaken.

As noted in the report, regular updates will be promoted on the outcome of submissions for Learning Estate Investment Programme funding, The Learning Estate Strategy, Learning Estate Management Plan and feasibility studies being undertaken across the estate.

F. BACKGROUND REFERENCES

Appendices/Attachments:

Appendix 1 – Learning Estate Investment Programme Key Considerations

Appendix 2 – Outline Project Submission Proposals for Deans, Eastertoun, East Calder and St Josephs, Whitburn Primary Schools.

Contact Person: Paul Kettrick, Corporate Estates Manager

Tel: 01506 281826, e-mail: kettrick.paul@westlothian.gov.uk

Elaine Cook, Depute Chief Executive

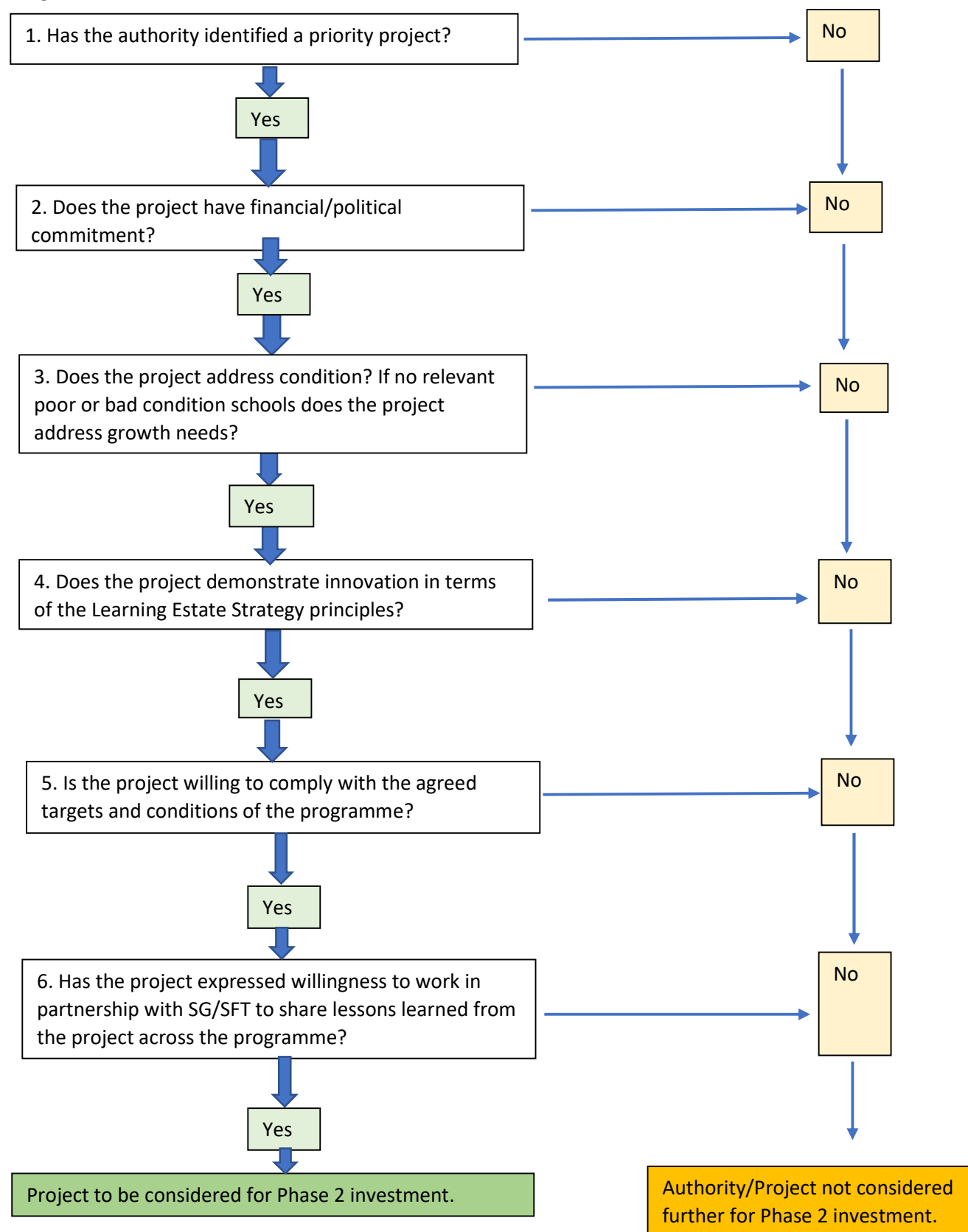
Donald Forrest, Head of Finance and Property Services

Date of meeting: 6 October 2020

Appendix 1; Learning Estate Investment Programme Key Considerations

Phase 2 Project Selection Process - Flowchart

The following flowchart is designed to demonstrate the filters applied when selecting projects, to be included in advice to ministers, to form part of phase 2 of the Learning Estate Investment Programme.



Data Label: PUBLIC

Appendix 2 – Outline Project Submission Proposals

The following are the schools proposed for submission for Learning Estate Investment Funding.

Deans Primary School, Livingston

Deans Primary School opened in 1969 and is a non-denominational school. The current accommodation comprises of 12 classrooms, 2 general purpose rooms, a nurture room, shared gym/dining hall and stage. Key facts about the school are as follows:

- The school currently has a capacity for 360 pupils with a current roll of 231. This is the highest the school roll will be for the next 10 years using current projections.
- It contains a nursery for 64 children.
- The school is currently rated as 'B' satisfactory condition with elements identified as poor which include, roads and car parks, external decoration, ceilings, doors, fixtures and fittings, floors, staircase and sanitary ware.
- The School currently has an estimated maintenance and planned improvement investment requirement of £1,161,358.
- The school has a 'B' satisfactory rating in terms of suitability.

The initial feasibility study carried out proposes that the new school be built on the existing school playing fields with the existing building being demolished to create a new playing field.

It is proposed that the new school will be built with a capacity of 270 and have a nursery to accommodate 64 children.

East Calder Primary School, East Calder.

East Calder Primary School was built in 1937 and is a non-denominational school. Whilst the building is in satisfactory condition considering its age it unfortunately contains extensive asbestos that prohibits the ability to alter any of the fixtures and fittings and allow the teaching spaces to respond to new educational and organisational ideas. The infrastructure to support Wi-Fi that works throughout the entire building is severely restricted.

The current accommodation is comprised of 16 classrooms, 3 general purpose rooms, gym hall, stage and separate dining with a capacity for 462 pupils with a current roll of 338. This indicates the school has 73.1% sufficiency however, due to new housing the schools is projected to exceed capacity in 2021. The nursery has accommodation for 64 children is located within the existing school.

- The school is currently rated as 'B' satisfactory condition, but has been identified as a high risk category for asbestos, with known asbestos present throughout the existing building. Elements of the school identified as poor include, walls and fences, fixtures and fittings, sanitary ware, wiring and heating.
- Lighting which cannot be replaced due to the presence of Asbestos has been identified as in bad condition.
- The School currently has an identified planned improvement requirement of £1,760,000.
- The school has a 'B' satisfactory rating in terms of suitability.

The feasibility option appraisal has also identified that due to the constrained access to the existing school and the extensive latent asbestos throughout the building, which is currently restricting essential planned improvement works, the preferred option would be to develop a new school. Options include developing a new school adjacent to the Xcite East Calder which would enable utilising the sports hall and other facilities for use by the school as well as the community. This would substantially reduce the amount of accommodation required for the school and associated costs.

The new school will be built with a capacity of 462 and will have a nursery for 64 children.

Eastertoun Primary School, Armadale

Eastertoun Primary School was built in 1960 and is a non-denominational school. Nearly half (49%) of the school population is currently in the most deprived Scottish Index of Multiple Deprivation Quintile 2.

The current accommodation is comprised of 12 classrooms, shared gym/dining hall and stage. The limited gym hall makes it challenging to meet pupil requirement for 2 hours PE provision.

- Eastertoun Primary School currently sits with a capacity for 360 pupils with a current roll of 290. This indicates the school is operating at 80.6% sufficiency. This is the highest the school roll will be for the next 10 years using current projections. The school roll falls to 274 pupils in 2028/29.
- A nursery for 40 children is located within the existing school campus
- Existing access to the school is restricted, along a non-adopted single vehicle width lane which is not in the ownership of WLC.
- The school is currently rated as 'B' satisfactory condition with elements identified as poor including the roof, windows, external walls, external doors, sanitary ware and heating.
- The School currently has a planned maintenance investment requirement of £240,000.
- The school has a 'B' satisfactory rating in terms of suitability however, the restricted access is a significant constraint to any improvement beyond the "B" rating.

Due to the constrained access, layout and age of the existing school, the preferred option which was identified from the initial feasibility study to progress a new school.

Whilst a full site appraisal is required the land to the north part of Watson Park with access from the B8084 has been identified as an initial option. The site is known to have challenging ground conditions and further investigations will be required.

The school will be built incorporating a new 40-place nursery and an overall capacity of 316.

St Joseph's RC Primary School, Whitburn

St. Joseph's RC Primary School opened in 1967 and is an established denominational primary school. The current accommodation consists of 11 classrooms, general practice room, nurture base, games hall and a separate dining area.

- St Joseph's Primary School currently has a capacity for 252 pupils with a current roll of 233. This indicates the school is 92.5% sufficiency. This is the highest the school roll will be for the next 10 years using current projections.
- A nursery for 40 children is located within the existing school
- The school is currently rated as 'B' satisfactory condition with elements identified as poor including, roof, windows, external walls, external doors, sanitary ware and heating.
- The School currently has a planned investment requirement of £992,000.
- The school has a 'B' satisfactory rating in terms of suitability.

The initial feasibility study has identified an option for a new school to be built on the existing school playing fields with the old building then demolished to create a new playing field. The school will be built with a capacity of 241 and will have a nursery for 40 children.

West Lothian School Capacities

The projected capacities of the four schools considered above have been based on the annual 900 residential unit school capacity projections model. A further review prior to entering any detailed design of the buildings will be completed and agreed by Education Services to ensure any proposed new schools have the capacity and sufficiency to accommodate projected school rolls without excessive, underutilised additional accommodation.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

59 MAIN STREET, BLACKRIDGE
PROPOSED SALE TO MR GARY DRUMMOND

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval for the sale of 59 Main Street, Blackridge to Mr Gary Drummond for £15,777 (Fifteen Thousand, Seven Hundred and Seventy-Seven Pounds).

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the sale of 59 Main Street, Blackridge to Mr Gary Drummond for the sum of £15,777 (Fifteen thousand, Seven Hundred and Seventy-Seven pounds) subject to the terms and conditions set out in the report.
2. Authorises the Head of Finance and Property Services to carry out any further negotiations with the purchaser in respect of the sale terms of the property, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

C. SUMMARY OF IMPLICATIONS

I Council Values	Making best use of our resources. Being honest, open and accountable.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	The sale of this property will contribute towards the council's 2020/21 approved capital receipts target and, in doing so, will assist the associated capital receipts performance indicator.
V Relevance to Single Outcome Agreement	We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.

VI Resources - (Financial, Staffing and Property)	A capital receipt of £15,777 will be received during the 2020/21 financial year.
VII Consideration at PDSP	Not applicable.
VIII Other consultations	The local elected members for the ward have received a copy of this report for their information.

D. TERMS OF REPORT

D1 Background

The property is located at 59 Main Street, Blackridge and is shown outlined in Appendix 1. The property is known locally as “the Old Man’s Shelter’ and was used as a meeting place for elderly local male residents. The property in more recent times has formed part of the council’s Tenanted Non-Residential Portfolio and has been let as a retail unit on a commercial basis. The recent occupier was a dog grooming business who occupied the property on a month to month lease basis.

Following inspection in 2018 by structural engineers the condition of the premises was identified as poor which given its age and construction was not unexpected. The report highlighted that whilst the property was structurally satisfactory at present, considerable expenditure was required to stabilise elements with initial cost estimates of between £15,000 and £20,000 identified. In addition, further works would be required in the near future to improve the general condition of the property for letting purposes and to sustain the life of the property.

The rent charged is currently £2,500 per annum but, given the extensive initial and longer term works required to the property, together with its size and management resource requirements, it was considered as no longer suitable for retention as a commercial property.

The occupying tenant was provided with the opportunity to acquire the property and the council appointed the Valuation Office Authority (District Valuer) to prepare an independent assessment of market value. The valuation report identified a market value based on the existing retail use and the potential for redevelopment as £8,500.

The valuation by the District Valuer was provided to the occupying tenant. The occupying tenant has chosen not to progress their initial interest to acquire the property despite being advised that, given the condition and nature of the property, the council would be seeking to dispose of the property and would commence marketing. A deadline was set to enable them to consider their position further however, this remained unchanged. The occupying tenant continued to have the opportunity to acquire the property prior to marketing commencing.

The property was marketed for sale and following sufficient interest being shown a closing date of 17 September 2020 was set. At the closing date offers were received and evaluated. The offer from the proposed purchaser were considered the best terms offered.

No offer was received from the occupying tenant who was served the appropriate notice and vacated the property on 30 September 2020. The vacation of the property ensures that the any new purchaser can obtain vacant possession.

D3 Proposed Sale Terms

The following terms, represents the best obtainable and represent best value achievable for the council:

Purchaser:	Mr Gary Drummond
Purchase Price:	£15,777
Conditions:	<ol style="list-style-type: none">1. Offer is not subject to obtaining planning permission for redevelopment2. Satisfactory legal title

The purchaser has not advised of any intended use but has stipulated in their offer that they may following acquisition consider redevelopment.

The report seeks delegated authority to the Head of Finance and Property Services to negotiate detailed terms and conditions provided that these do not materially affect the basis of the offer outlined above and continues to represent best value for the council.

E. CONCLUSION

The property is considered to be no longer suitable for inclusion within the councils tenanted non-residential property portfolio and was initially offered to the occupying tenant to purchase which did not progress.

Following marketing the offer from Mr Drummond is considered to be in the council's interests to accept as it represents the best terms obtainable. It is proposed to accept the offer and progress disposing of the property on the basis of the recommendations and terms set out in this report.

F. BACKGROUND REFERENCES

None.

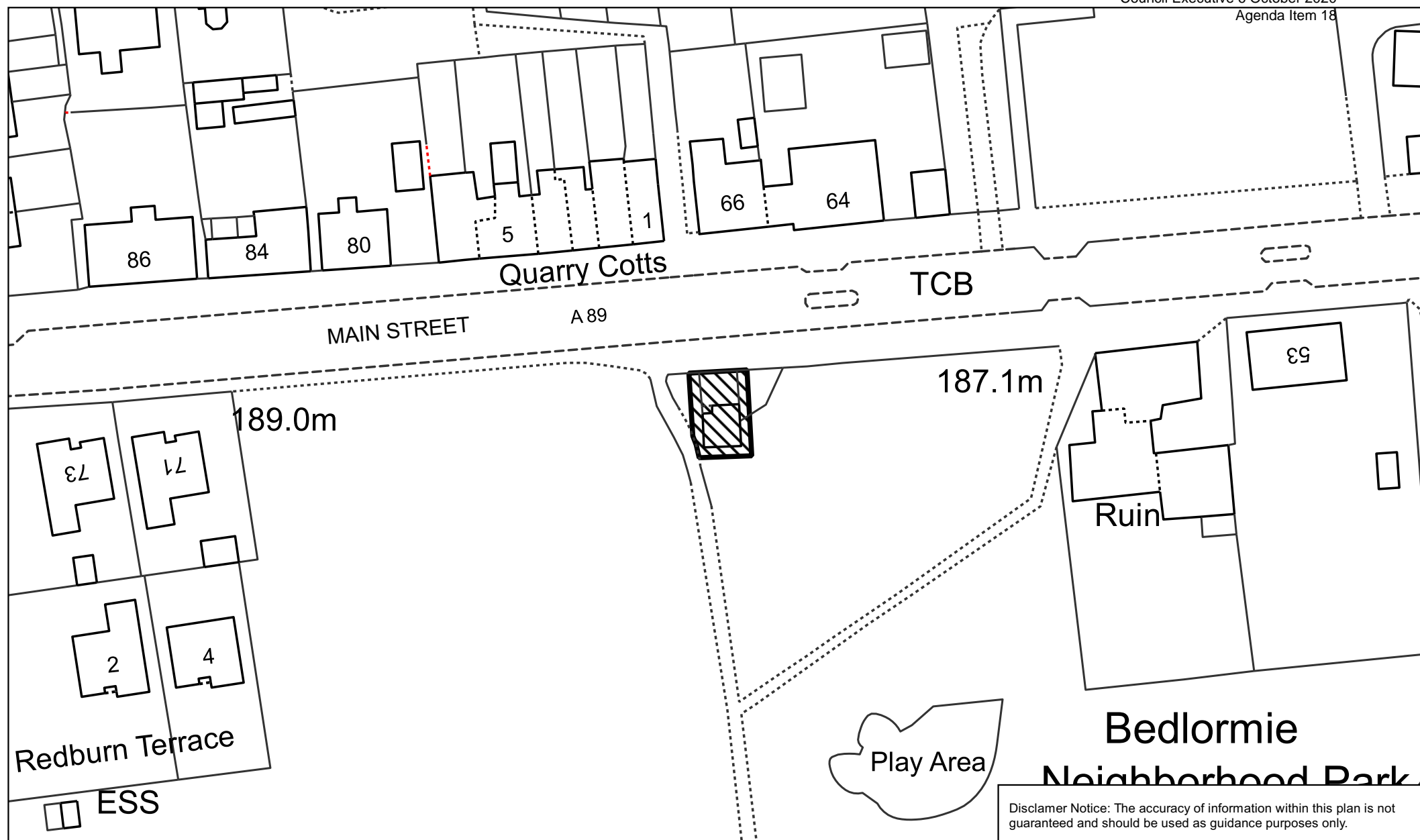
Appendices/Attachments: Location plan attached.



Contact Person: Darren Stenhouse, Graduate Property Surveyor

Tel. (01506) 283373 e-mail: Darren.Stenhouse@westlothian.gov.uk

Donald Forrest, Head of Finance and Property Services

Date of meeting: 6 October 2020



	59 Main Street, Blackridge	Not to Scale	A4	
Property Management, West Lothian Civic Centre, Livingston, EH54 6FF	4/6/2020	Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2020		

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

LAND AT CAPUTHALL ROAD, DEANS INDUSTRIAL ESTATE, LIVINGSTON
PROPOSED SALE TO CNG FUELS LIMITED

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval for the sale of Land at Caputhall Road, Livingston, to CNG Fuels Limited for £437,500 (Four Hundred and Thirty-Seven Thousand Five Hundred Pounds).

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the sale of Land at Caputhall Road, Livingston, Livingston to CNG Fuels Limited for £437,500 subject to the terms and conditions set out in the report;
2. Authorises the Head of Finance and Property Services to carry out further negotiations with the purchaser, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

C. SUMMARY OF IMPLICATIONS

I Council Values	Making best use of our resources. Being honest, open and accountable.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	The sale of this property will contribute towards the council's 2021/22 approved capital receipts target and, in doing so, will assist the associated capital receipts performance indicator.
V Relevance to Single Outcome Agreement	We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI Resources - (Financial, Staffing and Property)	A capital receipt of £437,500 will be received during the 2021/22 financial year.
VII Consideration at PDSP	Not applicable.

VIII Other consultations

The local elected members for the ward have received a copy of this report for their information.

D. TERMS OF REPORT

D1 Background

This site forms part of the council's undeveloped land holding at Caputhall Road. The land to be sold extends to approximately 3.5 acres and is shown outlined black on the attached plan.

The site was for some years held vacant as a potential location for the development by the council of a service centre and waste transfer Depot. The completed development of the Whitehill Service Centre enabled this land to be marketed for sale.

The site was marketed in June 2020 and, following sufficient interest being received, a closing date was set for 19 August 2020. Following evaluation of the offers the purchasers proposals was considered the best terms offered.

D2 Purchasers Development

The purchaser, CNG Fuels Limited develops owns and operates Compressed Natural Guard (CNG) refuelling infrastructure and is the largest operator of such sites in the UK.

They are proposing to develop the land into a CNG refuelling station with an ancillary workshop and sixteen HGV parking bays.

The purchasers have identified significant demand in the local area for fleets wishing to convert their existing diesel Heavy Goods Vehicles to CNG. CNG HGV's run on 100% sustainable and renewable biomethane and significantly reduce the amount of CO2 emissions that they produce compared to diesel equivalents.

D3 Proposed Sale Terms

The following terms, represents the best obtainable and represent best value achievable for the council:

- | | | |
|----|-----------------|---|
| 1. | Purchaser: | CNG Fuels Limited |
| 2. | Purchase Price: | £437,500 (Excluding VAT) |
| 3. | Conditions: | <ul style="list-style-type: none">1. Obtaining Planning and other statutory consents.2. Connections to the local gas network3. Satisfactory ground conditions |

The report seeks delegated authority to the Head of Finance and Property Services to negotiate detailed terms and conditions provided that these do not materially affect the basis of the offer outlined above and continues to represent best value.

E. CONCLUSION

It is considered to be in the council's best interests to dispose of this land at Caputhall Road, Livingston on the basis of the recommendations set out in this report.

F. BACKGROUND REFERENCES

None.

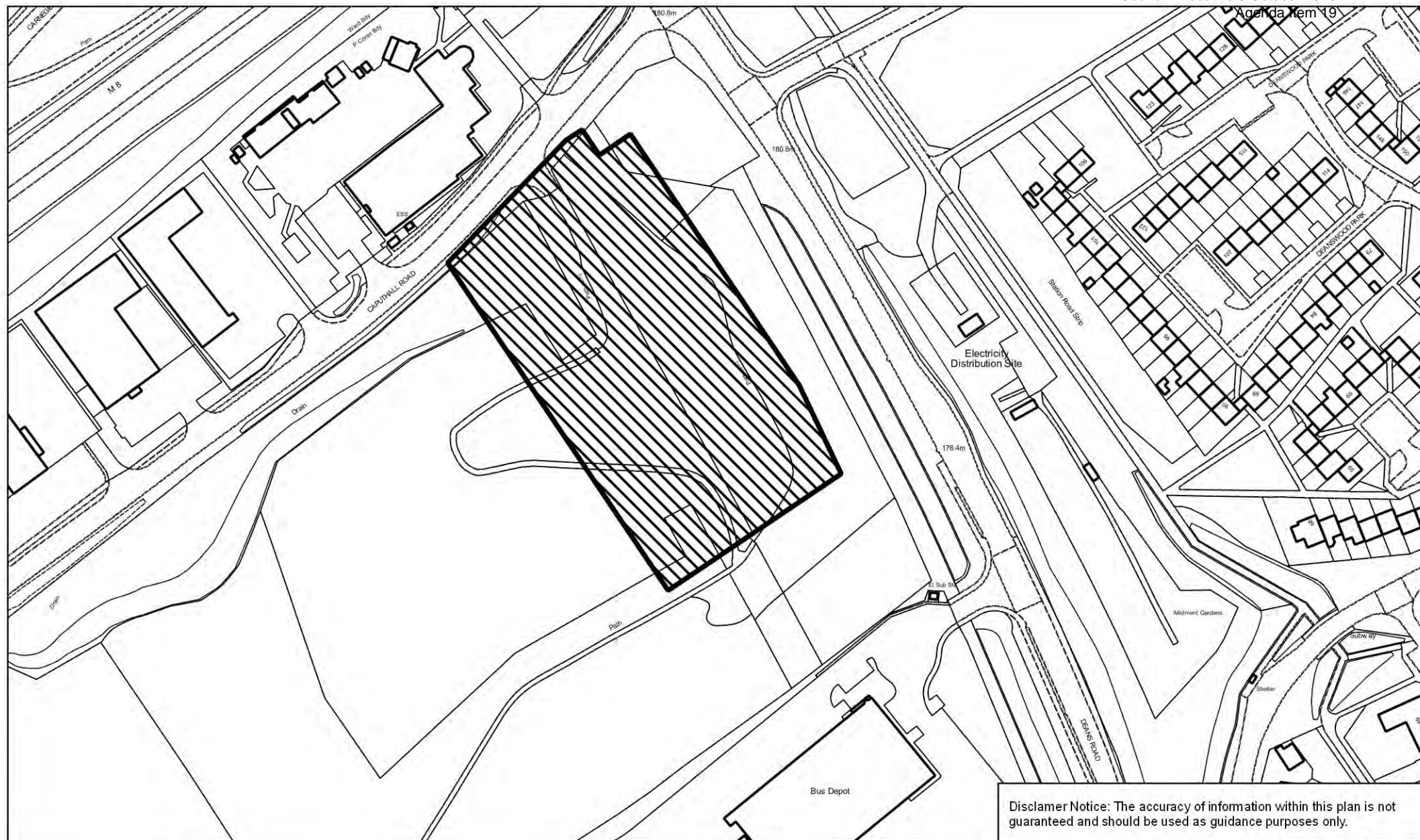
Appendices/Attachments: Location plan attached.

Contact Person: Stephen Letch, Commercial Property Surveyor

Tel. (01506) 281122 e-mail: Stephen.letch@westlothian.gov.uk

Donald Forrest, Head of Finance and Property Services

Date of meeting: 6 October 2020



Land at Caputhall Road, Deans, Livingston

1:2000

A4



Property Management, West Lothian Civic Centre, Livingston, EH54 6FF

2/9/2020

Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2020

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

FORMER PAVILION, WHITBURN ROAD, BATHGATE
PROPOSED SALE TO MICHAEL TUGMAN

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To seek Council Executive approval for the sale of the former Pavilion at Whitburn Road Bathgate to Michael Tugman for £50,000 (Fifty Thousand Pounds).

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the sale of the Pavilion at Whitburn Road Bathgate to Michael Tugman for £50,000 subject to the terms and conditions set out in the report;
2. Authorises the Head of Finance and Property Services to carry out further negotiations with the purchaser, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

C. SUMMARY OF IMPLICATIONS

I Council Values	Making best use of our resources. Being honest, open and accountable.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	The sale of this property will contribute towards the council's 2020/21 approved capital receipts target and, in doing so, will assist the associated capital receipts performance indicator.
V Relevance to Single Outcome Agreement	We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI Resources - (Financial, Staffing and Property)	A capital receipt of £50,000 will be received during the 2020/21 financial year.
VII Consideration at PDSP	Not applicable.

VIII Other consultations

The local elected members for the ward have received a copy of this report for their information.

D. TERMS OF REPORT

D1 Background

This property consists of a former pavilion providing approximately 516 sqft (48 sqm) of accommodation on a site extending to approximately 0.11 acres (438 sqm). The property is shown outlined black on the attached plan.

The pavilion was previously used by a community art group until they relocated in 2014 following which the premises were declared surplus to requirements. It has been used sporadically for temporary storage by the council in the intervening period but is no longer required. The site has been marketed over the past year and, following increasing interest, a closing date set. Offers received were evaluated and the purchasers offer was considered the best terms offered. There were no applications or expressions of interest for community asset transfer.

D2 Purchasers Development

The purchaser proposes to carry out a refurbishment of the subjects and will use the property for a personal training facility and the provision wellbeing services.

D3 Proposed Sale Terms

The following terms, which represents the best obtainable for the council:

Purchaser:	Michael Tugman
Purchase Price:	£50,000 (Excluding VAT)
Conditions:	Satisfactory legal title

The report also seeks delegated authority to the Head of Finance and Property Services to negotiate detailed terms and conditions provided that these do not materially affect the basis of the offer outlined above and continues to represent best value.

E. CONCLUSION

It is considered to be in the council's best interests to dispose of the former Pavilion at Whitburn Road, Bathgate on the basis of the recommendation set out in this report. The offer made represents the best terms obtained following marketing.

F. BACKGROUND REFERENCES

None.

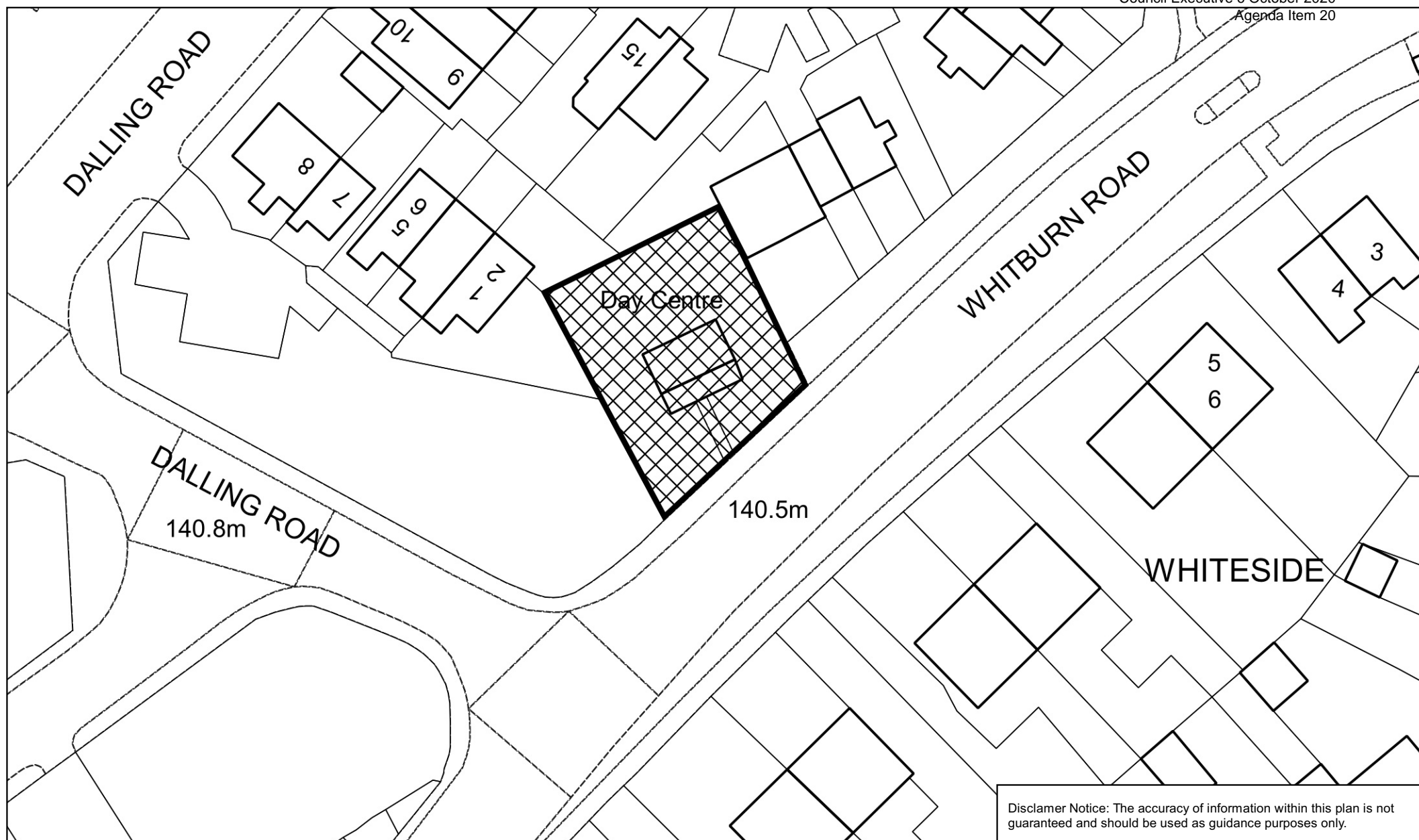
Appendices/Attachments: Location plan attached.

Contact Person: Sharon Eveleigh, Property Assistant

Tel. (01506) 281823 e-mail: Sharon.Eveleigh@westlothian.gov.uk

Donald Forrest, Head of Finance and Property Services

Date of meeting: 6 October 2020



DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

RISK MANAGEMENT POLICY

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To present the revised Risk Management Policy to the Council Executive for consideration.

B. RECOMMENDATION

It is recommended that Council Executive approves the Risk Management Policy.

C. SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable, making best use of our resources.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The Risk Management Strategy 2018-23 requires the Risk Management Policy to be reviewed during its lifetime.
III Implications for Scheme of Delegations to Officers	None. The risk management policy is consistent with the current Scheme of Delegations.
IV Impact on performance and performance Indicators	Failure to effectively mitigate risks may have an adverse impact on performance.
V Relevance to Single Outcome Agreement	Our public services are high quality, continually improving, efficient and responsive to local people's needs.
VI Resources - (Financial, Staffing and Property)	None.
VII Consideration at PDSP	The Partnership and Resources PDSP was consulted on 7 February 2020.
VIII Other consultations	The Governance and Risk Committee was consulted on 24 February 2020.

D. TERMS OF REPORT

The council's Risk Management Strategy 2018-23 requires that the council's Risk Management Policy be reviewed. This has been done, and the revised Policy is appended to this report. The Policy was last reviewed and updated in November 2015.

The council's policy on risk has not changed, which is to mitigate threats to the achievement of its objectives by implementing robust risk management strategies, procedures and guidance, which enable managers and staff to effectively identify, assess, and mitigate risk.

The appendix to the Policy sets out elected member and officer responsibilities in relation to risk management. The revised Policy makes reference to the role of the Governance and Risk Committee, which was formed after the May 2017 council election.

Both the Partnership and Resources PDSP and the Governance and Risk Committee have been consulted on the revised Risk Management Policy. Neither the PDSP nor the Committee had any comments.

E. CONCLUSION

The Risk Management Policy provides a sound basis for the effective management of risks to the achievement of the council's objectives.

F. BACKGROUND REFERENCES

Report to the Council Executive 17 November 2015: Risk Management Policy

Report to the Council Executive 12 June 2018: Risk Management Strategy 2018/19 to 2022/23

Appendices/Attachments: Risk Management Policy

Contact Person: Kenneth Ribbons, kenneth.ribbons@westlothian.gov.uk Tel No. 01506 281573

Donald Forrest
Head of Finance and Property Services

Date of meeting: 6 October 2020



WEST LOTHIAN COUNCIL RISK MANAGEMENT POLICY

6 October 2020

RISK MANAGEMENT POLICY

- 1.1 Risk can be defined as the effect of uncertainty on an organisation's objectives. Risk can be considered to be either positive, in relation to opportunities, or negative, in relation to threats.
- 1.2 West Lothian Council recognises that effective risk management is a key component of the council's governance processes. The council's risk management processes focus on those threats or unexpected events that may affect the council's ability to achieve its corporate objectives. The council's policy is to mitigate threats to the achievement of its objectives by implementing robust risk management strategies, procedures and guidance, which enable managers and staff to effectively identify, assess, and mitigate risk.
- 1.3 Risk management is embedded within the council's management processes. Managers are required to continuously review risks and to manage them in a systematic and structured manner in accordance with corporate guidance.
- 1.4 The council maintains a corporate risk register which documents and describes council wide risks and service risks, describes controls and risk actions designed to reduce risks to an acceptable level, and identifies the officers responsible for managing risks.
- 1.5 Risks are assessed using a combination of the likelihood of an event and the impact should it occur. In consultation with senior managers, the Audit Risk and Counter Fraud Manager identifies risks requiring consideration at a higher management level. These may be high risks, or risks that have the potential for a high impact should they occur, or risks that have organisation-wide implications. These risks are brought to the attention of the Governance and Risk Board and Executive Management Team.
- 1.6 In all circumstances the council will seek to manage risk down to what it assesses as an acceptable level. In relation to the management of residual risk, the Head of Finance and Property Services is responsible for ensuring that appropriate insurance arrangements are in place.
- 1.7 The council's Governance and Risk Committee is responsible for reviewing and scrutinising the council's risk management arrangements, and plays an important role in ensuring that effective risk management arrangements are in place.

APPENDIX

RESPONSIBILITIES IN RELATION TO RISK MANAGEMENT

Council Executive

- approving the risk management policy and risk management strategy.

Partnership and Resources Policy Development and Scrutiny Panel

- reviewing and scrutinising the risk management policy and risk management strategy, prior to presentation to Council Executive.

Governance and Risk Committee

- approving the annual risk management plan;
- reviewing and scrutinising the council's risk management arrangements;
- considering reports which identify issues in relation to risk management, scrutinising action plans, and ensuring that such action plans are implemented by management;
- considering the external auditor's annual report in relation to matters relevant to risk management;
- considering the Audit, Risk and Counter Fraud Manager's annual risk management report;
- reviewing progress in relation to the approved risk management strategy.

Audit Committee

- approving the annual risk based internal audit plan;
- receiving reports from internal audit on the audit of key risks;
- considering recommendations for improvement in control and management action to implement them;
- considering the Audit, Risk and Counter Fraud Manager's annual internal audit report.

Executive Management Team

- reviewing the council's high and strategic risks.

Corporate Management Team

- approving the corporate business continuity plan.

Depute Chief Executive, Corporate, Operational and Housing Services

- chairing the Governance and Risk Board.

Governance and Risk Board

- reviewing the annual risk management plan and monitoring progress;
- reviewing the council's high and strategic risks;
- identifying, considering and reviewing areas of risk as considered appropriate;
- reviewing the council's insurance arrangements;

- reviewing the council's corporate business continuity plan and approving activities for business continuity planning purposes;
- reviewing the arrangements for maintaining effective service business continuity plans;
- considering the Audit, Risk and Counter Fraud Manager's annual internal audit report and risk management report.

Head of Finance and Property Services

- ensuring that effective corporate risk management arrangements are in place;
- ensuring that professional advice on insurance, risk management and business continuity planning is available to the council and its officers;
- ensuring that appropriate insurance for the council is in place; and that the insurance fund meets the cost of buying insurance and paying for self-insured losses.

Heads of Service

- ensuring that significant risks to service objectives are identified and recorded in the corporate risk register;
- ensuring that such risks are effectively managed;
- ensuring that effective service business continuity plans are in place to support the delivery of critical services within their remit.

Audit, Risk and Counter Fraud Manager

- preparing corporate procedures on risk management and business continuity planning;
- providing advice and support to managers on risk management and business continuity planning;
- preparing and maintaining, in consultation with managers, the corporate business continuity plan;
- chairing the Risk Management Working Group.

Corporate Finance Manager

- maintaining the council's insurance fund and insurance arrangements.

Service Managers

- effectively managing risks within their area of responsibility;
- updating risks and risk actions in the corporate risk register, as required and in accordance with corporate procedures.

Risk Management Working Group

- acting as a forum for the dissemination of advice and information to services, and for the discussion of risk management and business continuity planning issues;
- proactively raising issues in relation to any aspects of the council's risk management processes.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

SCOTTISH GOVERNMENT PROGRAMME FOR GOVERNMENT 2020/21

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To provide the Council Executive with an overview of the Programme for Government for 2020/21 announced on 1 September 2020, including key issues identified that could have implications for local government.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. Notes the announcements contained in the Programme for Government plans for 2020/21 that could have implications for local government;
2. Agrees that officers will continue to monitor these plans as they are progressed and more information becomes available, including updates from COSLA, and that officers will assess any potential policy, service and financial implications for the council, and report on these to elected members on an ongoing basis.

C. SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable, making the best use of resources, working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The council is required to approve a balanced revenue budget for each financial year.
III Implications for Scheme of Delegations to Officers	No implications at this stage.
IV Impact on performance and performance Indicators	Ongoing government restraint has implications for the council's budget and performance.
V Relevance to Single Outcome Agreement	The revenue budget provides resources necessary to help deliver the Single Outcome Agreement. Effective prioritisation of resources is essential to achieving key outcomes.
VI Resources - (Financial, Staffing and Property)	Resource implications of the Programme for Government plans will be incorporated into future financial planning assumptions.
VII Consideration at PDSP	Not applicable.
VIII Other consultations	Not applicable.

D. TERMS OF REPORT

D.1 Background

On 1 September 2020, the Scottish Government announced its Programme for Government, which set out the policies and legislative plans that the Government plans to progress over the coming parliamentary period ending May 2021.

D.2 Summary of Proposals

The plans in the Programme for Government for 2020/21 are based on the following three ambitions, and include consideration of the context Covid-19 brings, as well as the potential implications of EU exit:

- Create new jobs, good jobs and green jobs
- Lifelong health and wellbeing
- Equality and helping our young people grasp their potential

The plans within each of these areas could impact on the economy, public finances, and health and social care. In terms of commitments most relevant to local government the Programme includes a range of high-level and more detailed initiatives and some of these are outlined below in Sections D.2.1 to D.2.3 below.

The Programme does assert that Covid-19 has meant a different starting point and that recovery should not necessarily mean a return to business as usual. The Programme has as a central element, dealing with the economic, health and social issues arising from the pandemic.

Areas are emphasised where the Government wishes to work with local government and other partners such as employability, Digital action, and health, economic and climate goals.

D.2.1 Create new jobs, good jobs and green jobs

- a £60 million Youth Guarantee, so every young person aged between 16 and 24 will be guaranteed an opportunity at university or college, an apprenticeship programme, employment including work experience, or participation in a formal volunteering programme.
- an initial £25 million National Training Transition Fund to provide retraining opportunities for people who have lost their jobs or are at risk of doing so.
- a £100 million Green Jobs fund, investing alongside a range of sectors - such as manufacturing, technology, and land-based organisations - to support new and increased opportunities for green job creation across Scotland.
- an additional £2.35 million for the Parental Employability Support Fund for those most at-risk of poverty, including disabled, young, and ethnic minority parents.
- a £1.6 billion investment (over the next Parliament) to decarbonise heating homes and buildings, reducing emissions, tackling fuel poverty and creating new jobs.
- £60 million to support decarbonisation of the industrial and manufacturing sector.
- an inward investment strategy, to give people new skills, and attract investment and jobs into Scotland, with the aim to generate 100,000 high value jobs over the next decade.
- the next phase of the Unlocking Ambition programme, which provides grant and specialist wraparound support for early stage, growth potential businesses, with a new focus on low carbon and economic recovery.
- steadily increase Scotland's annual infrastructure investment until it is £1.5 billion higher by the end of the next Parliament than in 2019/20.
- capitalise the Scottish National Investment Bank with £2 billion over ten years, with a primary mission to support the transition to net zero emissions.
- a £62 million Energy Transition Fund to support businesses in the oil, gas and

energy sectors over the next five years as they grow and diversify, and help attract private sector investment in the North East.

- doubling the Flexible Workforce Development Fund to £20m - enabling employers to access up to £15,000 each to address skills gaps in their workforce.
- establishing a national network of start-up incubators, "Tech Scalers", with the aim of creating and supporting between 300 and 500 high quality start-ups over the next five years.
- £23m to help more digitally excluded people get online - providing both devices and internet connections to bring the total number of people supported to 50,000 by the end of the year.
- investing £150 million over the next five years in forestry to support the economy and the net zero goal.

D.2.2 Lifelong health and wellbeing

- launch in September a new proximity app, Protect Scotland, to enhance and support Test and Protect.
- remobilise NHS Services focusing on many of normal services as possible; ensuring capacity to deal with the continuing presence of Covid-19; and preparing health and care services for the wider pressures of the winter season.
- extend the seasonal flu vaccine to those working in social care who provide direct personal care, those over 55, those living with someone who is shielding, and those aged 50-54 depending on vaccine supplies.
- immediately establish an independent review of adult social care examining how adult social care can most effectively be reformed to deliver a national approach to care and support services. This will include consideration of a national care service.
- create a new role of Patient Safety Commissioner.
- scale up access to digital care - for both physical (Near Me video consultations) and mental health (Cognitive Behavioural Therapies) care.
- introduce a clinically safe thrombectomy service in Scotland
- develop a nationwide network of community treatment centres
- redesign accident and emergency services to ensure patients get safe and effective care in a way that protects them from exposure to Covid-19.
- expand mental health and wellbeing support for health and social care staff, including the development of a Health and Social Care Mental Health Network
- implement a Workforce Specialist Service, which will provide confidential assessment and treatment for mental ill health.
- establish community health and wellbeing services that will support children, young people and their families - and have a particular focus on mental health - across all local authorities in 2021.

D.2.3 Equality and helping our young people grasp their potential

- open the Scottish Child Payment for applications for children under six in November 2020, with the first payments made in February 2021.
- make payments of the new Child Winter Heating Assistance in winter 2020.
- deliver increased early learning and childcare and set a new target date for the expansion of childcare to 1,140 hours for all three and four-year olds, and vulnerable two-year olds, across all local authorities by the end of 2020.
- £135 million additional investment to recruit 1400 additional teachers and 200 support staff
- support children to learn on-line through the provision of 25,000 chrome books.
- allocate £3 million to support young people to engage in youth work activities.
- conduct a broad independent review of the Scottish approach to assessment and qualifications to learn from this year's results process.
- investing £4 million to deliver holistic family support for care experienced young people, and establishing an independent oversight Board to drive forward progress.
- fully and directly incorporating the UN Convention on the Rights of the Child, to the

- maximum extent possible within the Scottish Parliament's powers, into Scots law.
- designing night shelters and dormitory-style provision out of the homelessness system, and continuing to scale up Housing First.
- establish a £10 million Tenants Hardship Loan Fund, increase Discretionary Housing Payments support for tenants by £3 million; and ensure notice periods continue to be extended until March 2021.
- work with local government to take forward ambitions for 20-minute neighbourhoods where people can live, work and learn in communities close to home.
- provide over £500 million over five years for large scale, transformational active travel infrastructure projects, access to bikes and behaviour change schemes.
- introduce Low Emissions Zones in Scotland's major cities in the first half of 2022.
- work to transform the justice system, with a specific focus on developing alternatives to prison, and safeguarding witnesses and victims.

D.3 Potential Implications for West Lothian Council

This report provides a note of the announcements in the Programme for Government. It will be important for officers to carefully monitor how these are developed in the year ahead, with particular attention on any proposals impacting on the council. Officers will liaise closely with colleagues at COSLA, who will be working with civil servants on many of these areas. A key consideration will be provision of appropriate additional financial resources by the Scottish Government to fund any costs arising from new policies or programmes. Any additional funding is likely to be confirmed as part of the Scottish Budget and the 2021/22 local government financial settlement, which are expected to be announced in December 2020.

E. CONCLUSION

This report provides the Council Executive with an overview of the key announcements made by the Scottish Government as part of their Programme for Government plans for 2020/21. It is proposed that officers will continue to monitor these plans as they are progressed and more information becomes available. Any potential policy, service and financial implications for the council will be assessed and reported to elected members as appropriate.

F. BACKGROUND REFERENCES

Revenue Budget 2020/21 – 2022/23 – Report by Head of Finance and Property Services to West Lothian Council on 28 February 2020

Appendices/Attachments: None.

Contact Person: Karen Park, Accountant
Email: karen.park@westlothian.gov.uk, Tel: 01506 283236

Donald Forrest
Head of Finance and Property Services

Date of meeting: 6 October 2020

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

2020/21 GENERAL FUND REVENUE BUDGET - MONTH 5 MONITORING REPORT

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

This report provides Council Executive with an update on the outcome of the General Fund revenue budget monitoring exercise at month 5 including additional costs as a result of the Covid-19 pandemic, including an update on recurring budget pressures and delivery of approved budget savings for the period 2020/21 to 2022/23.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Notes that the outcome of the month 5 risk-based monitoring exercise is a projected overspend of £4.040 million, after accounting for all currently confirmed funding from Scottish Government and £994,000 from the General Fund Balance (GFB) as agreed by Council Executive on 18 August 2020;
2. Notes the recurring pressures of £1.190 million, and the agreed actions being progressed to mitigate these pressures;
3. Notes the good progress in delivery of approved budget savings for 2020/21 to 2022/23;
4. Agrees that Heads of Service take all management action necessary to ensure, wherever possible, that 2020/21 expenditure is managed within budgeted resources;
5. Agrees that officers should continue to engage with Scottish Government and COSLA around further government funding for the council so that the significant additional costs being incurred in relation to Covid-19 are fully funded.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of resources, working in partnership.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None.
III	Implications for Scheme of Delegations to Officers	No implications at this stage.
IV	Impact on performance and performance Indicators	Ongoing funding restraint is likely to have implications for performance.
V	Relevance to Single Outcome Agreement	None.

- | | |
|--|--|
| VI Resources - (Financial, Staffing and Property) | The forecast position for 2020/21 is an overspend of £4.040 million based on the month 5 risk-based monitoring exercise. Recurring pressures are estimated to be £1.190 million. |
| VII Consideration at PDSP | Financial Performance is reported biannually to PDSP's. |
| VIII Other consultations | Depute Chief Executives, Heads of Service, Service Managers and Transformational Change Team. |

D. TERMS OF REPORT

D.1 Background

West Lothian Council approved a revenue budget 2020/21 to 2022/23 in February 2020, with the total level of savings approved for the three-year period being £31.767 million. £12.197 million of those savings are required in 2020/21.

The approved budget also includes new time limited investment of £7.834 million over 2020/21 to 2022/23 for a variety of new initiatives and one-off projects funded from one off resources.

Updates on the potential impact of Covid-19 on the council's financial position were reported to Council Executive on 26 May 2020, 23 June 2020, and on 18 August 2020 as part of the 2020/21 General Fund revenue budget monitoring exercise for month 3. Council Executive agreed to ear-mark the General Fund revenue balance of £994,000, which was the amount over and above the agreed minimum amount of £2 million, to assist in mitigating the projected overspend which is mainly the result of the financial impact of Covid-19.

It was also agreed that officers should continue to engage with Scottish Government and COSLA around further government funding for the council to fund the significant additional costs being incurred by the council.

In line with the agreed budgetary control framework and procedures, the monitoring of the council's full revenue budget and approved budget savings is undertaken on a quarterly basis and reported to Council Executive. A risk-based monitoring exercise is carried out on both the revenue budget and approved budget savings out-with the quarterly monitoring exercises. This strategic approach to monitoring ensures that risks are identified at an early stage and allows areas to be identified for management action. This report provides an update on the full budget monitoring exercise of service budgets and monitoring of approved savings for the three years 2020/21 to 2022/23.

The next update to Council Executive will be the outcome of the month 6 monitoring exercise which will be reported to Council Executive in November 2020.

D.2 2020/21 Budget

D.2.1 2020/21 Summary Position

Based on the outcome of the monitoring exercise at month 5 an overspend of £4.040 million is anticipated in 2020/21. This overspend takes account of additional Scottish Government funding confirmed for Covid-19 and the earmarked General Fund revenue balance of £994,000, which Council Executive agreed on 18 August 2020 to help manage the projected overspend. Recurring pressures remain in Operational Services, Housing, Customer and Building Services and Social Policy. While there has been one-off budget provided, it is anticipated that this will not fully mitigate the pressures in 2020/21.

As outlined in the following table, significant pressures are currently forecast, mainly resulting from the financial impact of the current pandemic and these will be closely monitored over the remainder of the financial year. There are a number of areas where forecast underspends are helping to offset overspends elsewhere and it is important that underspends in such areas are preserved to minimise the projected overspend position. The following table summarises the forecast position following the budget monitoring exercise at month 5.

Service	Revenue Budget 2020/21	Forecast 2020/21	Projected Variance 2020/21
	£'000	£'000	£'000
Education	182,790	185,816	3,026
Planning, Economic Development and Regeneration	4,842	5,726	884
Operational Services	56,166	58,712	2,546
Housing, Customer and Building Services	8,437	8,661	224
Corporate Services	10,695	10,812	117
Social Policy – IJB	76,114	78,092	1,978
Social Policy – Non IJB	35,067	35,107	40
Chief Executive, Finance and Property	27,741	28,391	650
Joint Valuation Board	1,283	1,283	0
Service Expenditure – Total	403,135	412,600	9,465
Non-Service Expenditure	77,102	78,310	1,208
Council Tax Income	(87,761)	(86,519)	1,242
TOTAL NET EXPENDITURE	392,476	404,391	11,915
Share of £155 million Barnett Consequentials			(5,228)
Share of £49 million Barnett Consequentials			(1,653)
Net Projected Outturn Position Before Deducting Earmarked General Fund Revenue Balance			5,034
Earmarked General Fund Revenue Balance			(994)
Net Projected Outturn Position After Deducting Earmarked General Fund Revenue Balance			4,040

D.2.2 Summary update on 2020/21 recurring pressures

At month 5, the recurring pressures total £1.190 million, an increase of £216,000 since the last update provided at period 3, which mainly relates to a further increased pressure due to the impact of Covid-19 in homelessness and homelessness transport costs. As a result of one-off resources provided in 2020/21, these pressure areas are forecast to overspend by £736,000 in the current financial year.

The recurring pressures have increased in both Homelessness and Homelessness Transport, as a result of the ongoing demand for temporary accommodation.

Overtime in Recycling & Waste Services is currently forecast to overspend in 2020/21 as the increased costs as a result of Covid-19 will now continue for the remainder of the financial year. On a recurring basis, the pressure has reduced with lower sickness absence levels allowing overtime to be more easily managed.

Further action is to be taken to address the direct causes of the recurring pressure in relation to the cost of absence cover in Older People Care Homes.

A summary of progress against actions is contained within Appendix 1.

D.2.3 Summary update on New Time Limited Investment 2020/21 to 2022/23

The approved budget for 2020/21 to 2022/23 includes new time limited investment of £7.834 million funded from one off resources. An update on delivery of these projects is provided in Appendix 2. Reasonable progress is being made to deliver these initiatives, some of which will require committee approval including the Transport Fund, roads and footpath accessibility improvement schemes, the relocation of recycling centres and utilisation of the Climate Emergency Fund.

D.2.4 Education

The revenue budget for Education is currently forecast to overspend by £3.026 million, mainly as a result of additional expenditure being incurred in relation to the financial implications of the current pandemic.

Additional payments of around £450,000 have been made to partner providers and other childcare providers for provision of care to children of key workers whilst schools have been closed and over the Easter and summer school holiday periods. Payments have been made to supply teachers of £400,000 in line with the SNCT agreement to pay average working hours during the lockdown period.

There is an emerging pressure arising within Early Learning & Childcare (EL&C) as a result of more parents than expected opting to take up places within the private provider setting in 2020/21 rather than council establishments. Staffing establishments have been revised to take account of this change but there remains an estimated overspend of around £250,000 in the current year.

The council is administering payments expected to be in the region of £736,000 to childcare providers from the transition support fund providing one-off grants to eligible settings to support them to reopen and meet the public health guidance for the sector.

The Scottish Government confirmed it will provide £80 million over the next two years, announced in two tranches of £50 million and £30 million, to help support the return to school and help children recover any lost ground. This funding is being used to recruit additional teachers and support staff to tackle the impact of coronavirus in schools and ensure that children get the support they need. West Lothian Council will receive a total share of £3.110 million to provide support during academic year 2020/21 with funding being paid over two financial years.

The council is also to receive additional funding to increase levels of digital inclusion, providing laptops for disadvantaged children and young people to enable them to study online. An additional revenue budget allocation of £124,000 and capital funding of £721,000 has been provided for this from the £30 million announced nationally.

A further additional £50 million in total, taking account of the First Minister's announcement on 30 July 2020, has been announced by the Scottish Government to aid logistical challenges in reopening schools. The funding is intended to provide councils with the assurance they require to progress plans for the safe reopening of schools. To date, £20 million of this funding has been allocated with the council receiving £708,000. The allocation of the remaining £30 million is still subject to confirmation. The value reflects that logistical challenges including facilities management, cleaning and transport costs will be substantial for councils.

Within Culture and Sports, Burgh Halls is forecast to overspend by £133,000 as a result of lost income, partially offset by reduced staff costs and catering costs whilst the facility has been closed and during the recovery period as restrictions are lifted. Instrumental music tuition fees will be significantly lower than budgeted levels as a result of lessons being impacted whilst pupils have not been in school and a reduction in pupils numbers resulting in an estimated pressure of around £262,000.

In addition, schools let income is currently forecast to under recover by around £139,000 this financial year.

Schools have submitted their first budget forecasts of the year and the early indication is that the DSM carry forward balance is expected to remain in line with the current level of £950,000 by 31 March 2021. School have prepared recovery plans taking account of both local and authority wide factors and have reviewed their spending plans to ensure resources are being diverted to help deliver their recovery plans, whilst providing support to pupils and their families, particularly the most vulnerable.

A reprofiling of the West Lothian Leisure (WLL) management fee for 2020/21 was agreed under SO31 arrangements, reported to Council Executive on 26 May 2020, to maintain cashflow whilst facilities were closed during 2020/21. In addition, on 18 August 2020 Council Executive agreed for the Head of Finance and Property Services to issue a letter of comfort to WLL which confirms that the Council 'will continue to undertake cash flow management with WLL, to allow WLL to meet its everyday cash liabilities in respect of the financial year 2020/21. This was on the basis of current or improved, as required, monitoring levels and subject to the requirement of WLL to approve a balanced budget each year, to reasonably progress their three year plan, to provide required financial information to the council, and to take all reasonable steps to identify mitigating action to balance their budget without further funding from the council. WLL reopened facilities on 14 September 2020. The WLL forecast cash flow position remains uncertain and an additional £500,000 contingency has been incorporated into the outturn to reflect potential additional cash flow costs. At this stage this is anticipated to be sufficient provision to enable WLL to continue to operate in 2020/21.

A significant risk remains around membership fee income which accounts for around 50% of income and all aspects of the financial position of WLL will continue to be closely monitored during the financial year.

D.2.5 Planning, Economic Development and Regeneration

An overspend of £884,000 is forecast mainly due to the implications of the Covid-19 pandemic.

It is anticipated that there will be both supply and demand side implications for the building market. On the supply side, builders are likely to focus on developments that are either ongoing or have planning permission. The demand for housing may be impacted by changes in consumer confidence and the availability of mortgages as a result of Covid-19 relates issues. Given this, both planning application and building warrant income are expected to be lower than budget, with the overall shortfall estimated at £908,000.

D.2.6 Operational Services

An overspend of £2.546 million is forecast for Operational Services largely due to additional costs and reduced income streams arising from the current Covid-19 pandemic.

Pressures within Recycling & Waste Services total £1.407 million. Monitoring to date has indicated that tonnage levels have increased this year for landfill, brown bin and blue bin waste generating additional costs of £1.041 million. It is assumed that increased levels of tonnage will remain throughout 2020/21 due to changing behaviour relating from Covid-19. The revised implementation date for generic working and changes to shift patterns of February 2021 will result in a non-recurring pressure of £180,000.

Net pressures within Facilities Management are forecast to be around £1.404 million taking account of £708,000 funding. Additional cleaning costs are expected to be £1.473 million of which £1.377 million relates to staffing changes required to implement enhancements to the school cleaning regime. It is anticipated that this pressure will be fully funded from the logistical challenges funding of £50 million but at this stage the Scottish Government has only confirmed the council's share of the first tranche of £20 million. The council's share of this funding is £708,000 which has been included in the forecast. The second tranche of funding of £30 million will be based on evidenced need and this process has still to be confirmed to councils. School closures, reduced provision of school meals, no café/sandwich run provision and the Civic Centre café being closed are forecast to generate a net pressure on catering of £525,000. In addition, there is a risk that the uncertain economic situation could lead to increased uptake in free school meal entitlement.

Public Transport is forecast to be in line with budget. This results from reduced costs incurred during lock down on concessionary rail, local buses and mainstream schools transport of £560,000 being partially offset by £281,000 of lost income from local buses due to a fall in demand caused by the current pandemic and estimated additional schools transport costs of £190,000 associated with schools re-opening.

An underspend of £179,000 is forecast for Roads & Transportation Services mainly due to workload restrictions caused by the current Covid-19 pandemic. These are expected to reduce variable costs by £686,000 but also result in a £300,000 reduction in the re-charge to capital and a £179,000 reduction in Public Utilities income.

Underspends of £78,000 and £77,000 are forecast in Nets, Land & Countryside and Fleet Management respectively, mainly due to net savings during lock down and forecast staffing underspends.

D.2.7 Housing, Customer and Building Services

An overall overspend of £224,000 is forecast across the service area, due to a combination of existing pressures in Homelessness and reduced income streams as a consequence of Covid-19 in Customer & Community Services.

Customer & Community Services is forecast to overspend by £87,000. Registration activity income, already under pressure due to falling birth and marriage rates, has been significantly impacted by Covid-19 and leisure facilities such as the swimming pool and 3G pitch at Fauldhouse have been closed.

Homelessness is forecast to overspend by £332,000 as a result of the ongoing demand for temporary accommodation. On average 69 clients per night were accommodated in B&B for the period from April to September 2020. This number has been steadily rising and, as of 6 September 2020, there were 122 clients in B&B.

One-off budget of £550,000 is mitigating the pressure in B&B spend but pressures elsewhere in the budget i.e. furniture and void rent loss, are main factors in the overspend. Homelessness transport costs reduced as a result of school closures, but will be closely monitored following the reopening of schools from August.

Funding for Rapid Rehousing Transition Plans (RRTPs) has been confirmed by the Scottish Government with £311,000 allocated for West Lothian in 2020/21. The RRTP is a multi-year plan to reduce the numbers of people presenting as homelessness as well as rehousing people who are homeless quicker and reducing the length of stay in temporary accommodation and B&B accommodation.

The council's approved Housing Capital programme includes provision for additional housing stock through the new build projects, open market acquisitions and the mortgage to rent scheme, all of which are intended to mitigate some of the pressures on the homelessness budget as more housing stock becomes available to be let.

In addition, the General Services Capital Programme includes funding for a new homeless unit which is anticipated to alleviate some of the pressure. These have all been subject to delays as a consequence of Covid-19.

Further actions will also be required to reduce expenditure on a recurring basis and fully mitigate the budget pressure, including increasing the number of lets in the private sector and increasing the number of available properties via registered social landlords and a change in the allocations policy.

The forecast overspends within Customer & Community Services and Homelessness are partly offset by underspends in the Community Safety Unit and Customer Service Centre due to staffing vacancies and turnover.

D.2.8 Corporate Services

An overspend position of £117,000 is forecast for the service. There are continuing service pressures within medical fees and procurement rebates which are expected to be partially mitigated by staff turnover and vacancies, and also by anticipated savings in areas such as printing due to the Covid-19 shutdown.

D.2.9 Social Policy

The forecast position for IJB delegated functions is an overspend of £1.978 million, and the forecast position for non-IJB social care functions is an overspend of £40,000.

There remain a number of pressure areas in IJB functions, including older people care homes where additional costs are being incurred to cover for staff absence and support care homes to remain sustainable during this challenging period. Within care at home services agency costs incurred to cover for insufficient capacity available through contracted care providers have also been a cost pressure.

It should be noted however that capacity is now steadily increasing from care at home contracted providers which is now resulting in a significant reduction in the use of agency staff. Pressures within IJB functions continue to be offset by early delivery of future year savings and an underspend in the forecast cost of externally purchased care at home.

Additional costs relating to Covid-19 included in the IJB Mobilisation plan for social care are currently forecast to be in the region of £4.636 million. This is being closely monitored with actual additional costs still subject to uncertainty around the ongoing implications of Covid-19 over the remainder of 2020/21. To date the Scottish Government have confirmed additional funding of £2.444 million to meet additional social care costs and a further £214,000 for Living Wages costs, leaving an unfunded balance of £1.978 million. Although there is an expectation that the Scottish Government will fully fund Health and Social Care Mobilisation Plan costs, this has still to be confirmed, and as such, has been highlighted as a potential cost pressure at this stage.

For Non-IJB areas, there is a forecast underspend in external residential schools for disabled children alongside early delivery of staffing savings relating to the redesign of services for Looked After Children. This is however offset against an in-year pressure in external Looked After Children (LAC) and Social, Emotional and Behavioural Needs (SEBN) residential schools which is partly impacted by the Covid-19 crisis and an unavoidable delay in progressing elements of the redesign project.

D.2.10 Chief Executive, Finance and Property Services

The revenue budget for Chief Executive, Finance and Property Services is currently forecast to overspend by £650,000. There is an anticipated under recovery of property rental of £300,000 due to the current Covid-19 crisis and potential challenges in attracting new tenants and the

inability to apply a rental increase this year. The anti-poverty service is also forecasting an overspend of £300,000 that relates to increased demand for clothing grants and Revenues are forecasting a net overspend of £100,000 due to a decrease in the recovery of Housing Benefit overpayments. In addition, there is a pressure of £250,000 from non-productive time for Building Services staff during the lockdown period in relation to the general fund programme of property works. It is anticipated that there will be an underspend in reactive repairs and utility costs in the current financial year, although this is likely to be lower than originally anticipated due to costs incurred to keep buildings warm while complying with the requirement to have windows open for increased ventilation. Staffing savings across the service also contribute to the net overspend position of £650,000.

D.2.11 Joint Valuation Board

A break-even position is forecast.

D.2.12 Non-Service Expenditure

Non-service expenditure is forecast to overspend by £1.208 million. The Council Tax Reduction Scheme (CTRS) is currently forecast to overspend by £1.643 million. Whilst spend for CTRS in previous years has been below budget, as a result of Covid-19 there is a large increase in CTRS caseload in 2020/21 and a resulting significant increase in expenditure. There has been an increase of 837 CTRS cases as at end August 2020 compared to the end of August 2019.

It is anticipated that as the furlough scheme is phased out and employers have to pay a higher proportion of staff wages, there will be further increases in CTRS claims and awards as a result of an increase in redundancies.

The projected overspend from CTRS is partially being offset by a decrease in eligible housing benefit overpayments and a forecast underspend on the pensions budget.

D.2.13 Council Tax Income

Council Tax income is currently forecast to under recover by £1.242 million. As a result of Covid-19, there has been a reduction in council tax collection rates. Council tax collection, including previous years, has reduced by 1.22% in August this year compared to August last year. It is expected we will continue to see a steady reduction in collection rates over the year as more jobs are lost and unemployment increases, an estimate of the full year impact of 1.7% reduction in council tax collection is included in the outturn position and will be monitored closely going forward.

Housebuilding has also been impacted on as a result of Covid-19, with sites being closed for the first three months of 2020/21. The budget assumes that 900 new houses will be built in 2020/21, however the assumption is now estimated at 500 house completions. This estimate of 500 houses is more than would have been originally anticipated, however Planning have advised that housebuilders focus is on completing already started houses, rather than starting new houses. The financial impact on the 2020/21 budget is not as material as initially expected, due to there being over 600 houses completed between September 2019 and March 2020. These houses are not included in the budget setting as the budget is set each year on the August band D report.

D.2.14 Modernisation Fund

The balance of the Modernisation Fund is £3.539 million. Currently there are spend commitments of £335,000 against the Modernisation Fund for ERVS costs and £217,000 for Digital and Service Transformation leaving a balance of £2.987 million.

It was previously agreed that where the Modernisation Fund is available for ERVS cases, in certain cases where costs are significant, the service may have to meet the ERVS cost through one off resource. It is important to note that the Modernisation Fund will be needed to meet future ERVS costs and investment costs going forward, particularly the enhanced use of digital technologies, and is a key element in ensuring the council's medium-term financial plan is sustainable.

D.2.15 Additional Support Being Provided

The council has made good progress in providing a number of support packages to communities and businesses across West Lothian to help alleviate the impact of the pandemic, particularly those most vulnerable. The council has received various elements of funding from Scottish Government to help deliver support packages and manage the financial consequences of Covid-19, albeit there remains a significant gap between funding received and anticipated net additional costs. Funding streams received by the council are detailed in Appendix 3.

A loss of income scheme is currently being discussed with Scottish Government and COSLA which could recompense councils for income lost as a result of the pandemic, similar to the scheme in operation in England. If this is to be introduced this could help the council's financial position in relation to lost income.

In addition, as approved under Standing Order 31 on 10 September 2020, the council will provide Free School Meals during the remaining school holidays (excluding the public holidays) within the current financial year costing around £254,000 and this will be funded from the contingency held within the 2020/21 General Fund revenue budget to cover food related costs.

D.2.16 Summarised Budget Position for 2020/21

The outcome of the month 5 monitoring exercise is a projected overspend of £4.040 million, after offsetting the council's share of confirmed funding streams and offsetting the £994,000 from the General Fund Revenue balance. This is mainly arising as a result of additional expenditure and lower than anticipated income levels resulting from the current Covid-19 pandemic.

Recurring pressures remain in Homelessness provision, overtime costs in Recycling & Waste Services and absence cover within Older People Care Homes. Progress is being made in reducing these pressures but each still require further action to be undertaken to fully address the underlying cause.

Officers are liaising with COSLA and will continue to lobby the Scottish Government to provide additional resources to the council to fully fund the financial implications of Covid-19. If further funding is not received from the Scottish Government, there will be a significant pressure to be funded of £4.040 million in 2020/21.

Officers have undertaken work to identify the alternative options available to the council to manage the remaining net cost pressures, after applying the additional funding received from Scottish Government.

D.3 Actions to Manage and Mitigate Anticipated Budget Pressures

Reflecting on the financial implications arising from the council's response to the pandemic and associated lockdown, the council is facing substantial revenue budget pressures. With a pressure of £4.040 million now forecast, and with further risks and uncertainties which are highlighted in this report, there is the potential for pressures to be more than currently forecast as the council continues to deliver services in line with government recommendations and guidelines.

Officers will continue to work with professional bodies, including SOLACE and the CIPFA Directors of Finance, and with COSLA to contribute to regular exercises to estimate projected costs for 2020/21 as part of national cost collection. A separate ongoing exercise is being undertaken by West Lothian Health and Social Care partnership to identify the additional social care costs delegated to them, using Local Mobilisation Plans. Costs and confirmed funding relevant to council revenue budgets have been included within the figures contained within this report.

This is part of the process of making the case to the Scottish Government for additional funding for local government to meet the unavoidable additional financial pressures on councils as a result of the pandemic. However, in light of the significant pressures faced, and the continued legal requirement for the council to have a balanced budget, further actions must be considered to manage the projected budget pressure in 2020/21.

On 18 August 2020 Council Executive were provided with various potential options as to how the projected budget pressure could be managed including:

- Potential national flexibilities;
- Use of reserves and balances;
- Restrictions on expenditure, including recruitment;
- Revisions to service delivery and additional savings;
- Additional income, although given the impact of the pandemic this would be unlikely.

Discussions on potential flexibilities are continuing between COSLA and the Scottish Government. The council's forecast expenditure position will continue to be closely monitored over the remainder of the financial year and officers will continue to update for additional Scottish Government funding as well as explore a range of other options to ensure spend can be funded from available resources. At this stage, no specific additional measures are proposed.

D.4 Delivery of Approved 2020/21 to 2022/23 Budget Savings

D.4.1 Summary update on outcome monitoring of approved savings 2020/21 to 2022/23

In line with the council's agreed budgetary control framework and procedures, a review of the delivery of budget reductions for the period 2020/21 to 2022/23 was completed by Heads of Service and has demonstrated that good progress is being made. Based on the exercise carried out, for the three year period to 2022/23, 42% of reductions are categorised as green which indicates that Heads of Service consider that the saving is achieved or achievable. The remaining 58% of reductions are categorised as amber meaning that an achievable plan is still to be agreed or existing/emerging issues require additional actions to be undertaken. In some cases, further Committee approval is required to progress these reductions. No reductions are considered unachievable, however, a number of projects will require further development where policy changes are required and will be considered by Policy Development and Scrutiny Panels and Council Executive. Specifically for 2020/21, 86% of savings are categorised as achieved or achievable, demonstrating that good progress is being made in the delivery of approved savings.

D.5 Future budget issues and risks

There remains significant risks and uncertainties associated with the financial assumptions in relation to the council's financial position. In addition to the various costs being incurred by the council currently, there is a high risk that further significant costs will continue to be incurred during financial year 2020/21 given the ongoing requirement to maintain social distancing and other measures that may be implemented to manage the pandemic including the risk of local lockdowns.

As council services continue to be delivered in accordance with Scottish Government guidance, there will be a substantial increase in the cost of service delivery, particularly where social distancing measures have to be implemented. Areas where further costs are being incurred include the reopening of schools, social care provision and homelessness. This will need to be closely monitored to ensure costs are fully identified and this will inform discussions with the Scottish Government over funding for the increased level of costs.

The council, in liaising with COSLA, will continue to lobby the Scottish Government to provide additional resources to the council to ensure that the financial implications of Covid-19 are fully funded.

In relation to medium term financial planning, whilst acknowledging that the planning assumptions are subject to uncertainty due to the planning time horizon, some of the general risks and uncertainties include annual confirmation of local authority funding from the Scottish Government, pay award, particularly given payroll costs are the councils largest expense, the outcome of trade discussions between the UK and EU, policy changes by the government without adequate funding, demographic demands and inflationary pressures.

Over the remaining two years of the revenue strategy period, a number of savings require further development or approval by elected members. It is therefore essential that these savings are progressed to implementation and where recurring pressures remain, mitigating actions are taken to ensure existing pressures are managed on a recurring basis. Recurring pressures of £1.190 million are having an impact on the council being able to manage spend.

E. CONCLUSION

The outcome of the monitoring exercise at month 5 is a projected overspend of £4.040 million. Discussions around additional funding from the Scottish Government continue to be progressed but if further funding is not received from the Scottish Government, a significant pressure will remain to be managed.

Recurring overspends within Operational Services, Housing, Customer and Building Services and Social Policy continue. While there is one-off resource provided to assist in mitigating these pressures, action to reduce the pressures in full remains.

Good progress is being made in the delivery of approved budget reductions with 86% of savings in 2020/21 categorised as green. For future years, a number of savings still require further development or approval by elected members and these should be progressed to implementation in line with agreed plans.

F. BACKGROUND REFERENCES

2020/21 General Fund Revenue Budget – Month 3 Monitoring Report – Report by Head of Finance and Property Services to Council Executive on 18 August 2020

Revenue Budget 2019/20 - 2022/23 - Report by Head of Finance and Property Services to West Lothian Council on 28 February 2020

Covid-19 Potential Financial Implications and Issues – Report by Head of Finance and Property Services approved under Standing Order 31

Covid-19 Update on the Estimated Financial Impact on the Council - Report by Head of Finance and Property Services to Council Executive on 26 May 2020

Draft 2019/20 General Fund Revenue Outturn - Report by Head of Finance and Property Services to Council Executive on 23 June 2020

Re-opening Of Schools and Early Learning and Childcare – Report by Depute Chief Executive to Council Executive on 23 June 2020

Appendices/Attachments:

Appendix 1	Update on Existing Recurring Pressures
Appendix 2	Update on New Time Limited Investment 2020/21 to 2022/23
Appendix 3	Funding Streams Received by the council

Contact Person: Fiona Russell, Group Accountant
Email: fiona.russell@westlothian.gov.uk Tel 01506 281312

Donald Forrest
Head of Finance and Property Services
6 October 2020

Appendix 1 – Update on Existing Recurring Budget Pressures

Housing, Customer and Building Services – Homelessness			
2020/21 Forecast Variance at Month 5 £'000	Recurring Pressure at Month 5 £'000	Update on agreed actions to manage and mitigate the pressure	Update on actions to be taken during the remainder of 2020/21
142	692	<p>Income from charging for bed and breakfast accommodation has been agreed and monitoring continues. The RRTP will set out for the next five years a plan to reduce the numbers of homelessness people requiring accommodation. As this is a multi-year plan, additional budget of £550,000 has been provided in 2020/21.</p> <p>Agreement has been reached with the four main RSL partners on targets for percentage of social lets to homeless and is being monitored.</p> <p>The council has been advised by the Scottish Government of the RRTP funding allocation for 2020/21 of £311,000. Priority areas have been identified and agreed with the recruitment process underway.</p>	<p>For 2020/21, a further one off resource of £550,000 is included in the approved revenue budget. Average homeless numbers per night are 69 for the year to 6 September but numbers have been rising with 122 in bed and breakfast on that date. It is anticipated that that due to the impact of Covid-19 there will be an increase in the number of homeless presentations throughout quarter 2 and potentially beyond. This will also be affected by the impact on the availability of suitable temporary and permanent accommodation meaning that the demand of emergency accommodation is likely to increase, thus putting more pressure on the budget.</p> <p>Close monitoring will be required throughout the remainder of 2020/21.</p>

Housing, Customer and Building Services – Homelessness Transport			
2020/21 Forecast Variance at Month 5 £'000	Recurring Pressure at Month 5 £'000	Update on agreed actions to manage and mitigate the pressure	Update on actions to be taken during the remainder of 2020/21
(11)	39	<p>The recurring pressure has reduced as a result of a process review and reduction in long term cases. It is therefore proposed to further review existing contracts to achieve contractual savings, noting that there is no longer a requirement to amend existing policies. Additional budget of £50,000 has been provided in 2020/21.</p> <p>The proposal to change the Homelessness Transport policy will no longer be taken forward. The recurring pressure has reduced since the start of 2019/20 as a result of a process review and removal of long standing cases. Alternative methods of transport at lower costs are provided, where suitable.</p>	<p>It is proposed that there is no policy change at this stage but mitigation of the budget pressure will be achieved through delivery of actions from the RRTP.</p> <p>For 2020/21, a further one off resource of £50,000 has been included in the approved revenue budget. Due to the school closure throughout quarter 1, savings have been made in this area however the impact of Covid-19 is likely to result in an increase in homeless presentations meaning more children being placed in dispersed temporary accommodation and therefore requiring transport to school for a period of time.</p>

Operational Services – Recycling & Waste Services Overtime			
2020/21 Forecast Variance at Month 5 £'000	Recurring Pressure at Month 5 £'000	Update on agreed actions to manage and mitigate the pressure	Update on actions to be taken during the remainder of 2020/21
185	49	<p>Council Executive has agreed revised service standards and it is expected that the pressure will be fully mitigated by 1 April 2019 once the new standards are implemented.</p> <p>Overtime is currently forecast to overspend by £185,000. It is now assumed that increased costs as a result of Covid-19 will now continue for the remainder of the financial year.</p> <p>On a recurring basis, the pressure has reduced from £138,000 reported in 2019/20 down to £49,000. The service has seen a levelling off of sickness absence which will allow for a balancing of overtime costs.</p>	<p>Continue to monitor sickness absence rates and related expenditure on overtime. The impact of the Covid pandemic has led to an increase in forecast overtime costs of £136,000 in 2020/21.</p> <p>The removal of seasonal staff and the recruitment of additional permanent staff to provide cover throughout the year for leave has helped to deliver the savings required from 1 April onwards.</p> <p>Further consideration is being given to working patterns and collection arrangements over the Easter and Christmas period to ensure that there are no significant additional costs on an annual basis.</p>

Social Policy – Older People Care Homes – Absence Cover			
2020/21 Forecast Variance at Month 5 £'000	Recurring Pressure at Month 5 £'000	Update on agreed actions to manage and mitigate the pressure	Update on actions to be taken during the remainder of 2020/21
410	410	This pressure was noted for the first time in November 2019. Data gathering work has been undertaken to inform future actions. Work to address the pressure is still to progress having been suspended during the Covid crisis.	<p>Action to be taken to address the direct causes of this recurring pressure.</p> <p>Actions to be taken are:</p> <ul style="list-style-type: none"> • A review of comparative rates of pay between basic pay, overtime and agency • Analysis of reasons behind difficulties in recruiting to vacant permanent positions • Work to understand choice of external care staff choosing agency work ahead of permanent positions <p>Proposed solutions include: It has been identified that cover for vacancies is a major factor in the requirement to employ agency staff and to work overtime. Initial work will therefore focus on addressing this issue. This includes potential to over-recruit to maintain staffing levels.</p>

Appendix 2 – Update on New Time Limited Investment 2020/12 to 2022/23

Operational Services								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Recurring Allocations								
<u>Operational Services:</u> Removal of O3c – Additional service efficiencies in Operational Services	0	0	742	742	Removal of saving	None	Complete	Officer Level
Removal of O4b - Reducing building cleaning levels	145	248	248	641	Removal of saving	None	Complete	Officer Level
Additional grounds maintenance staff for cemeteries	30	30	30	90	Additional grounds maintenance staff for cemeteries	Staff recruitment has taken place.	Complete	Officer Level
Reinstating reactive cutting on pitches	31	31	31	93	Reinstating reactive cutting on pitches	Staff recruitment has taken place	Complete	Officer Level
Reinstate opening hours at all 5 CRC sites	320	320	320	960	Reinstate opening hours at all 5 CRC sites	CRC sites are operating at extended hours	Complete	Officer Level
Containers at recycling centres for reusable items	5	5	5	15	Introduction of containers for reusable items – ongoing cost of service provision	Containers will be put in once collections of these items commences post Covid-19	March 2021	Officer Level
Total Recurring Allocations	531	634	1,376	2,541				

Operational Services								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Time Limited Allocations								
Mainstream school transport	190	190	190	570	Continuation of non-policy mainstream school transport routes for three years	Extensions to current contracts have taken place	Complete	Officer Level
Transport Fund	0	300	300	600	Proposal is to use the fund to support the outcome of a local bus network review and redesign	Review underway with tender process expected later 2020. Outcome of review and tender process will require Committee approval, including the use of one-off resource to enhance service provision	Initial review December 2020, use of one-off funding from April 2021	PDSP and Council Executive
New vehicles and equipment for street cleaning	220	0	0	220	Investment in street sweepers, vehicles and equipment to enhance service provision within Street Cleaning	Electric street sweepers (Gluttons) have been purchased and implemented. Demonstrations of mechanical sweepers, vehicles and equipment are complete and all are being purchased	December 2020	Officer Level

Operational Services								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Roads and footpath accessibility improvement schemes	30	10	0	40	Roads and footpath accessibility improvement schemes	Progressing as per Council policy with a list of known projects being assessed in consultation with the disability forum, who advise on need	April 2021	PDSP and Council Executive
Improving signage at all CRC sites and patching at Linlithgow and Broxburn sites	50	0	0	50	Improved signage across the CRC sites and patching of the tarmac areas	Patching complete. Signage awaiting contractor appointment	December 2020	Officer Level
Containers at recycling centres for reusable items	10	0	0	10	Containers for reusable items – one off purchase	Containers will be put in once collections of these items commences	March 2021	Officer Level
Feasibility study for potential replacement for CRC sites at Linlithgow and Broxburn	20	0	0	20	Review of existing site provision and relocation	Initial site selection discussions commenced to allow full feasibility study to be undertaken	March 2021	Officer Level

Relocation of recycling centres	0	500	500	1,000	Review of existing site provision and relocation	Full feasibility study to be reported to elected members for consideration. Decisions taken following the feasibility will inform the scope and timescale for projects.	2022/23 for new sites	PDSP and Council Executive
Total Time Limited Allocations	520	1,000	990	2,510				
Total New Investment for 2020/21 to 2022/23	1,051	1,634	2,366	5,051				

Social Policy								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Recurring Allocations WiFi in council run care homes and day care centres	28	33	30	91	Introduction of Wi-Fi within current four council care homes and three day care centres	Prioritise sites and undertake preparatory work with IT Services and Construction Services including site surveys to determine access points and capacity and design site configuration to meet clients' needs. IT Services to procure kit, configure, install and test solution prior to implementation.	Officers in Social Policy and will agree timescales for roll out	Officer Level
Enhanced independent living support	18	18	18	54	Introduction of technology to enable enhanced remote support to previously looked after young people who are living independently through a Housing First model. Currently ten young people but this will increase to fifteen over time.	Social Policy are working with the Rock Trust to identify which devices will work best to support previously looked after children to optimise support through remote contact with providers.	March 2021	Officer Level

Social Policy								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Total Recurring Allocations	46	51	48	145				
Total Time Limited Allocations	0	0	0	0				
Total New Investment for 2020/21 to 2022/23	46	51	48	145				

Education								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Recurring Allocations								
Removal of E9c - One pence increase in school milk cartons	12	12	21	45	Removal of approved savings measure. No increase to school milk charges in 2020/21 to 2022/23	Schools advised to retain school milk price at current, 2019/20 level	Complete	Officer Level
School holiday lunch and activity club programme	0	60	150	210	Provide School holiday lunch and activity club programme on a recurring basis	Programme to be delivered on a permanent basis	Ongoing	Officer Level
Total Recurring Allocations	12	72	171	255				
Total Time Limited Allocations	0	0	0	0				
Total New Investment for 2020/21 to 2022/23	12	72	171	255				

Finance & Property Services								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Total Recurring Allocations	0	0	0	0				
Time Limited Allocations								
Miners memorial plaque	10	0	0	10	Installation of Burngrange memorial plaque	Commission and install plaque	Prior to 10 January 2021, anniversary of Burngrange disaster	Officer Level with full involvement of relevant members re installation and unveiling
Total Time Limited Allocations	10	0	0	10				
Total New Investment for 2020/21 to 2022/23	10	0	0	10				

Housing, Customer & Building Services								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Total Recurring Allocations	0	0	0	0				
Time Limited Allocations								
Self -service kiosks in libraries replacement	64	0	0	64	Purchase of 16 new self-service kiosks	Procure & install the new kiosks – virtual demonstrations have been provided and specification is to be provided to procurement for tender.	Quarter 3 of 2020/21	Officer Level
Staffing resource to increase use of private sector leases	38	19	0	57	Recruit additional Accommodation Officer to increase the provision of temporary accommodation through the private rented sector.	Fixed term post has been recruited to and will commence at the end of September 2020.	Complete	Officer Level
Total Time Limited Allocations	102	19	0	121				
Total New Investment for 2020/21 to 2022/23	102	19	0	121				

Planning, Economic Development & Regeneration								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Total Recurring Allocations	0	0	0	0				
Time Limited Allocations								
Jobs Task Force	400	300	300	1,000	Create a fund which will provide support to the Jobs Task Force to support businesses growth and provide support to those individuals recently made redundant or in danger of being made redundant	Arrangements in place. Fund will provide continuity of provision through partnership working with PACE & Jobs Task Force, providing immediate support to individuals facing a redundancy situation and support back into employment. Set up governance structure for funding structures	Funding can be provided to businesses immediately once governance structure agreed. Ongoing when expenditure related to the Jobs Task Force is required.	Jobs Task Force
Voluntary organisations modernisation and improvement fund	150	150	150	450	Create a fund which would provide support the Voluntary Organisations to become more sustainable through modernisation and leadership training.	Provide up to £10,000 of support to help retrain staff, board members. Consultancy fees to bring in expert help to those Vol Orgs undergoing an improvement programme.	Year 1 funding bids progressed. Programme being discussed via Third Sector Working Group. Some funding may be retained as a Covid-19 contingency.	Currently delegated to Head of Service but with update reports to PDSP. An update report is on the agenda for Vol Orgs PDSP on 24 September.

Planning, Economic Development & Regeneration								
Project	2020/21 £'000	2021/22 £'000	2022/23 £'000	Total £'000	Description of Investment	Action required to implement	Timescale for Implementation	Governance (Officer/ Admin Group/ PDSP/ Committee)
Climate Emergency Fund	802	0	0	802	To support and implement the findings of the Cross Party Climate Emergency Working Group which has considered a range of subjects including transport, energy use in council buildings and options for participation from young people in consideration of the climate emergency	Prepare a revised Climate Change Strategy and associational action plans including the Carbon Management Action Plan. Those plans will provide a framework for the actions necessary to achieve net carbon zero for the council and West Lothian. The proposed implementation plan is being reported to Council on 17 March 2021.	The date for achieving net carbon zero in Scotland is 2045. This will require short term actions and those action which be set out in the strategy and action plans to be agreed by Dec 2020.	Environment PDSP / Council Executive (but with governance to be reviewed as part of the revised Climate Change Strategy)
Total Time Limited Allocations	1,352	450	450	2,252				
Total New Investment for 2020/21 to 2022/23	1,352	450	450	2,252				
Overall Total New Investment for 2020/21 to 2022/23	2,573	2,226	3,035	7,834				

Appendix 3 – Funding Streams Received by the Council

Description of Funding	Value £'000	Purpose
Small business grant scheme (national scheme)	27,432	Support for small businesses to assist with cashflow and other additional cost pressures
Self-employed grant scheme (national scheme)	674	Support for self-employed or other small businesses not covered by other support measures
Hardship Fund	1,687	Additional programmes and initiatives to support the community during the pandemic.
Food Fund	1,045	Providing food support to vulnerable families and individuals. Includes support delivered directly by the council and through third sector partners such as food banks. Also includes the £10 per week per child payment made to families in receipt of free school meals.
Scottish Welfare Fund	712	Fully allocated to Scottish Welfare Fund budget to provide crisis care and community care grants.
Funding to West Lothian Health and Social Care Partnership	2,444	Fully allocated to cover additional social care costs arising from the pandemic, in particular the additional costs associated with care homes.
Discretionary Housing Payments	679	Fully allocated to facilitate discretionary housing payments. The Anti-Poverty Service are developing a further campaign to publicise the support available.
Additional £5 million funding	146	
Social Care funding – Living Wage uplift	214	Used to fund the uplift in social care wages to the Living Wage in 2020/21.
Free School Meals (FSM) during school holidays	505	Council providing free school meals over summer holidays at a cost of £527,000. Funding will be used to pay for this service.
Additional food support for people at risk	444	Support for individuals at risk to access food and other essentials over the remainder of 2020/21.
Digital devices/connectivity for digital exclusion		This is a ringfenced revenue and capital grant that will be solely used to provide vulnerable children and those in digital poverty with laptops and internet connections. Education Services and IT are working to progress this national programme.
• Capital Funding	721	
• Revenue Funding	124	
Transitional Support Fund for childcare providers	736	Funding to provide one-off grants to eligible childcare provider settings to support them to reopen and meet the public health guidance for the sector.
Recruitment of additional teachers and support staff		Funding relates to academic year 2020/21 and will be allocated to provide additional staff in schools to support pupils in their return to learning in the school environment. Funding will be paid over two financial years totalling £3.110 million (£1.944 million from first tranche and £1.166 from second tranche).
• Share of £50 million	1,295	
• Anticipated share of further £30 million	777	
£50 million to meet logistical challenges in reopening schools which will be released in two separate tranches		Funding will be used to offset the cost of cleaning in schools estimated to be in the region of £1.377 million in 2020/21. Awaiting details of how the second tranche of funding of £30 million will be allocated to councils.
• Share of £20 million	708	
Share of £155 million Barnett Consequentials	5,228	
Share of £49 million Barnett Consequentials	1,653	These amounts will be applied to the council's overall projected financial position to reduce the projected overspend.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

2020/21 GENERAL SERVICES CAPITAL BUDGET – MONTH 5 MONITORING REPORT

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To provide the Council Executive with a report on the financial position in relation to the General Services capital programme following the completion of the month 5 monitoring exercise.

B. RECOMMENDATIONS

It is recommended that Council Executive:

1. Notes the outcome of the month 5 monitoring exercise and the projected outturn;
2. Agrees that Asset Lead Officers and the Head of Finance and Property Services keep under review factors that impact on delivery of the approved capital programme;
3. Notes the progress on the delivery of the overall programme;
4. Notes £720,713 of funding from the Scottish Government will be used to tackle digital exclusion of children and young people.

C. SUMMARY OF IMPLICATIONS

I. Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of our resources, working in partnership.
II. Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The council's General Services capital programme is managed within the stringent requirements set out in the Prudential Code.
III. Implications for Scheme of Delegations to Officers	None.
IV. Impact on performance and performance indicators	Effective capital implementation is vital to service performance.
V. Relevance to Single Outcome Agreement	None.
VI. Resources (Financial, Staffing and Property)	Capital expenditure of £52.762 million is projected in 2020/21.
VII. Consideration at PDSP	None.
VIII. Other consultations	The capital monitoring exercise has involved consultation with Depute Chief Executives, Heads of Service, Asset Lead Officers and capital project managers.

D. TERMS OF REPORT

D.1 Background

The report provides Council Executive with an update on the 2020/21 General Services capital programme based on the results of a comprehensive monitoring exercise. The approved 2020/21 capital budget is £46.544 million, which assumes £4 million of overprogramming.

D.2 Summary of Month 5 Financial Information

The summarised committed and projected asset expenditure at month 5 is shown below:

Asset Type	2020/21 Approved Budget £'000	Committed Expenditure at Month 5 £'000	2020/21 Projected Outturn £'000	2020/21 Projected Variance £'000
Property	34,509	28,952	40,728	6,219
Roads	8,822	1,780	8,569	(253)
Open Space	2,791	673	2,883	92
ICT	4,422	3,039	4,582	160
	50,544	34,444	56,762	6,218
Remaining Overprogramming	(4,000)	N/A	(4,000)	0
TOTAL	46,544	34,444	52,762	6,218

Good progress is being made on a number of projects with the committed expenditure as a percentage of projected outturn at 65%. In overall terms, the monitoring exercise indicates projected outturn is £52.762 million, assuming there is slippage of £4 million between now and the year end. This represents accelerated spend of £6.218 million compared to budget. If the programme progresses with no further slippage, the outturn will be £56.762 million and the additional accelerated spend will be funded by accelerated use of agreed capital resources

D.3 Summary of Forecasts and Pressures

A forecast is provided below for each asset type, including details of identified material movements and pressures.

Property

There have been a number of challenges in the delivery of the property capital programme however, estimates of deliverable investments were adjusted as part of the budget rollforward approved on 23 June 2020 to consider the impact of the Covid-19 lockdown and the delay in construction resuming. There has been significant progress made within a number of areas resulting in an overall accelerated expenditure forecast for Property of £40.728 million against a 2020/21 budget of £34.509 million.

School Planned Improvements

Despite revisions being made to the 2020/21 investment phasing, the impact of Covid-19 has been particularly pronounced on larger summer planned improvement works. The main challenges included unavailability of contractors, lack of progress on tenders as many contractors had furloughed staff and contractors unable to commit to completing works prior to schools reopening. The projects impacted include, toilets at Springfield Primary School, and roof works at Inveralmond Community High school, St Kentigern's Academy and St Ninians and Toronto primary schools all of which are resulting in a net slippage of £958,000.

It was recognised that pupils returning to school was particularly important this year, without the potential impact of schools being subject to further disruption as a result of construction works. All these projects will be rescheduled and given a high priority for future delivery.

Although there has been a considerable impact on the larger projects, there are also a vast number of smaller projects that, despite the restrictions, have been carried out successfully demonstrating the council's continued commitment to sustaining and improving the condition of the school estate.

Operational Property Planned Improvements

At month 5, there are no kitchen and bathrooms programmed and as result the Social Policy Kitchen and bathrooms upgrades are reporting slippage of £20,000, which is 80% of the allocated budget for 2020/21.

School General Projects

ASN Strategy Ogilvie school is forecasting accelerated spend of £1.350 million for 2020/21 and it is expected that the works will be complete this financial year.

Continual progress is being made with the new early learning and childcare nurseries with many of the projects forecasting on budget. Kirkhill primary School, Broxburn is currently projecting slippage of £50,000 for 2020/21 however progress is still ongoing.

School Projects (Developer Funding)

Financial close has been achieved for the new Sinclair Academy and new Winchburgh Academy together with a new Holy Family Primary School, which will be delivered on a co-located site at Winchburgh Core Development Area. This project is the largest single investment by the council in new learning capacity and represents an investment of approximately £62 million with all schools due for completion by January 2023. Despite the challenges of the Covid-19 pandemic officers have worked meticulously with HUB South East Ltd and Morrison Construction and works have now commenced on site. As a consequence, accelerated expenditure of approximately £5 million is currently being forecast. This will continue to be monitored in the context of Covid-19 and any issues resulting from local infection control challenges.

Works have commenced on the new Calderwood Primary which will see the delivery of a new two stream school which is due for completion by August 2021. Due to quicker than anticipated remobilisation, there is projected accelerated expenditure of approximately £1 million on the project. This will continue to be monitored in the context of Covid-19 and any issues resulting from any local infection control challenges.

Operational Buildings

As the restriction lifted on the construction sector, the Livingston North Partnership centre has remobilised and works are well underway to complete the project. Timescales for completion are approximately eight weeks behind those previously reported with completion now programmed for early October 2020. It is anticipated that the building will be available operationally to welcome Ability Centre and library customers from November 2020.

As previously reported the contractor for Whitburn Partnership Centre entered administration and as a consequence works are incomplete. This occurred early in the lockdown period but officers have now managed to retender the project and are evaluating tenders with a view to appointing a new contractor at the end of September, with site remobilisation proposed for November 2020. As a consequence of the administration and Covid-19 lockdown impacting the construction sector the project is now forecast to complete in October 2021.

Roads and Other Related Assets

Projected outturn expenditure in 2020/21 is £8.569 million, resulting in forecast slippage of £253,000. In terms of actual spending, £1.780 million of expenditure has been incurred at

period 5, representing 21% of the 2020/21 projected outturn.

Roads and Footways

Commitment to date is currently 14% of the forecast outturn, which is slightly lower than expected at this point however not unexpected due to the Covid-19 restriction which has limited the ability to carry out the works. The forecast is still indicating a minor acceleration of spend from approved projects at Mayfield Drive, Armadale and Edinburgh Road, Bathgate.

The Cycling, Walking and Safer streets projects (CWSS), which is one of the largest budgets within this category, are reporting to be completed by the end of the financial year and are currently forecast as on budget. There are nine projects have been identified for 2020/21, with contractors on site at the Armadale to Whitburn cycleway and steady progress being made in the design stage of the remaining projects.

Road Lighting

At month 5 the committed spend is 16% of the forecasted spend figure of £2.566 million. Similar to many of the projects, the low spend is directly linked to the impact of Covid-19 which has meant that works have not been able to be progressed.

Whitburn Road, Bathgate is currently on site and reporting a potential saving of £30,000.

The Energy, efficiency and behaviour change – LED replacement project has been making good progress. Works have been procured under two contracts, one for the replacement of street lighting lanterns, which is the contract that has commenced and the other for bollard replacement due to commence in September. The procurement of LED material has been split into seven supply packages with the first supply already been delivered to the contractor which has allowed for works to commence. The remaining packages will be delivered on a monthly basis through to March. Revised estimates are highlighting a possible saving of £37,000 and asset lead officers are predicting completion by the end of the financial year.

Structures and Transportation

As a result of the Covid-19, works at Guildiehaugh Railway bridge, Bathgate, were placed on hold, resulting in a slippage of £220,000 in 2020/21. The project will now be carried out in two phases with phase one anticipated to commence in September 2020 and the second in Spring 2021.

Town Centre and Villages

At month 5, all town centre projects are reporting on budget with a completion date of March 2021. The Scottish Government has confirmed that the grant funding for these projects will not be rolled forward beyond 2020/21

Open Space

The monitoring exercise indicates that projected outturn expenditure in 2020/21 is £2.883 million with £673,000 of expenditure incurred to date. This represents 23% of the 2020/21 projected outturn and a net acceleration of £92,000 forecast at month 5.

The Almondell Historic Wall project was originally approved with a budget of £121,000. Due to the deteriorating condition of the wall, together with market changes and architect and engineering requirements, the tender has been returned at a higher cost of approximately £222,000. After carefully considering the various implications if the project were to not proceed, the project will go ahead and the overspend will be funded from future years block budgets resulting in accelerated spend of £101,000.

The Children's play areas work is well underway with the committed spend at month 5 reporting 48% of the forecast figure for the year.

East Calder 3G Pitch

This project represents 20% of the overall forecast for 2020/21. The tender has been awarded and are awaiting a start date for the commencement of works. The Asset Lead Officer is confident that this will be complete by the end of the financial year.

ICT

Projected outturn expenditure in 2020/21 is £4.582 million. At period 5 the actual spend to date is £3.039 million which represents 66% of the 2020/21 projected outturn. The level of expenditure is greater than normally expected at this stage in the financial year, however the spend can be attributed to Covid-19 and the considerable amounts of orders that have been placed for the desktop refresh programme as a result of this.

Itrent, the new HR and Payroll system project, has seen delays as a result of the pandemic in addition to ongoing supplier issues resulting in increased staff costs. Extensive consideration has been undertaken to establish the overall financial impact of these issues and it has been agreed that in order to fully deliver the agreed requirements of the project, additional funding should be accelerated from future years budgets with accelerated spend of £160,000 being incurred in 2020/21.

The Scottish Government has allocated £720,713 in capital funding to equip children and young people experiencing digital exclusion with appropriate digital devices and internet connectivity to ensure that they can continue to connect with their schools, teachers and learning. This funding was to be used as soon as possible to ensure that children and young people were not further disadvantaged by digital exclusion should they require access to digital technology in order to engage fully with the school curriculum from August.

D.4 Risks

The month 5 forecast represents all current information held on the projects being undertaken in 2020/21. There are a number of risks which can be summarised as follows:

A programme wide risk that should be noted is Covid-19. As a result of the pandemic, it is anticipated that some contracts may take longer to complete due to restrictive operational measures. This will not only reduce productivity but it may also result in a potential increase in the costs of the works required. Furthermore, there is also less availability of suppliers and contractors which will also have an impact on the deliverability of the agreed projects. If there were to be a second wave or localised lockdowns within West Lothian this could result in delays to the capital programme. Whilst every effort is being taken to mitigate this risk, the overall uncertainty of the situation will be an area of concern as we progress through the year.

In addition to the above, there is a programme wide risk that overspends in current year projects across all asset categories will have an impact on the ability to deliver future agreed projects. Asset Lead officers need to ensure that projects are closely monitored and value engineering is carried out wherever necessary to try and ensure projects can be delivered within budget.

Property Assets

Complex care Housing Development project is reporting slippage of £200,000. There have been a number of issues that have arisen that have impacted on the contractor being able to start on site. Consultants and specialists have been appointed to assist in resolving various issues at the site

Additional Supports needs projects at both Pinewood school, Blackburn and Cedarbank school, Livingston are also areas of risk within 2020/21. The initial cost for Pinewood has increased due to the expansion in the scope of the project. A value engineering exercise is being undertaken to reduce the overall project expenditure. At present, the new Cedarbank

school, is concurrent with the development at Pinewood school, which has subsequently delayed this project also. It is proposed that Cedarbank be continued as a standalone project so it can proceed.

The project for Whitburn Partnership centre has been marked as a potential risk for 2020/21 as a result of the appointed contractor unfortunately going into administration. The works have since been put back out to tender and every effort is being made to assign a new contractor to allow the project to be complete within the given timescale. At month 5, there is slippage of £140,000 being reported which equates to 10% of the budget.

Roads and Other Related Assets

The Cycling, Walking and Safer streets/Active sustainable travel project has been highlighted as a potential risk month 5. It was anticipated that the award of funding for the Places for Everyone Infrastructure projects would be announced in April 2020, however as a result of Covid-19, notification was not received until July 2020. In addition to this delay, a number of the resources were required to aid with the implementation of physical distancing and other measures with regards to Spaces for people and as a result, progress of the designs had been set back. Despite this, resources have now become available to focus on CWSS and drawing on consultants to progress a number of existing projects. A report detailing a list of additional projects was submitted to Environment Policy Development and Scrutiny Panel for consideration on 15 September, this will ensure full utilisation of the grant funding. The current forecast indicates on budget with a completion date of March 2021.

Open Space Assets

KGV Ball Court, Whitburn has been highlighted as a risk as the agreed budget is a contribution towards the refurbishment ahead of a potential community asset transfer. Discussions are ongoing to determine scheduling of the project.

ICT Assets

There is a general risk of deliverability within agreed timescales throughout the ICT programme. IT Services continue to monitor progress to ensure that vital business systems are not unnecessarily delayed.

D.5 Resources

Resources are closely monitored over the financial year to ensure projected spend is matched by available capital resources and that funding represents the best value for money option available. The 2020/21 capital programme is funded from a variety of sources comprising:

Funding Source	£'000
Capital Grants	15,845
Other Grants and Contributions (Developer Contributions & Capital Fund)	27,577
Borrowing	1,842
Capital Receipts	7,498
Total Resources	52,762

In overall terms, officers have assessed that the resource projections are achievable, although there are various risks that require ongoing monitoring.

D.6 Developer Contribution Update

During the first five months of financial year 2020/21, developer contribution income of £369,566 was received. Further details are set out in appendix 2. The balance in the developer contributions accounts at the end of month five is £29.958 million, however the approved ten year capital investment programme includes developer funded projects totalling £116.984 million.

D.7 Other Strategic Issues

The Prudential Code requires the council to take into account a number of factors when agreeing capital spending plans. These factors are summarised as follows:

Risk Management and Uncertainty

The budget monitoring process focuses attention on risks to the performance of the approved capital investment programme.

Long Term Affordability, Prudence and Sustainability

In overall terms, I would assess that the current capital programme remains affordable. Resource assumptions are achievable, although there are various risks that require careful management including the ability to deliver an ambitious asset disposal programme, Scottish Government grant funding, delays in receipt of contributions creating cash flow implications and movements in interest rates. The treasury forecasts are at the absolute maximum levels of affordability, with additional revenue resources potentially required in the latter years of the programme to ensure ongoing affordability. Officers continue to refine treasury planning assumptions to help ensure that the programme remains affordable and sustainable over the longer term.

Stewardship of Assets

The council's strategic approach to capital planning involves integration with asset management planning. Progress against each area of the Corporate Asset Management Plan is reported annually to elected members.

Value for Money and Best Value

All aspects of the programme are geared towards securing Best Value and are undertaken in accordance with the council's Best Value Framework.

E. CONCLUSION

Following the month 5 monitoring process, the 2020/21 outturn forecast is £52.762 million. Good progress is being made on delivery of the programme and, at the end of month 5, committed expenditure to date accounts for 65% of the projected forecast spend for the year. A number of key risks in relation to the delivery of the General Services capital programme have also been identified and will continue to be managed by asset lead officers and monitored by the Council Executive.

F. BACKGROUND REFERENCES

General Services Capital Investment Strategy 2020/21 to 2027/28 Update – Report by Head of Finance and Property Services to Council Executive 23 June 2020

Appendices/Attachments:

Appendix 1 – General Services Capital Period 5 Monitoring

Appendix 2 – Developer Contributions Period 5 Monitoring

Contact Person: Tracy Tonner, Accountant
Email: Tracy.Tonner2@westlothian.gov.uk, Tel: 01506 281303

Donald Forrest
Head of Finance and Property Services
6 October 2020

APPENDIX 1**2020/21 GENERAL SERVICES CAPITAL BUDGET - PERIOD 5****PROPERTY ASSETS****Planned Improvements and Statutory Compliance**

	Annual Budget 2020/21 £'000	Total known commitment to year end £'000	P5 forecast 2020/21 £'000	P5 variance 2020/21 £'000	Variance Analysis	Project Status
Nursery Schools	40	4	40	0	On Budget	On Schedule
Primary Schools	452	308	433	(19)	On Budget	Behind Schedule
Our Lady of Lourdes PS, Blackburn - electrical upgrade & ceilings	200	4	10	(190)	Slippage	Behind Schedule
Secondary Schools	317	357	555	238	Accelerated	On Schedule
Special Schools	7	3	7	0	On Budget	On Schedule
Roof Replacement & Repair - Inveralmond High School, Livingston	200	9	10	(190)	Slippage	Behind Schedule
Roof Replacement & Repair - St Kentigern's Academy, Blackburn	150	5	20	(130)	Slippage	Behind Schedule
Roof Replacement & Repair - St Ninian's PS, Livingston	420	2	10	(410)	Slippage	Behind Schedule
School General Planned Improvements	599	207	515	(84)	Slippage	On Schedule
Other School Estate Wide Planned Improvements	859	161	750	(109)	Slippage	On Schedule
Social Policy	275	53	282	7	On Budget	On Schedule
Partnership Centres	638	166	609	(29)	Slippage	On Schedule
Tenanted Non Residential Properties	219	89	139	(80)	Slippage	Behind Schedule
General Statutory Compliance & Miscellaneous	3,450	988	3,219	(231)	Slippage	On Schedule
Total Planned Improvements	7,826	2,355	6,599	(1,227)		

Property Projects**Schools General Projects**

ASN Strategy - New Cedarbank School, Livingston	1,000	800	800	(200)	Slippage	Behind Schedule
ASN Strategy - Ogilvie Campus, Livingston	750	421	2,100	1,350	Accelerated	On Schedule
ELC - Blackridge PS	1,596	1,596	1,596	0	On Budget	On Schedule
ELC - Parkhead PS, West Calder - extension	600	18	600	0	On Budget	On Schedule
ELC - St Marys PS, Bathgate - new build	819	819	819	0	On Budget	On Schedule
Other School Projects	3,095	1,496	3,495	400	Overspend/Accelerated	On Schedule
	7,860	5,150	9,410	1,550		

Schools Projects - Developer Funded

New Secondary in Winchburgh	3,000	5,000	5,000	2,000	Accelerated	On Schedule
New Denominational Secondary in Winchburgh	2,000	5,000	5,000	3,000	Accelerated	On Schedule
New Non-Denominational PS (Single Stream/Pre-School) - Calderwood	6,000	7,000	7,000	1,000	Accelerated	On Schedule
Holy Family PS, Winchburgh - new school	1,800	2,000	2,000	200	On Budget	On Schedule
Various Projects	277	76	252	(25)	On Budget	On Schedule
	13,077	19,076	19,252	6,175		

Operational Buildings

Ability Centre - Partnership Centre Livingston	644	576	800	156	Overspend	On Schedule
Complex Care Housing Development	350	123	150	(200)	Slippage	Behind Schedule
Single Person Homeless Accommodation & Assessment Centre	350	7	350	0	On Budget	On Schedule
Emergency Planning & Business Continuity	420	0	420	0	On Budget	On Schedule
Whitburn Partnership Centre	1,390	1,250	1,250	(140)	Slippage	Behind Schedule
Other Operational Buildings	1,127	290	1,014	(113)	Slippage	On Schedule
	4,281	2,246	3,984	(297)		

Miscellaneous Projects	1,465	125	1,483	18	Overspend	On Schedule
------------------------	-------	-----	-------	----	-----------	-------------

Total Property Projects	26,683	26,597	34,129	7,446		
--------------------------------	---------------	---------------	---------------	--------------	--	--

TOTAL PROPERTY ASSETS	34,509	28,952	40,728	6,219		
------------------------------	---------------	---------------	---------------	--------------	--	--

APPENDIX 1**2020/21 GENERAL SERVICES CAPITAL BUDGET - PERIOD 5****ROADS AND RELATED ASSETS****Roads and Footways**

	Annual Budget 2020/21 £'000	Total known commitment to year end £'000	P5 forecast 2020/21 £'000	P5 variance 2020/21 £'000	Variance Analysis	Project Status
A Class Roads	79	(20)	79	0	On Budget	On Schedule
B Class Roads	150	36	150	0	On Budget	On Schedule
C Class Roads	95	34	95	0	On Budget	On Schedule
U Class Roads	580	182	584	4	Accelerated	On Schedule
Non Adopted Roads & Footways	57	3	57	0	On Budget	On Schedule
Adopted Footways	99	26	99	0	On Budget	On Schedule
Cycling, Walking & Safer Streets/Active & Sustainable Travel	801	76	801	0	On Budget	On Schedule
Spaces for People	602	46	602	0	On Budget	On Schedule
Community Recycling Centres Refresh	100	3	100	0	On Budget	On Schedule
Disabled Parking Act Implementation	41	20	41	0	On Budget	On Schedule
General Roads Projects	235	(3)	235	0	On Budget	On Schedule
	2,839	403	2,843	4		

Flood Prevention and Drainage

Almond Barriers	620	27	620	0	On Budget	On Schedule
Bathgate Watercourse Restoration	112	2	112	0	On Budget	On Schedule
Broxburn Flood Prevention Scheme	165	40	165	0	On Budget	On Schedule
Riverlife Heritage Lottery Fund	100	131	100	0	On Budget	On Schedule
Risk Management Non Domestic Premises Review	44	4	44	0	On Budget	On Schedule
	1,041	205	1,041	0		

Road Lighting

	2,630	421	2,566	(64)	Saving	On Schedule
--	--------------	------------	--------------	-------------	--------	-------------

Structures

Adopted & Non Adopted Bridges - Backlog & Lifecycle Investment	1,735	571	1,525	(210)	Slippage	On Schedule
--	--------------	------------	--------------	--------------	----------	-------------

Town Centres and Villages Improvement Fund

	577	180	594	17	Accelerated	On Schedule
--	------------	------------	------------	-----------	-------------	-------------

TOTAL ROADS ASSET

	8,822	1,780	8,569	(253)		
--	--------------	--------------	--------------	--------------	--	--

Open Space Assets

Public Art Programme	161	0	161	0	On Budget	On Schedule
Management and Regeneration of Woodlands	278	78	278	0	On Budget	On Schedule
Other Open Space and Sports Facility Projects	877	134	962	85	Overspend	On Schedule
Open Space and Sports Facility Planned Improvements	403	212	403	0	On Budget	On Schedule
Children's Play Areas	369	191	370	1	Overspend	On Schedule
East Calder 3G Pitch	569	15	569	0	On Budget	On Schedule
Other Synthetic Turf Pitches	36	9	36	0	On Budget	On Schedule
Cemeteries	89	34	95	6	Overspend	On Schedule
Land Decontamination	9	0	9	0	On Budget	On Schedule
TOTAL OPEN SPACE ASSET	2,791	673	2,883	92		

ICT Assets

Corporate and Modernisation	3,640	2,097	3,800	160	On Budget	On Schedule
School Specific Spend	782	942	782	0	On Budget	On Schedule
TOTAL ICT ASSET	4,422	3,039	4,582	160		

TOTAL	50,544	34,444	56,762	6,218		
--------------	---------------	---------------	---------------	--------------	--	--

Overprogramming	(4,000)	0	(4,000)	0		
------------------------	----------------	----------	----------------	----------	--	--

TOTAL - ALL ASSETS	46,544	34,444	52,762	6,218		
---------------------------	---------------	---------------	---------------	--------------	--	--

APPENDIX 2 - 2020/21 DEVELOPER CONTRIBUTIONS - MONTH 5 MONITORING

A breakdown of contributions by policy is set out below.

Policy	Opening Balance 01/04/20	Income 2020/21	Draw downs 2020/21	Balance at 31/08/20	Approved GS Capital Project Budget to be funded by Developer Contributions	Details of Committed Funds
£	£	£	£	£		
Affordable Housing	676			676		Resource for council house building
Armada Academy	116	2,064		2,180		Committed to the General Services Capital programme
Denominational Secondary School Infrastructure	5,475,194	191,409		5,666,603	24,811,000	Will be used to extend/build provision for denominational secondary sector
Travel Co-ordinator	47,665			47,665		Will be used to fund travel co-ordinator post
Winchburgh Primary School	6,927			6,927	10,000	Will be used to fund extension and nursery at Winchburgh Primary school
A801 Dualling	112,987			112,987		Committed to dualling of A801
Cemetery Provision	97,007	3,968		100,975		Committed to fund costs of extending cemeteries in West Lothian to support development
Public Art	387,140	6,307		393,447	651,000	Committed to provision of public art
St Nicholas PS, Broxburn	2,033	10,312		12,345		Will be used to fund extension to St. Nicholas Primary School.
St Paul's PS, East Calder	1,419,292			1,419,292	5,206,000	Will be used to fund extension to St. Paul's Primary School
Denominational Primary Winchburgh	2,571			2,571	9,352,000	Will be used to build provision for denominational primary school in Winchburgh
Play Areas	770,020	113,588		883,608	108,000	Committed to providing/improving play areas at the sites for which contribution was received
St Mary's PS, Polbeth	236,727	3,631		240,358	4,080,000	Will be used to fund extension of St Mary's Primary School
Pumpherstoun & Uphall PS	290,884			290,884	5,550,000	Will be used to fund the extension of Pumpherstoun & Uphall Primary School
A71 Developer Contributions	60,726	4,355		65,081		Committed to A71 Works
Parkhead PS Extension	585,120	4,645		589,765	787,000	Will be used to fund the extension of Parkhead Primary School
Linlithgow Academy	226,839			226,839		Fund for extension of Linlithgow Academy
Bathgate Academy	535,182			535,182		Will be used to fund Bathgate Academy extension
Whitburn Academy	597,222			597,222	750,000	Will be used to fund Whitburn Academy extension
Kirknewton PS	40,236			40,236		Will be used to fund extension of Kirknewton
A71 Wilkie Bypass	125,304			125,304		Committed to A71 Works
Almondell & Calderwood Country Park	150,035			150,035	30,000	Committed to improving Almondell & Calderwood Country Park
Armada Library Replacement	4,103			4,103		Armada Library
East Calder Park	1,042,827			1,042,827	336,000	Committed to improving East Calder Park
East Calder Public Car Park	122,805			122,805		Committed to improving East Calder Public Car Park
Armada Station Park & Ride	9,139			9,139		Armada Station Park & Ride
Public Transport	569,837			569,837		Will be used to fund Public Transportation works.
St Paul's Primary School Footpath	33,854			33,854		St Paul's Primary School Footpath
East Calder Primary School	3,342,155			3,342,155	250,000	Will be used to fund increased capacity at East Calder Primary School
Town & Village Centre Policy	526,134			526,134		Town & Village Centre Policy.
Park & Ride, West Calder	78,441			78,441		West Calder Park and Ride
A71 Bus Priority Measures	16,048			16,048		Committed to A71 Bus Priority works
St Anthony's Primary School Armada	230	1,782		2,012	3,643,000	Will be used to fund the second phase of the extension at St Anthony's Primary School
Armada Primary School	473	5,617		6,090		Armada Primary School
Wester Inch, Bathgate	420,444			420,444	55,000	Comprises contributions for education, play areas & transportation. Is being used to extend Simpson Primary School, develop play areas, support bus route
Off site environmental works, West Mains	188,751			188,751		Will be used to fund off site works
Non-denominational Primary, Bathgate	3,329			3,329		Will be used to fund education infrastructure in Bathgate
Livingston Town Centre Variable Messaging System	92,976			92,976		Will be used to upgrade the Livingston Town Centre Variable Messaging System
Calders Non Denominational Secondary School	9,024,982	5,760		9,030,742		Calders Non Denominational Secondary School
Winchburgh Secondary	1,308,295	16,128		1,324,423	20,636,000	Will be used towards funding a new secondary school in Winchburgh
Murrayfield PS	324,992			324,992		Contributions to be used towards infrastructure costs for Redhouse Non-denominational Primary School
Our Lady of Lourdes	21,681			21,681		Contributions to be used towards infrastructure costs for Redhouse Denominational Primary School
Greendykes Junction, Broxburn	36,469			36,469		Contributions to be used towards works at Greendykes Junction, Broxburn.
Non-denominational Primary, Broxburn	30,808			30,808	7,500,000	Contributions to be used towards infrastructure costs for Broxburn Non-denominational Primary School
Calderwood Non Denominational Primary School	168,050			168,050	13,809,000	Will be used towards funding a new primary school in East Calder
Mill Roundabout, Elburn	93,655			93,655		Will be used to fund improvements at the roundabout
Open Space Cont S69	339,983			339,983	40,000	Will be used to fund Open Space projects in various sites
Livingston Village PS S75	565,432			565,432	700,000	Will be used to fund an extension to Livingston Village Primary School
Kirknewton Park & Ride	52,681			52,681		Kirknewton Park & Ride
TOTAL	29,588,477	369,566	0	29,958,043		

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

REGULATION OF INVESTIGATORY POWERS – REVIEW OF POLICY AND PROCEDURE

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To progress the triennial review required of the council's policy on the Regulation of Investigatory Powers (Scotland) Act 2000, taking account of the findings of the statutory inspection carried out in late 2019.

B. RECOMMENDATIONS

1. To note that the council's Policy on the Regulation of Investigatory Powers (Scotland) Act 2000, approved on 19 September 2017, is due for review in 2020
2. To review and agree the proposed changes to the Policy shown in the first part of Appendix 1, reflecting in particular the findings of the statutory inspection carried out by the Investigatory Powers Commissioner's Office in late 2019
3. To note the complementary changes made to the supporting but separate internal Procedure, shown in the second part of Appendix 1

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Regulation of Investigatory Powers (Scotland) Act 2000, statutory Codes of Practice; Council Policy and Procedure
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,	None

Staffing and Property)

VII Consideration at PDSP	Partnership & Resources PDSP, 18 September 2020
VIII Other consultations	Governance Manager; Chief Solicitor; Governance & Risk Board; relevant council services

D. TERMS OF REPORT

1 Background

- 1.1 The council has duties and responsibilities when undertaking certain types of surveillance in relation to the detection of crime, in relation to public safety and the protection of public health. These are found principally in the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA). The legislation provides that in certain circumstances a formal authorisation is needed from an appropriate senior council officer before some forms of information-gathering activity can be carried out.
- 1.2 The council approved a revised RIPSA Policy on 17 September 2017, to be reviewed every three years. It is supported by an internal Procedure to provide guidance to council officers who may require authorisation and to those who determine if authorisation should be granted. When the policy was approved it was agreed that a stand-alone annual report would be provided on RIPSA activity and issues relevant to the council's use of RIPSA powers. In previous years that reporting had been carried out through one of the annual compliance statements reported alongside the annual governance statement and Local Code of Corporate Governance.
- 1.3 The RIPSA regime is about controlling the way public bodies use their statutory powers. It is there to balance the public interest in enforcement against private interests and privacy rights. A RIPSA authorisation does not confer additional or wider powers on the council that it does not otherwise possess. It regulates and controls the way in which existing powers are used. It provides protection for members of the public.
- 1.4 An authorisation is required for planned covert surveillance in relation to criminal activity, public health or public safety where it is designed to gather private information without the subject being aware of it. No authorisation is needed for overt surveillance, unplanned or spontaneous surveillance or for one-off instances of information gathering or reconnaissance. A different regime applies where the council is gathering information solely as employer rather than as a public body. If officers act without an authorisation when one should have been granted then evidence gathered may be inadmissible, enforcement action may fail, and the council may suffer reputational damage.
- 1.5 The policy lists the roles and responsibilities of all officers engaged in RIPSA activity. They are reflected in the Scheme of Delegations to Officers. The Senior Responsible Officer (SRO) is the Deputy Chief Executive (Corporate, Housing & Operational Services). The Authorising Officers (AO) are the Governance Manager and the Chief Solicitor. Advice is provided when required by Legal Services.
- 1.6 The council's use of and compliance with RIPSA is overseen by the (UK) Investigatory Powers Commissioner's office (IPCO). That is carried out through annual statistical returns and triennial inspections and reports.

2 Review of the Policy and the Procedure

- 2.1 The policy has been kept up-to-date since 2017 in terms of references to statute and guidance. There have been no relevant significant developments or changes in the legal regime since it was approved that call for any further amendment. It has worked well in practice, in combination with the supporting Procedure which gives detailed advice to officers and sets out the procedures to be followed.
- 2.2 The triennial statutory IPCO inspection was carried out in September and October 2019. The inspection findings were received in early January 2020 in a letter dated 19 December 2019. The inspection and findings were reported separately to Partnership & Resources PDSP on 18 September 2020, as part of the annual report required by the Policy. The SRO and the AOs, and then the Governance & Risk Board, agreed that all the recommendations made should be actioned, and the action taken has been reported as part of the annual report as well. The amendments proposed to the Policy, in the first part of Appendix 1, make the changes felt to be necessary to comply with the IPCO findings. A clean version of the Policy after those amendments is in the first part of Appendix 2.
- 2.3 The Procedure underpins the Policy and contains guidance to all officers engaged in RIPSA activity. As management guidance it does not require formal approval but it is presented for information since changes have been made there to implement the IPCO findings. The amendments proposed to the Procedure, in the second part of Appendix 1, make the changes felt to be necessary to comply with the IPCO findings. A clean version of the Procedure after those amendments is in the second part of Appendix 2.

3 Summary of the changes

- 3.1 Additions have been made to the provisions on the use of Covert Human Intelligence Sources (CHIS) (Policy, section 5; Procedure, section 3). The issue addressed is known as “status drift” which can happen when information comes repeatedly from the same source and there is an inadvertent move towards directing what and how information should be covertly gathered and provided.
- 3.2 The guidance about online or open source investigative activity has been expanded by the incorporation of examples of good practice from a statutory Code of Practice and by a provision of a hyperlink to that Code (Procedure, section 4).
- 3.3 It is also proposed to require the Procedure to be reviewed every three years, rather than annually as it is now (Policy, section 4). That change will match the three-year cycle of external inspections and policy review and is more proportionate to the council's minimal recourse to the use of RIPSA covert surveillance authorisations. There were none sought or granted in 2019/20 and only 5 in the period from and including 2014/15.

4 PDSP consideration

- 4.1 The proposed changes to the policy and procedure were considered at Partnership & Resources PDSP on 18 September 2020. The panel was content for the proposed changes to be brought forward for decision. One member queried the value of making reference to the use of covert human intelligence sources (CHIS) when the council was maintaining its zero-use policy, and felt it should be deleted. It was explained that including CHIS was a requirement of a compliant policy, and the IPCO inspection, and that officers did not consider the resourcing and risks and benefits involved justified moving from its current approach. No change has been made to the version put to PDSP.

E. CONCLUSION

The review and updating of the RIPSA Policy and Procedure will meet the Policy's requirement for review as well as implementing the findings of the statutory inspection carried out in 2019/20.

F. BACKGROUND REFERENCES

Council Executive, 19 September 2017

Partnership & Resources PDSP, 5 October 2018 and 23 August 2019

Office of the Investigatory Powers Commissioner - <https://www.ipco.org.uk/>

Appendices/Attachments: 1. Amended Policy and Procedure, tracked changes
 2. Amended Policy and Procedure, clean copy

Contact Person: James Millar, Governance Manager, 01506 281613,
james.millar@westlothian.gov.uk

Graeme Struthers, Depute Chief Executive (Corporate, Housing and Operational Services)

Date of meeting: 6 October 2020

APPENDIX 1

REVISED POLICY AND PROCEDURE, TRACKED CHANGES



REGULATION OF INVESTIGATORY POWERS POLICY AND PROCEDURE (2017)

UPDATES FOLLOWING 2019 INSPECTION

The policy was approved at Council Executive on 19 September 2017. It is to be formally reviewed every three years. Changes require committee approval other than minor administrative changes or updates. An annual report is to be made to members in relation to RIPSAs activity. The Procedure does not require committee approval. It represents management guidelines and so can be amended and updated without reference to members.

19 September 2017	Policy approved	Immediate effect
21 September 2017	Procedure and guidance finalised and notified to relevant services	Immediate effect
5 October 2018	Annual report to PDSP. Procedures reviewed by officers. Minor changes to terminology, committee approval not required	Immediate effect
23 August 2019	Annual report to PDSP. Procedures reviewed by officers. Adjustment to reporting requirements. Insertion of guidance on internet and social media use. Committee approval not required	Immediate effect
<u>10 August 2020</u>	<u>CHIS - Amendments to Section 5 of the Policy and Section 3 of the Procedure</u>	<u>To be reported to PDSP on 18 September 2020</u>
<u>10 August 2020</u>	<u>Online activity – Amendments to Section 4.5 of the Procedure</u>	<u>To be reported to PDSP on 18 September 2020</u>
<u>10 August 2020</u>	<u>Review of the Procedure – proposed change from annual review to triennial review, to match review of Policy and triennial IPCO inspections</u>	<u>To be reported to PDSP on 18 September 2020</u>

POLICY

CONTENTS		Page
1	Aims and objectives	1
2	Roles and responsibilities	2
3	Scope	3
4	Procedures	3
5	Cover human intelligence sources (CHIS)	4
6	Complaints	4
7	Review and reporting	5
8	Terminology	5
9	Contacts	8
	Procedure and guidance	9

1 Aims and objectives

- 1.1 In carrying out regulatory or enforcement functions the council may have to gather information through observation without the knowledge of the person involved. Activities like that may involve encroaching on human rights to respect for private life, home and possessions. Doing so can be justified in human rights terms. It must be accordance with law, it must be necessary in the pursuit of a legitimate public aim, and it must be proportionate. To ensure that is the case the council has to follow UK and Scottish legislation (RIPA and RIPA), Codes of Practice and statutory guidance.
- 1.2 To meet those requirements the council must have a policy, procedure and guidance; a clear allocation of responsibilities for compliance and internal monitoring; and public reporting arrangements.
- 1.3 This policy is designed to provide the framework of principles and guidance which the council and its officers must apply when gathering information in certain circumstances using their statutory powers. It provides the basis for procedural rules and guidelines to be followed in the performance of those functions.
- 1.4 Council officers may be able and permitted to carry out this type of activity. Before doing so they must be authorised properly. As well as complying with legal rules, they must abide by this policy and use correct procedures. That will ensure respect for human rights, public accountability and that information gathered can be used lawfully.
- 1.5 The policy aims are:-
 - to ensure the council acts lawfully in gathering information to the protect the public, safeguard public health or detecting crime
 - to protect the legitimate interests of anyone who is being investigated
 - to provide a balance between using investigatory powers to serve the community of West Lothian and safeguarding the public against unjustified and unlawful intrusion into their affairs
 - to provide the framework for procedural rules and controls
 - to make adequate internal monitoring and public reporting arrangements
- 1.6 The terminology used is explained in Section 8.

2 Roles and responsibilities

- 2.1 The council will designate a member of its Corporate Management Team to be the Senior Responsible Officer (SRO) who is responsible for:-
- ensuring the council complies with the law, Codes of Practice and other statutory guidance
 - maintaining and reviewing the policy
 - ensuring officers comply with this policy and related procedures and guidelines
 - establishing and reviewing internal procedures and guidance
 - providing training
 - dealing with the Office of the Surveillance Commissioner (OSC) in relation to oversight and inspection and actions arising
 - notifying the Monitoring Officer of any unauthorised surveillance activity
 - reporting to PDSP and/or committee on activity under the policy
 - completing a certificate of compliance as part of the annual report on the Local Code of Corporate Governance
 - appointing a deputy to act when the SRO is unable to do so
- 2.2 The council will designate at least one officer to be the Authorising Officer (AO) who is responsible for:-
- giving, reviewing, renewing and cancelling authorisations
 - maintaining a register of authorisations
 - notifying the SRO and the Monitoring Officer of any unauthorised surveillance activity
 - assisting and supporting the SRO
 - providing or arranging the provision of training
- 2.3 The Chief Solicitor, personally or through nominated solicitors, is responsible for:-
- providing legal advice to the SRO, the AO and other council officers
 - assisting and supporting the SRO and AO
 - acting as AO when the AO is unable to do so
 - notifying the SRO, the AO and the Monitoring Officer of any unauthorised surveillance activity
- 2.4 The delegation of those powers to officers shall be recorded in the Scheme of Delegations to Officers.
- 2.5 Heads of Service are responsible for:-
- raising awareness of the policy and procedures and ensuring officers undertake adequate training
 - designating and authorising officers to apply for authorisations and carry out and supervise the surveillance as authorised
 - informing the AO of the officers designated to apply for authorisations and carry out and supervise the surveillance as authorised
 - ensuring compliance with the policy and procedures and any authorisations issued
 - notifying the SRO and the AO of any unauthorised surveillance
 - assisting and supporting the SRO
- 2.6 All council officers engaged in surveillance or with responsibilities under this procedure are responsible for:-

- being familiar with the policy and procedure
- complying with the policy and procedure and authorisations issued
- undertaking appropriate training

2.7 IPCO oversees all public bodies engaged in covert surveillance. Part of their role is to periodically examine and audit records and procedures. All council officers engaged in the process must be prepared to justify their actions when called upon to do so. During periods of inspection, all officers must make themselves available for interview and otherwise cooperate with the visiting representative of IPCO.

3 Scope

3.1 The policy applies to council officers who are engaged in:-

- covert surveillance which is directed surveillance
- the use of a covert human intelligence source (CHIS)

3.2 In certain circumstances, those functions may include:-

- the use of CCTV (for example, where deliberate use of those cameras is part of a planned surveillance operation)
- the use of the internet and social media for the purpose of gathering information (for example, where monitoring of a website or social media page is undertaken systematically and over a period of time to gather information)
- test purchasing (for example, where young people are engaged to attempt to make what would be illegal purchases of alcohol or tobacco)

3.3 The policy does not apply to:-

- overt surveillance
- *ad hoc* surveillance
- unplanned surveillance
- purely internal observation in the council's role as employer where there is no surveillance in public place (for example, disciplinary investigations where ICO guidelines will apply)

3.4 The policy does not permit intrusive surveillance. Council officers must not engage in that activity.

4 Procedures

4.1 The SRO will put in place appropriate procedures and guidance to ensure that officers act lawfully and in accordance with the policy. Those procedures will be reviewed at least annually, once every three years.

4.2 The procedure and guidance shall be designed to ensure that officers consider and satisfy the AO that:-

- the authorisation is legally possible (the council cannot authorise intrusive surveillance)
- the authorisation is legally required - not all observation activity will come within

the definition of surveillance requiring an authorisation (for example, overt surveillance)

- the type of information to be gathered has been identified (for example, the involvement of private information and/or confidential information)
- there is a lawful purpose ("core functions") (that is, preventing or detecting crime or disorder; public safety; or protecting public health)
- the surveillance is necessary (it is a reasonable way to gather the information, with alternatives having been considered)
- the risk of collateral intrusion has been assessed and mitigating measures put in place
- the proposed surveillance will be effective
- the activity has been planned to avoid damage to property and harassment or intimidation of individuals
- the surveillance activities proposed are proportionate to the conduct being investigated
- competent officers are identified and available to carry out and supervise the surveillance

4.3 The procedures shall ensure that:-

- applications, authorisations and related documents and records are normally in writing
- the circumstances in which oral applications and authorisations can be used are clearly defined
- the ability to use social media and other online activity for gathering information is clearly explained
- forms are in place to ensure that the legal requirements and all relevant factual information is considered throughout the process
- authorisations are reviewed, renewed or terminated as required by the circumstances of the case
- a register is kept in compliance with legal requirements
- records are retained and destroyed in accordance with the council's Records Management Policy and Retentions Schedules

5 Covert Human Intelligence Source (CHIS)

5.1 The use of a covert human intelligence source will be authorised only in exceptional circumstances. The council will avoid the use of a CHIS except in such exceptional circumstances.

5.2 Additional safeguards will be required in considering a request for CHIS authorisation. The procedures shall in particular ensure:-

- ~~to ensure~~ that any risk of activity falling into that category is identified and avoided
- ~~to ensure~~ that authority is only sought with the express approval of the relevant Head of Service
- ~~to ensure~~ that authorisation is not given until full discussion has taken place amongst the SRO, the AO, the Head of Service and the officer requesting the authorisation

5.3 The procedures shall also address the risk of "status drift", whereby a series of actions taken involving the same individual in providing information in an investigation leads to the use of a CHIS without conscious decision or awareness, and so without an

application and authorisation so to do.

6 Complaints

- 6.1 Any person aggrieved by the granting of an authorisation or by surveillance activity may lodge a complaint to the council under its Corporate Complaints Procedure.
- 6.2 Any person aggrieved by the conduct of any covert surveillance also has a right to complain to the Investigatory Powers Tribunal. This independent tribunal has full powers to investigate and decide cases within the United Kingdom, including complaints about activities carried out under Scottish legislation.

7 Review and reporting

- 7.1 This policy shall be reviewed at least once every three years. The outcome of the review shall be reported to PDSP. In the event that any changes are required, those changes shall be reported to Council Executive for approval.
- 7.2 Minor changes required for administrative reasons may be made by the SRO (for example, to reflect changes in the council's management structure and responsibilities, or changes in terminology).
- 7.3 The procedures and guidance shall be reviewed ~~annually~~ every three years by the SRO.
- 7.4 Annual reports will be made by the SRO to PDSP on all activity under the policy and in relation to inspection reports. Should RIPSA activity increase significantly then more frequent reports will be made. Breaches of the law or procedure or complaints or litigation may require *ad hoc* reports.
- 7.5 If requested, the SRO shall provide a compliance statement to the Monitoring Officer as part of the annual report on the Local Code of Corporate Governance, detailing the extent of surveillance activity during the year and identifying any areas of weakness or concern and non-compliance.

8 Terminology

- | | | |
|---|--------------------------------|--|
| 1 | <i>Ad hoc</i> surveillance | A one-off instance of information-gathering through undirected means with no systematic observation planned or carried out (for example, an initial check on a website or social media page) |
| 2 | Codes of Practice ¹ | Statutory Codes of Practice and Guidance issued by the UK Government, the Scottish Government or IPCO |
| 3 | Collateral intrusion | Through the authorised surveillance activity, obtaining information about other persons who are not the subject of the surveillance |

¹ RIPSA, sections 24 - 26

- 4 Core functions The specific grounds set out in statute or Codes of Practice for which an authorisation may be required. "Non-core functions" is construed accordingly
- 5 Council Executive The council's main decision-making forum for non-education business established under the council's Standing Orders for the Regulation of Meetings and Scheme of Administration
- 6 Covert Human Intelligence Source (CHIS)² A person:-
(a) establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c) below;
(b) covertly uses such a relationship to obtain information or to provide access to any information to another person; or
(c) covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship
- 7 Covert surveillance³ Surveillance that:-
(a) if, and only if, is carried out in manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place;
(b) is for a covert purpose, that is, in relation to the establishment or maintenance of a personal or other relationship, if and only if the relationship is conducted in manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose; and
(c) if and only if leads to information used or, as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question
- 8 Directed surveillance⁴ Covert surveillance which is not intrusive and is undertaken:-
(a) for the purposes of a specific investigation or a specific operation;
(b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for

² RIPSA, section 1(7) and section 31(5)

³ RIPSA, section 1(8)

⁴ RIPSA, section 1(2)

- the purposes of the investigation or operation); and
- (c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Act to be sought for the carrying out of the surveillance
- 9 Information Governance Policy The council's umbrella policy covering the acquisition, use, sharing, disclosure and retention of all information used by the council in pursuit of its public or private powers and duties (Council Executive, 25 June 2019)
- 10 Intrusive surveillance⁵ Covert surveillance that:-
- (a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- (b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device
- 11 Investigatory Powers Tribunal PO Box 33220, London, SW1H 9ZQ Tel: 0207 035 3711 Email: info@ipt-uk.com
- 12 IPCO The UK RIPSA and RIPA regulatory body, the Investigatory Powers Commissioner's Office, PO Box 29105, London, SW1V 1ZY
- 13 Lawful surveillance Surveillance if:-
- (a) an authorisation under this Act confers an entitlement to engage in that conduct on the person whose conduct it is; and
- (b) that person's conduct is in accordance with the authorisation
- 14 Non-core functions See core functions
- 15 Officers Council employees or others authorised by the council to carry out functions or provide services on its behalf and under the direction of the Chief Executive
- 16 Overt surveillance Gathering information in an open, transparent and unhidden way (for example, observations from a clearly marked vehicle in a public place)
- 17 PDSP The Partnership & Resources Policy Development & Scrutiny Panel established under the council's

⁵ RIPSA, section 1(3), and subject to conditions and exclusions in section 1(4) and (5)

Standing Orders for the Regulation of Meetings and Scheme of Administration

- | | | |
|----|----------------------------------|---|
| 18 | Private information ⁶ | In relation to a person, it includes any information relating to the person's private or family life. |
| 19 | RIPA | Regulation of Investigatory Powers Act 2000 |
| 20 | RIPSA | Regulation of Investigatory Powers (Scotland) Act 2000 |
| 21 | Scheme of Delegations | The council's record of the powers and responsibilities delegated to and exercisable by officers |
| 22 | Surveillance ⁷ | <p>Surveillance includes:-</p> <p>(a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;</p> <p>(b) recording anything monitored, observed or listened to in the course of surveillance; and</p> <p>(c) surveillance by or with the assistance of a surveillance device</p> |
| 23 | Unplanned surveillance | The observation of events as an immediate response to events without planning or forward thinking (for example, coming across information by chance in a public place) |

9 CONTACTS

- 1 The Senior Responsible Officer is Graeme Struthers, Depute Chief Executive, 01506 281776, graeme.struthers@westlothian.gov.uk. He has an oversight role and is not involved in the authorisation procedure.
- 2 The Authorising Officers are:-
 - James Millar, Governance Manager, 01506 281613, 078670466449, james.millar@westlothian.gov.uk
 - Carol Johnston, Chief Solicitor, 01506 281605, 07970 478897, carol.johnston@westlothian.gov.uk (or her nominated deputy)

⁶ RIPSA, section 1(9)

⁷ RIPSA, section 31(2) and subject to the exclusions in section 31(3)

PROCEDURE AND GUIDANCE

CONTENTS

A	INTRODUCTION	10
1	Background	10
2	Non-RIPSA activity	10
3	RIPSA activity not covered by this Procedure	10
4	Internet and social media	10
5	Using the procedure and guidance	11
B	PROCESS	12
1	Introduction	12
2	Before starting	12
3	The application	12
4	Emergency applications	13
5	Decision-making	13
6	Authorisation	14
7	Making changes	14
8	Review and renewal	14
9	Cancellation	15
C	GUIDANCE	15
1	Can an authorisation be given at all?	16
2	Is an authorisation actually required?	16
3	Is there a lawful purpose?	17
4	Is the surveillance necessary?	17
5	Is the proposed surveillance proportionate?	17
6	Will the planned surveillance be effective?	17
7	What information is going to be acquired?	18
8	What do you want to do?	18
9	Things the surveillance should be planned to avoid	18
D	CHECKLIST	18
E	TERMINOLOGY	19
F	CONTACTS	19

A INTRODUCTION

1 Background

- 1.1 On 19 September 2017 the council approved its Policy on using the regulation of investigatory powers legislation (RIPSA). The Policy is the council's framework of RIPSA principles and guidance and sits above this Procedure. The Procedure must be followed in all RIPSA cases. It is intended as a practical guide to making a RIPSA application in the case of directed surveillance. It does not apply to CHIS or to intrusive surveillance. Additional safeguards are required for a CHIS authorisation and the council policy is to avoid its use and only to authorise it in exceptional circumstances.
- 1.2 Directed surveillance can only take place under a RIPSA authorisation. That can only be given by a designated Authorising Officer (AO). The AO is your first point of contact in relation to any proposed application. They will provide advice and guidance in relation to the proposed surveillance and consider your draft application prior to determining whether surveillance should be authorised. The AO contact details are at the end of the Procedure.
- 1.3 Surveillance is an extremely powerful tool. It must be treated and used with respect, only in accordance with the legislation, and in circumstances which merit such significant measures.
- 1.4 Granting or refusing an application for authorisation is at the sole discretion of the AO. An application will only be granted where it meets the necessary statutory criteria. Surveillance should always be the last resort and will only be permitted where there are no other means by which to secure evidence, or where all other means by which to obtain evidence have been exhausted without success or else considered but discounted for good reason.

2 Non-RIPSA activity

- 2.1 The AO may take the view that the planned action is not for one of the three lawful purposes, and that may result in them refusing the application. The AO may also take the view that what is being planned is not directed surveillance, or is not covert surveillance, and so might refuse the application. However, activity that is not covered by the RIPSA legislation may still be lawfully carried out and the planned activity may in some cases still take place. An example is test-purchasing in relation to under-age sale of tobacco or alcohol.

3 RIPSA activity not covered by this Procedure

- 3.1 The council is not authorised to use intrusive surveillance under any circumstances.
- 3.2 It would be exceptional for the Council to use Covert Human Intelligence Sources (CHIS). CHIS is the subject of particular provisions within the legislation. If you are considering the need for CHIS then you should consult an AO who will be able to discuss matters with you in detail. The use of covert human intelligence sources will only be authorised in exceptional circumstances and with additional safeguards in place. Authorisation for CHIS may only be requested with the express approval of your Head of Service. CHIS authorisation will not be given until full discussion has taken place amongst the SRO, the AO, the Head of Service and the officer seeking authorisation.

- 3.3 In relation to a CHIS, “status drift” may occur when a series of interactions with the same individual result in a move from the simple acquisition and provision of information on a voluntary and undirected basis to a planned and directed course of actions whereby the individual is subject to council control and direction. You should be alert to that danger when engaging more than once or twice with the same individual about the same subject as part of the same investigation. If a pattern of recurring and repeated interaction emerges then take advice from the AO.

4 Internet and social media

- 4.1 Intelligence and information is readily available on the internet and social media. It may include information of significant value in pursuing statutory powers. Recording and using personal data from those sites may engage the Data Protection Act 2018. Viewing websites and social media sites is likely to interfere with individuals’ rights to the enjoyment of their private life and expectations of privacy. In the same way, an individual may have a reduced expectation of privacy when in a public place but still covert surveillance may result in the acquisition of private information relating to the individual concerned or collateral intrusion.
- 4.2 Despite the sites being publicly available and freely accessible, and regardless of security/access settings applied to the site, visiting those sites may also require a RIPSAs authorisation depending on the activity undertaken. Such sites, even when they are on the face of it designed for commercial purposes, may contain private information relating to the owner or operator of the site and their family or associates.
- 4.3 Use of the internet for information gathering prior to an investigation should not engage privacy considerations or require an authorisation. That is not necessarily restricted to just one instance of information gathering, or two, or any set number. The test is whether it falls within the definition of covert directed surveillance for one of the three statutory purposes for RIPSAs (“the core functions”).
- 4.4 The use of some sites by individuals may carry a greater or lesser expectation of privacy, depending on the information available and the generally understood purpose of the site and its use. Care is required where even an apparent commercial site might nevertheless carry or enable access to personal or private information unrelated to the commercial purposes.
- 4.5 The Scottish Government Code of Practice (2017)⁸ describes circumstances in which online activity may lead to the requirement for an authorisation. Those include:-
- Your intention to engage with others online without disclosing your identity
 - The likelihood of the subject of the surveillance being aware of it taking place
 - Accessing social media sites used for either or both of personal or business reasons as opposed to accessing publicly available online databases
 - The systematic collection and storing of information about an individual or group as opposed to an initial information-gathering reconnaissance
- 4.6 The Code also lists factors to consider in determining if online activity requires an authorisation, including:-
- The likelihood of obtaining private information about a person or group of

⁸ <https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/>

people

- Visiting internet sites to build up an intelligence picture or profile
- Recording and storing the information obtained
- The likelihood of providing an observer with a pattern of lifestyle
- Combining the information acquired with other sources of information or intelligence, which amounts to information relating to a person's private life
- The activity is part of an ongoing piece of work involving repeated viewing of the subject(s)
- The involvement of identifying and recording information about third parties, or information posted by third parties, which may include private information and therefore constitute collateral intrusion

4.57 Accessing sites overtly will not require a RIPSA authorisation. Use which clearly discloses the access is by the council or on the council's behalf, or where notice is given that monitoring will take place, is not covert activity, regardless of whether it amounts to surveillance. Use of an anonymised or fake or false identities or profiles will mean an authorisation is required if the definition of directed surveillance for core functions is met.

4.68 Use of the internet for non-core functions does not require an authorisation but the council's Information Governance Policy and its related Procedures will govern that use.

4.79 The Information Governance Policy governs the setting up or registering of websites or social media accounts or profiles. Establishing and using fake, false or anonymised accounts may only be done with the agreement of the SAO. That will be given subject to conditions on the officers who may use them, how they may be sued and the records to be kept of their use.

5 Using the procedure and guidance

5.1 The Procedure is in six parts:-

- A. Introduction - this section setting the RIPSA scene
- B. Process - the mechanics of making the application and what happens afterwards
- C. Guidance - help in addressing all the relevant information required by the application form
- D. Checklist - an *aide memoire* to help last-minute checks, revisions and amendments to the application and review forms
- E. Terminology - definitions and explanations of words and phrases used in RIPSA cases
- F. Contacts - information about the Senior Responsible Officer and the Authorising Officers

B PROCESS

1 Introduction

- 1.1 The Policy sets out the roles and responsibilities held by everyone involved in using RIPSAs. You have responsibilities too. Make sure you understand what they are before taking or planning any action or application.
- 1.2 Everything done by anyone in relation to RIPSAs must be done in accordance with legislation, Codes of Practice, the council's Policy and this Procedure, and having regard to Codes of Practice.

2 Before starting

- 2.1 You must be familiar with and understand the Policy and the Procedure.
- 2.2 You must have undertaken appropriate training.
- 2.3 You must have a general authorisation from your Head of Service to take on responsibilities under the Policy and Procedure.
- 2.4 You must have agreement from your Head of Service to proceed with the application.
- 2.5 You must let the AO know that an application is being prepared and when the surveillance is intended to start. The AO will need time to make a decision and will have other work to take into account.
- 2.6 You should discuss the case informally with the AO to make sure the application is covered by the legislation and is one that can be granted

3 The application

- 3.1 In almost all cases, an application can be prepared and submitted well in advance of the surveillance starting. In exceptional cases there may not be time to complete and submit an application before the surveillance has to begin. These situations are extremely rare. The procedure for those is explained below.
- 3.2 For normal, non-urgent cases, ask the AO for a Unique Reference Number (URN). The URN will be used in all correspondence and in the Register kept by the AO.
- 3.3 Familiarise yourself with the application form and what is required.
- 3.4 Use the Guidance later in this Procedure to help you fill out the form.
- 3.5 Draft the application carefully and revise it before submitting it. You may attach other documents where appropriate, for example, a map or plan showing proposed surveillance points. Mark them with the URN and the date.
- 3.6 The form is detailed and appears repetitive. However, each section has a specific function. It is necessary to provide detailed information appropriate to that section, regardless of whether it also appears elsewhere in the form.
- 3.7 If you have time, ask a colleague or your line manager to review the application.
- 3.8 Consult the checklist in the Guidance to make sure you have included everything that you should have.

- 3.9 Follow any instructions given by your line manager - for example, having it signed off by someone else before it goes. The AO will assume that those internal processes have been followed properly.
- 3.10 Make sure to submit the application in enough time for a decision to be made before the expected start of the surveillance.
- 3.11 The content of the application is your responsibility. Whilst assistance may be provided, you hold all of the information regarding the circumstances which will support your request for authorisation. Your application will contain all information supporting your request for authorisation. You must provide enough information to satisfy the AO that all the relevant factors have been thought through and are explained. The AO will not make assumptions about what you may have meant to say in your application. You should be prepared to discuss the proposed surveillance in detail with the AO.
- 3.12 Sign the application, date it, scan it and send it to the AO by email.

4 Emergency applications

- 4.1 In exceptional cases there may not be time to complete and submit an application before the surveillance has to begin. These situations are extremely rare.
- 4.2 In an urgent case, a verbal application may be made to the AO and may be granted for up to 72 hours. The urgency should relate to the subject of surveillance and not, for example, to delays in making the application.
- 4.3 If you consider that you require an emergency authorisation you should immediately contact the AO. The AO will assign a URN and enter the application in the Register. You should keep a note of what surveillance activity is being authorised.
- 4.4 You must follow up the verbal authorisation with a written application following the procedure set out above.
- 4.5 If you do not submit a written application on time the verbal authorisation will run out and be cancelled. The AO will confirm the position.
- 4.6 You will be instructed to immediately cease surveillance activity and remove any surveillance equipment.

5 Decision-making

- 5.1 The AO may seek more information from you before making a decision. That will usually mean amending the application to ensure that all the necessary information is included.
- 5.2 The AO may refuse the application. The reasons for refusing it will be explained.
- 5.3 The AO may grant the authorisation. They will sign it and date it, retain it and send you a copy.
- 5.4 You cannot begin your surveillance operation until you have confirmation that your application has been granted. You do not need to have the signed authorisation in your hand to begin the surveillance. However, you must have been told that it has been granted.
- 5.5 The AO will mark the Register to show the decision made and the date.

6 Authorisation

- 6.1 You must retain a copy of the authorisation provided to you by the AO.
- 6.2 The authorisation is valid for 3 months but it will be subject to a review before that and may also be cancelled before the end of that period.
- 6.3 The date for review will depend on the circumstances. The review date may have been discussed and agreed with the AO as part of the application process. If not, the AO will determine an appropriate review date.
- 6.4 You must comply with the authorisation and do all that you can to ensure that others do so as well. That includes keeping written records of surveillance activity carried out (when, where, by who) and information gathered.
- 6.5 You must follow any internal arrangements put in place by your line manager or Head of Service, such as providing periodic progress reports.
- 6.6 You cannot begin your surveillance operation until you have confirmation that your application has been granted. You do not need to have the signed authorisation in your hand to begin the surveillance. However, you must have been told by the AO that it has been granted. In most cases you will receive confirmation by phone and/or email. This will be followed by a copy of the authorised application.

7 Making changes

- 7.1 After starting the surveillance it may be that something has to be changed. For example, it may be that a different officer will have to carry out the surveillance activity; the location from which the surveillance is being carried out might have to be changed; it might be necessary to use some equipment that was not covered by the authorisation. You must contact the AO to explain the necessary change and to justify it.
- 7.2 If the AO decides that the change is significant then the authorisation will be cancelled and a fresh application submitted and authorised.
- 7.3 If the AO decides that the change is not significant then a change may be made to the existing authorisation and recorded by you and the AO as an addition to that authorisation.
- 7.4 Approval by the AO is needed before you proceed under any new arrangements.

8 Review and renewal

- 8.1 The review process is to reconsider the authorisation, whether it is still appropriate for it to be in place and for surveillance to continue. A renewal can only be given before the authorisation ends.
- 8.2 Before the review date you must consider and assess any evidence gathered as a result of the surveillance.
- 8.3 At least four days before the review date you must submit a review form to the AO. It must explain the evidence gathered, state whether the surveillance requires to continue and why. It is your responsibility to do so.
- 8.4 If you fail to submit the review form your authorisation will be cancelled. You will be instructed to immediately cease surveillance activity and remove any surveillance

equipment.

- 8.5 Reviews will not be back dated or considered retrospectively.
- 8.6 The AO may seek more information from you before making a decision. That will usually mean amending the review form to ensure that all the necessary information is included.
- 8.7 If the AO decides the surveillance is to continue, you will be given a further review date and the process will be repeated.
- 8.8 If the AO decides that the surveillance is no longer necessary or justified your authorisation will be cancelled.

9 Cancellation

- 9.1 An authorisation will be cancelled where a written application does not follow a verbal authorisation on time; where a review form is not submitted on time; where you decide that the surveillance should end; or where the AO decides that the surveillance should end.
- 9.2 If you decide that the surveillance should be terminated then you must submit a cancellation form. You must do so as soon as it is apparent that surveillance is no longer needed.
- 9.3 The surveillance operation may be terminated at any time. It is not dependent upon reaching a review date or the expiry of the 3 month period for which the authorisation was granted.
- 9.4 You must always submit a cancellation form to the AO at the conclusion of the surveillance operation. It forms an essential part of the record keeping requirements. There are NO circumstances in which it would be unnecessary.

C GUIDANCE

1 Can an authorisation be given at all?

- 1.1 If the proposed surveillance is “intrusive surveillance” then no activity can be authorised. Council officers must not engage in intrusive surveillance.
- 1.2 Intrusive surveillance is covert surveillance that:-
 - is carried out in relation to anything taking place on any residential premises or in any private vehicle, and
 - involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device

2 Is an authorisation actually required?

- 2.1 No authorisation is needed for:-
 - Overt surveillance – gathering information in an open, transparent and unhidden way (for example, observations from a clearly marked vehicle in a public place)

- *Ad hoc* surveillance – a one-off instance of information-gathering through undirected means with no systematic observation planned or carried out (for example, an initial check on a website or social media page)
 - Unplanned surveillance – the observation of events as an immediate response to events without planning or forward thinking (for example, coming across information by chance in a public place)
 - Surveillance purely internal to the council in its role as employer rather than as a public body (for example, most disciplinary investigations, where information is gathered on council premises or property, although carrying out surveillance of an employee in a public place may mean that authorisation is needed)
- 2.2 However, authorisation may be needed for some activity which does not at first seem to be covert surveillance.
- 2.3 Authorisation may be required for web-based activities, such as internet searching or accessing social media. This applies even though the subject of the surveillance chooses to make information available in those ways. Generally, a first check and a second follow-up check may be permitted without authorisation. That is more likely to be so if no data is recorded or retained. More frequent or sustained or regular checks or the systematic recording of information will usually mean an authorisation is needed.
- 2.4 Heads of Service are responsible for putting appropriate procedures in place to ensure that use of the internet and social media which requires an authorisation does not take place. Those will be steps in internal service procedures, usually embedded in case management systems or other software.
- 2.5 CCTV footage gathered through general and publicly signposted use will not require an authorisation. However, if it is planned to gather and use it as part of a programme of directed surveillance then it should be covered by an authorisation

3 Is there a lawful purpose?

- 3.1 The surveillance must be carried out for a defined lawful purpose, and there are only three:-
- preventing or detecting crime or the prevention of disorder
 - in the interests of public safety
 - protecting public health

3.2 Ministers have the power to add to this list. They have not done so.

3.3 You must identify and explain at least one of these three purposes. It must be related to something the council can do lawfully under the legislation applying to the service.

4 Is the surveillance necessary?

- 4.1 Directed surveillance should be the last resort for gathering information. You must deal with these three issues in the application to show that there are no viable and realistic options available:-
- Is there a reasonable and effective alternative way of achieving the desired objectives in the specific circumstances of the particular case?

- If other methods are available by which the same evidence may be recovered then those alternatives should be applied and exhausted before seeking authorisation.
- If other methods are available by which alternative evidence of similar value may be recovered then those alternatives should be applied and exhausted before seeking authorisation.

5 Is the proposed surveillance proportionate?

5.1 Directed surveillance is a potential infringement of human rights. Part of the legal justification for that is that the infringement is proportionate to the conduct being investigated and the potential harm being prevented.

5.2 These are the points to cover in the application form to meet the “proportionality” arguments:-

- Provide relevant and sufficient reasons in support of the application to show later that a fair decision making process was followed and safeguards against abuse were made clear
- Explain the harm being addressed and why the surveillance planned is proportionate in relation to it
- Show that the degree of intrusion upon the target is not excessive
- Satisfy the AO either that collateral intrusion is avoided, or if it cannot be avoided that it has been identified and addressed. That is done through mitigating, minimising, and safeguarding and controlling access to collateral information gathered. There should be controls to identify, separate and securely destroy data gathered in relation to people other than the subject of the surveillance
- Demonstrate that all other reasonable options for gathering the evidence have been considered and rejected for good reason

6 Will the planned surveillance be effective?

6.1 This is a more practical point. Part of justifying the surveillance is showing that it is likely to be effective in gathering evidence that will help the council deal with the misconduct or harm being investigated.

6.2 You should cover these points:-

- What are the prospects of successful recovery of information required in the pursuit of the investigation?
- Are there trained and experienced officers available to carry out the surveillance and supervise it adequately?
- Are the resources available that are required to properly carry out the surveillance and ensure compliance with the authorisation to be given?

7 What information is going to be acquired?

7.1 Consideration must be given to the type of information which may be gathered, in

particular if it will be private information or confidential information. Surveillance should be planned in such a way as to avoid such material being obtained.

- 7.2 If it is possible that such information will be gathered then the application should explain how it will be identified, how access to it will be controlled and how it will be destroyed once it is no longer necessary.

8 What do you want to do?

- 8.1 You must explain what surveillance actions you wish to undertake.
- 8.2 If technical equipment is to be used then you must say what it is, how it works, and how it will be used to acquire and record information.
- 8.3 You must identify where the surveillance will be carried out and describe the location to help show if there may be collateral intrusion or confidential information gathered. Using maps, plans and photographs may be sensible.
- 8.4 You must say who will be carrying out the surveillance activity and describe their post/position, qualifications, training and experience.

9 Things the surveillance should be planned to avoid

- 9.1 These are things that should be considered when planning the surveillance. You should show that you have thought about them, and that the planned surveillance either avoids them entirely, or minimises them if they are not avoidable.
- 9.2 The proposed surveillance activities must be planned to avoid damage to property and harassment or intimidation of individuals
- 9.3 The risk of collateral intrusion must be considered. This is obtaining information about other persons who are not the subject of the surveillance. Reasonable steps should be taken to avoid or at least minimise that possibility. Where that is likely to happen, steps must be taken to protect that information and ensure it is not retained unless that cannot be avoided.
- 9.4 A risk assessment should be carried out of the risk of harm to the officers carrying out the surveillance. It should be planned in a way to avoid or at the very least minimise and mitigate those risks.

D CHECKLIST

- 1 Have you identified and explained a lawful purpose for the activity?
- 2 Have you fully explained the conduct to be authorised?
- 3 Are the grounds for necessity correct?
- 4 Have you detailed why the activity is necessary?
- 5 Have you detailed why the activity is proportionate?
- 6 Have you explained what it is desired to achieve from the activity?
- 7 Have you detailed potential collateral intrusion, and why it is unavoidable?

- 8 Does the application provide evidence of efforts to reduce collateral intrusion if possible?
- 9 Is it likely confidential information will be obtained and is it unavoidable?
- 10 Does the application provide evidence of efforts to deal with confidential information?
- 11 Have you been able to verify and understand fully the reliability of the information provided to support the application?
- 12 If technical equipment is being used, do you understand and have you explained its capability enough to estimate what it will capture, and therefore how intrusive it might be?
- 13 Have you checked to ensure the activity will not interfere with other operations being conducted?
- 14 Have you covered who, what, why, where, when, and how?

E TERMINOLOGY

See section 8 of the Policy (Page 5)

F CONTACTS

- 1 The Senior Responsible Officer is Graeme Struthers, Depute Chief Executive, 01506 281776, graeme.struthers@westlothian.gov.uk. He has an oversight role and is not involved in the authorisation procedure.
- 2 The Authorising Officers are:-
 - James Millar, Governance Manager, 01506 281613, 078670466449, james.millar@westlothian.gov.uk
 - Carol Johnston, Chief Solicitor, 01506 281605, 07970 478897, carol.johnston@westlothian.gov.uk
- 3 Advice can be requested from the Authorising Officers. Ask in plenty of time!

APPENDIX 2

REVISED POLICY AND PROCEDURE, CLEAN COPY



REGULATION OF INVESTIGATORY POWERS POLICY AND PROCEDURE (2017)

UPDATES FOLLOWING 2019 INSPECTION

The policy was approved at Council Executive on 19 September 2017. It is to be formally reviewed every three years. Changes require committee approval other than minor administrative changes or updates. An annual report is to be made to members in relation to RIPSAs activity. The Procedure does not require committee approval. It represents management guidelines and so can be amended and updated without reference to members.

19 September 2017	Policy approved	Immediate effect
21 September 2017	Procedure and guidance finalised and notified to relevant services	Immediate effect
5 October 2018	Annual report to PDSP. Procedures reviewed by officers. Minor changes to terminology, committee approval not required	Immediate effect
23 August 2019	Annual report to PDSP. Procedures reviewed by officers. Adjustment to reporting requirements. Insertion of guidance on internet and social media use. Committee approval not required	Immediate effect
10 August 2020	CHIS - Amendments to Section 5 of the Policy and Section 3 of the Procedure	To be reported to PDSP on 18 September 2020
10 August 2020	Online activity – Amendments to Section 4.5 of the Procedure	To be reported to PDSP on 18 September 2020
10 August 2020	Review of the Procedure – proposed change from annual review to triennial review, to match review of Policy and triennial IPCO inspections	To be reported to PDSP on 18 September 2020

POLICY

CONTENTS		Page
1	Aims and objectives	1
2	Roles and responsibilities	2
3	Scope	3
4	Procedures	3
5	Cover human intelligence sources (CHIS)	4
6	Complaints	4
7	Review and reporting	5
8	Terminology	5
9	Contacts	8
	Procedure and guidance	9

1 Aims and objectives

- 1.1 In carrying out regulatory or enforcement functions the council may have to gather information through observation without the knowledge of the person involved. Activities like that may involve encroaching on human rights to respect for private life, home and possessions. Doing so can be justified in human rights terms. It must be accordance with law, it must be necessary in the pursuit of a legitimate public aim, and it must be proportionate. To ensure that is the case the council has to follow UK and Scottish legislation (RIPA and RIPA), Codes of Practice and statutory guidance.
- 1.2 To meet those requirements the council must have a policy, procedure and guidance; a clear allocation of responsibilities for compliance and internal monitoring; and public reporting arrangements.
- 1.3 This policy is designed to provide the framework of principles and guidance which the council and its officers must apply when gathering information in certain circumstances using their statutory powers. It provides the basis for procedural rules and guidelines to be followed in the performance of those functions.
- 1.4 Council officers may be able and permitted to carry out this type of activity. Before doing so they must be authorised properly. As well as complying with legal rules, they must abide by this policy and use correct procedures. That will ensure respect for human rights, public accountability and that information gathered can be used lawfully.
- 1.5 The policy aims are:-
- to ensure the council acts lawfully in gathering information to the protect the public, safeguard public health or detecting crime
 - to protect the legitimate interests of anyone who is being investigated
 - to provide a balance between using investigatory powers to serve the community of West Lothian and safeguarding the public against unjustified and unlawful intrusion into their affairs
 - to provide the framework for procedural rules and controls
 - to make adequate internal monitoring and public reporting arrangements
- 1.6 The terminology used is explained in Section 8.

2 Roles and responsibilities

- 2.1 The council will designate a member of its Corporate Management Team to be the Senior Responsible Officer (SRO) who is responsible for:-
- ensuring the council complies with the law, Codes of Practice and other statutory guidance
 - maintaining and reviewing the policy
 - ensuring officers comply with this policy and related procedures and guidelines
 - establishing and reviewing internal procedures and guidance
 - providing training
 - dealing with the Office of the Surveillance Commissioner (OSC) in relation to oversight and inspection and actions arising
 - notifying the Monitoring Officer of any unauthorised surveillance activity
 - reporting to PDSP and/or committee on activity under the policy
 - completing a certificate of compliance as part of the annual report on the Local Code of Corporate Governance
 - appointing a deputy to act when the SRO is unable to do so
- 2.2 The council will designate at least one officer to be the Authorising Officer (AO) who is responsible for:-
- giving, reviewing, renewing and cancelling authorisations
 - maintaining a register of authorisations
 - notifying the SRO and the Monitoring Officer of any unauthorised surveillance activity
 - assisting and supporting the SRO
 - providing or arranging the provision of training
- 2.3 The Chief Solicitor, personally or through nominated solicitors, is responsible for:-
- providing legal advice to the SRO, the AO and other council officers
 - assisting and supporting the SRO and AO
 - acting as AO when the AO is unable to do so
 - notifying the SRO, the AO and the Monitoring Officer of any unauthorised surveillance activity
- 2.4 The delegation of those powers to officers shall be recorded in the Scheme of Delegations to Officers.
- 2.5 Heads of Service are responsible for:-
- raising awareness of the policy and procedures and ensuring officers undertake adequate training
 - designating and authorising officers to apply for authorisations and carry out and supervise the surveillance as authorised
 - informing the AO of the officers designated to apply for authorisations and carry out and supervise the surveillance as authorised
 - ensuring compliance with the policy and procedures and any authorisations issued
 - notifying the SRO and the AO of any unauthorised surveillance
 - assisting and supporting the SRO
- 2.6 All council officers engaged in surveillance or with responsibilities under this procedure are responsible for:-

- being familiar with the policy and procedure
- complying with the policy and procedure and authorisations issued
- undertaking appropriate training

2.7 IPCO oversees all public bodies engaged in covert surveillance. Part of their role is to periodically examine and audit records and procedures. All council officers engaged in the process must be prepared to justify their actions when called upon to do so. During periods of inspection, all officers must make themselves available for interview and otherwise cooperate with the visiting representative of IPCO.

3 Scope

3.1 The policy applies to council officers who are engaged in:-

- covert surveillance which is directed surveillance
- the use of a covert human intelligence source (CHIS)

3.2 In certain circumstances, those functions may include:-

- the use of CCTV (for example, where deliberate use of those cameras is part of a planned surveillance operation)
- the use of the internet and social media for the purpose of gathering information (for example, where monitoring of a website or social media page is undertaken systematically and over a period of time to gather information)
- test purchasing (for example, where young people are engaged to attempt to make what would be illegal purchases of alcohol or tobacco)

3.3 The policy does not apply to:-

- overt surveillance
- *ad hoc* surveillance
- unplanned surveillance
- purely internal observation in the council's role as employer where there is no surveillance in public place (for example, disciplinary investigations where ICO guidelines will apply)

3.4 The policy does not permit intrusive surveillance. Council officers must not engage in that activity.

4 Procedures

4.1 The SRO will put in place appropriate procedures and guidance to ensure that officers act lawfully and in accordance with the policy. Those procedures will be reviewed at least once every three years.

4.2 The procedure and guidance shall be designed to ensure that officers consider and satisfy the AO that:-

- the authorisation is legally possible (the council cannot authorise intrusive surveillance)
- the authorisation is legally required - not all observation activity will come within

the definition of surveillance requiring an authorisation (for example, overt surveillance)

- the type of information to be gathered has been identified (for example, the involvement of private information and/or confidential information)
- there is a lawful purpose (“core functions”) (that is, preventing or detecting crime or disorder; public safety; or protecting public health)
- the surveillance is necessary (it is a reasonable way to gather the information, with alternatives having been considered)
- the risk of collateral intrusion has been assessed and mitigating measures put in place
- the proposed surveillance will be effective
- the activity has been planned to avoid damage to property and harassment or intimidation of individuals
- the surveillance activities proposed are proportionate to the conduct being investigated
- competent officers are identified and available to carry out and supervise the surveillance

4.3 The procedures shall ensure that:-

- applications, authorisations and related documents and records are normally in writing
- the circumstances in which oral applications and authorisations can be used are clearly defined
- the ability to use social media and other online activity for gathering information is clearly explained
- forms are in place to ensure that the legal requirements and all relevant factual information is considered throughout the process
- authorisations are reviewed, renewed or terminated as required by the circumstances of the case
- a register is kept in compliance with legal requirements
- records are retained and destroyed in accordance with the council’s Records Management Policy and Retentions Schedules

5 Covert Human Intelligence Source (CHIS)

5.1 The use of a covert human intelligence source will be authorised only in exceptional circumstances. The council will avoid the use of a CHIS except in such exceptional circumstances.

5.2 Additional safeguards will be required in considering a request for CHIS authorisation. The procedures shall in particular ensure:-

- that any risk of activity falling into that category is identified and avoided
- that authority is only sought with the express approval of the relevant Head of Service
- that authorisation is not given until full discussion has taken place amongst the SRO, the AO, the Head of Service and the officer requesting the authorisation

5.3 The procedures shall also address the risk of “status drift”, whereby a series of actions taken involving the same individual in providing information in an investigation leads to the use of a CHIS without conscious decision or awareness, and so without an application and authorisation so to do.

6 Complaints

- 6.1 Any person aggrieved by the granting of an authorisation or by surveillance activity may lodge a complaint to the council under its Corporate Complaints Procedure.
- 6.2 Any person aggrieved by the conduct of any covert surveillance also has a right to complain to the Investigatory Powers Tribunal. This independent tribunal has full powers to investigate and decide cases within the United Kingdom, including complaints about activities carried out under Scottish legislation.

7 Review and reporting

- 7.1 This policy shall be reviewed at least once every three years. The outcome of the review shall be reported to PDSP. In the event that any changes are required, those changes shall be reported to Council Executive for approval.
- 7.2 Minor changes required for administrative reasons may be made by the SRO (for example, to reflect changes in the council's management structure and responsibilities, or changes in terminology).
- 7.3 The procedures and guidance shall be reviewed every three years by the SRO.
- 7.4 Annual reports will be made by the SRO to PDSP on all activity under the policy and in relation to inspection reports. Should RIPSA activity increase significantly then more frequent reports will be made. Breaches of the law or procedure or complaints or litigation may require *ad hoc* reports.
- 7.5 If requested, the SRO shall provide a compliance statement to the Monitoring Officer as part of the annual report on the Local Code of Corporate Governance, detailing the extent of surveillance activity during the year and identifying any areas of weakness or concern and non-compliance.

8 Terminology

- | | | |
|---|--------------------------------|--|
| 1 | <i>Ad hoc</i> surveillance | A one-off instance of information-gathering through undirected means with no systematic observation planned or carried out (for example, an initial check on a website or social media page) |
| 2 | Codes of Practice ¹ | Statutory Codes of Practice and Guidance issued by the UK Government, the Scottish Government or IPCO |
| 3 | Collateral intrusion | Through the authorised surveillance activity, obtaining information about other persons who are not the subject of the surveillance |
| 4 | Core functions | The specific grounds set out in statute or Codes of Practice for which an authorisation may be required. "Non-core functions" is construed accordingly |

¹ RIPSA, sections 24 - 26

- 5 Council Executive The council's main decision-making forum for non-education business established under the council's Standing Orders for the Regulation of Meetings and Scheme of Administration
- 6 Covert Human Intelligence Source (CHIS)² A person:-
- (a) establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c) below;
 - (b) covertly uses such a relationship to obtain information or to provide access to any information to another person; or
 - (c) covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship
- 7 Covert surveillance³ Surveillance that:-
- (a) if, and only if, is carried out in manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place;
 - (b) is for a covert purpose, that is, in relation to the establishment or maintenance of a personal or other relationship, if and only if the relationship is conducted in manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose; and
 - (c) if and only if leads to information used or, as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question
- 8 Directed surveillance⁴ Covert surveillance which is not intrusive and is undertaken:-
- (a) for the purposes of a specific investigation or a specific operation;
 - (b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and

² RIPA, section 1(7) and section 31(5)

³ RIPA, section 1(8)

⁴ RIPA, section 1(2)

- (c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Act to be sought for the carrying out of the surveillance
- 9 Information Governance Policy The council's umbrella policy covering the acquisition, use, sharing, disclosure and retention of all information used by the council in pursuit of its public or private powers and duties (Council Executive, 25 June 2019)
- 10 Intrusive surveillance⁵ Covert surveillance that:-
- (a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- (b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device
- 11 Investigatory Powers Tribunal PO Box 33220, London, SW1H 9ZQ Tel: 0207 035 3711 Email: info@ipt-uk.com
- 12 IPCO The UK RIPSA and RIPA regulatory body, the Investigatory Powers Commissioner's Office, PO Box 29105, London, SW1V 1ZY
- 13 Lawful surveillance Surveillance if:-
- (a) an authorisation under this Act confers an entitlement to engage in that conduct on the person whose conduct it is; and
- (b) that person's conduct is in accordance with the authorisation
- 14 Non-core functions See core functions
- 15 Officers Council employees or others authorised by the council to carry out functions or provide services on its behalf and under the direction of the Chief Executive
- 16 Overt surveillance Gathering information in an open, transparent and unhidden way (for example, observations from a clearly marked vehicle in a public place)
- 17 PDSP The Partnership & Resources Policy Development & Scrutiny Panel established under the council's Standing Orders for the Regulation of Meetings and Scheme of Administration

⁵ RIPSA, section 1(3), and subject to conditions and exclusions in section 1(4) and (5)

- | | | |
|----|----------------------------------|---|
| 18 | Private information ⁶ | In relation to a person, it includes any information relating to the person's private or family life. |
| 19 | RIPA | Regulation of Investigatory Powers Act 2000 |
| 20 | RIPSA | Regulation of Investigatory Powers (Scotland) Act 2000 |
| 21 | Scheme of Delegations | The council's record of the powers and responsibilities delegated to and exercisable by officers |
| 22 | Surveillance ⁷ | <p>Surveillance includes:-</p> <p>(a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;</p> <p>(b) recording anything monitored, observed or listened to in the course of surveillance; and</p> <p>(c) surveillance by or with the assistance of a surveillance device</p> |
| 23 | Unplanned surveillance | The observation of events as an immediate response to events without planning or forward thinking (for example, coming across information by chance in a public place) |

9 CONTACTS

- 1 The Senior Responsible Officer is Graeme Struthers, Depute Chief Executive, 01506 281776, graeme.struthers@westlothian.gov.uk. He has an oversight role and is not involved in the authorisation procedure.
- 2 The Authorising Officers are:-
 - James Millar, Governance Manager, 01506 281613, 078670466449, james.millar@westlothian.gov.uk
 - Carol Johnston, Chief Solicitor, 01506 281605, 07970 478897, carol.johnston@westlothian.gov.uk (or her nominated deputy)

⁶ RIPSA, section 1(9)

⁷ RIPSA, section 31(2) and subject to the exclusions in section 31(3)

PROCEDURE AND GUIDANCE

CONTENTS

A	INTRODUCTION	10
1	Background	10
2	Non-RIPSA activity	10
3	RIPSA activity not covered by this Procedure	10
4	Internet and social media	10
5	Using the procedure and guidance	11
B	PROCESS	12
1	Introduction	12
2	Before starting	12
3	The application	12
4	Emergency applications	13
5	Decision-making	13
6	Authorisation	14
7	Making changes	14
8	Review and renewal	14
9	Cancellation	15
C	GUIDANCE	15
1	Can an authorisation be given at all?	16
2	Is an authorisation actually required?	16
3	Is there a lawful purpose?	17
4	Is the surveillance necessary?	17
5	Is the proposed surveillance proportionate?	17
6	Will the planned surveillance be effective?	17
7	What information is going to be acquired?	18
8	What do you want to do?	18
9	Things the surveillance should be planned to avoid	18
D	CHECKLIST	18
E	TERMINOLOGY	19
F	CONTACTS	19

A INTRODUCTION

1 Background

- 1.1 On 19 September 2017 the council approved its Policy on using the regulation of investigatory powers legislation (RIPSA). The Policy is the council's framework of RIPSA principles and guidance and sits above this Procedure. The Procedure must be followed in all RIPSA cases. It is intended as a practical guide to making a RIPSA application in the case of directed surveillance. It does not apply to CHIS or to intrusive surveillance. Additional safeguards are required for a CHIS authorisation and the council policy is to avoid its use and only to authorise it in exceptional circumstances.
- 1.2 Directed surveillance can only take place under a RIPSA authorisation. That can only be given by a designated Authorising Officer (AO). The AO is your first point of contact in relation to any proposed application. They will provide advice and guidance in relation to the proposed surveillance and consider your draft application prior to determining whether surveillance should be authorised. The AO contact details are at the end of the Procedure.
- 1.3 Surveillance is an extremely powerful tool. It must be treated and used with respect, only in accordance with the legislation, and in circumstances which merit such significant measures.
- 1.4 Granting or refusing an application for authorisation is at the sole discretion of the AO. An application will only be granted where it meets the necessary statutory criteria. Surveillance should always be the last resort and will only be permitted where there are no other means by which to secure evidence, or where all other means by which to obtain evidence have been exhausted without success or else considered but discounted for good reason.

2 Non-RIPSA activity

- 2.1 The AO may take the view that the planned action is not for one of the three lawful purposes, and that may result in them refusing the application. The AO may also take the view that what is being planned is not directed surveillance, or is not covert surveillance, and so might refuse the application. However, activity that is not covered by the RIPSA legislation may still be lawfully carried out and the planned activity may in some cases still take place. An example is test-purchasing in relation to under-age sale of tobacco or alcohol.

3 RIPSA activity not covered by this Procedure

- 3.1 The council is not authorised to use intrusive surveillance under any circumstances.
- 3.2 It would be exceptional for the Council to use Covert Human Intelligence Sources (CHIS). CHIS is the subject of particular provisions within the legislation. If you are considering the need for CHIS then you should consult an AO who will be able to discuss matters with you in detail. The use of covert human intelligence sources will only be authorised in exceptional circumstances and with additional safeguards in place. Authorisation for CHIS may only be requested with the express approval of your Head of Service. CHIS authorisation will not be given until full discussion has taken place amongst the SRO, the AO, the Head of Service and the officer seeking authorisation.

- 3.3 In relation to a CHIS, “status drift” may occur when a series of interactions with the same individual result in a move from the simple acquisition and provision of information on a voluntary and undirected basis to a planned and directed course of actions whereby the individual is subject to council control and direction. You should be alert to that danger when engaging more than once or twice with the same individual about the same subject as part of the same investigation. If a pattern of recurring and repeated interaction emerges then take advice from the AO.

4 Internet and social media

- 4.1 Intelligence and information is readily available on the internet and social media. It may include information of significant value in pursuing statutory powers. Recording and using personal data from those sites may engage the Data Protection Act 2018. Viewing websites and social media sites is likely to interfere with individuals’ rights to the enjoyment of their private life and expectations of privacy. In the same way, an individual may have a reduced expectation of privacy when in a public place but still covert surveillance may result in the acquisition of private information relating to the individual concerned or collateral intrusion.
- 4.2 Despite the sites being publicly available and freely accessible, and regardless of security/access settings applied to the site, visiting those sites may also require a RIPSAs authorisation depending on the activity undertaken. Such sites, even when they are on the face of it designed for commercial purposes, may contain private information relating to the owner or operator of the site and their family or associates.
- 4.3 Use of the internet for information gathering prior to an investigation should not engage privacy considerations or require an authorisation. That is not necessarily restricted to just one instance of information gathering, or two, or any set number. The test is whether it falls within the definition of covert directed surveillance for one of the three statutory purposes for RIPSAs (“the core functions”).
- 4.4 The use of some sites by individuals may carry a greater or lesser expectation of privacy, depending on the information available and the generally understood purpose of the site and its use. Care is required where even an apparent commercial site might nevertheless carry or enable access to personal or private information unrelated to the commercial purposes.
- 4.5 The Scottish Government Code of Practice (2017)⁸ describes circumstances in which online activity may lead to the requirement for an authorisation. Those include:-
- Your intention to engage with others online without disclosing your identity
 - The likelihood of the subject of the surveillance being aware of it taking place
 - Accessing social media sites used for either or both of personal or business reasons as opposed to accessing publicly available online databases
 - The systematic collection and storing of information about an individual or group as opposed to an initial information-gathering reconnaissance
- 4.6 The Code also lists factors to consider in determining if online activity requires an authorisation, including:-
- The likelihood of obtaining private information about a person or group of

⁸ <https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/>

people

- Visiting internet sites to build up an intelligence picture or profile
- Recording and storing the information obtained
- The likelihood of providing an observer with a pattern of lifestyle
- Combining the information acquired with other sources of information or intelligence, which amounts to information relating to a person's private life
- The activity is part of an ongoing piece of work involving repeated viewing of the subject(s)
- The involvement of identifying and recording information about third parties, or information posted by third parties, which may include private information and therefore constitute collateral intrusion

4.7 Accessing sites overtly will not require a RIPSA authorisation. Use which clearly discloses the access is by the council or on the council's behalf, or where notice is given that monitoring will take place, is not covert activity, regardless of whether it amounts to surveillance. Use of an anonymised or fake or false identities or profiles will mean an authorisation is required if the definition of directed surveillance for core functions is met.

4.8 Use of the internet for non-core functions does not require an authorisation but the council's Information Governance Policy and its related Procedures will govern that use.

4.9 The Information Governance Policy governs the setting up or registering of websites or social media accounts or profiles. Establishing and using fake, false or anonymised accounts may only be done with the agreement of the SAO. That will be given subject to conditions on the officers who may use them, how they may be sued and the records to be kept of their use.

5 Using the procedure and guidance

5.1 The Procedure is in six parts:-

- A. Introduction - this section setting the RIPSA scene
- B. Process - the mechanics of making the application and what happens afterwards
- C. Guidance - help in addressing all the relevant information required by the application form
- D. Checklist - an *aide memoire* to help last-minute checks, revisions and amendments to the application and review forms
- E. Terminology - definitions and explanations of words and phrases used in RIPSA cases
- F. Contacts - information about the Senior Responsible Officer and the Authorising Officers

B PROCESS

1 Introduction

- 1.1 The Policy sets out the roles and responsibilities held by everyone involved in using RIPSAs. You have responsibilities too. Make sure you understand what they are before taking or planning any action or application.
- 1.2 Everything done by anyone in relation to RIPSAs must be done in accordance with legislation, Codes of Practice, the council's Policy and this Procedure, and having regard to Codes of Practice.

2 Before starting

- 2.1 You must be familiar with and understand the Policy and the Procedure.
- 2.2 You must have undertaken appropriate training.
- 2.3 You must have a general authorisation from your Head of Service to take on responsibilities under the Policy and Procedure.
- 2.4 You must have agreement from your Head of Service to proceed with the application.
- 2.5 You must let the AO know that an application is being prepared and when the surveillance is intended to start. The AO will need time to make a decision and will have other work to take into account.
- 2.6 You should discuss the case informally with the AO to make sure the application is covered by the legislation and is one that can be granted

3 The application

- 3.1 In almost all cases, an application can be prepared and submitted well in advance of the surveillance starting. In exceptional cases there may not be time to complete and submit an application before the surveillance has to begin. These situations are extremely rare. The procedure for those is explained below.
- 3.2 For normal, non-urgent cases, ask the AO for a Unique Reference Number (URN). The URN will be used in all correspondence and in the Register kept by the AO.
- 3.3 Familiarise yourself with the application form and what is required.
- 3.4 Use the Guidance later in this Procedure to help you fill out the form.
- 3.5 Draft the application carefully and revise it before submitting it. You may attach other documents where appropriate, for example, a map or plan showing proposed surveillance points. Mark them with the URN and the date.
- 3.6 The form is detailed and appears repetitive. However, each section has a specific function. It is necessary to provide detailed information appropriate to that section, regardless of whether it also appears elsewhere in the form.
- 3.7 If you have time, ask a colleague or your line manager to review the application.
- 3.8 Consult the checklist in the Guidance to make sure you have included everything that you should have.

- 3.9 Follow any instructions given by your line manager - for example, having it signed off by someone else before it goes. The AO will assume that those internal processes have been followed properly.
- 3.10 Make sure to submit the application in enough time for a decision to be made before the expected start of the surveillance.
- 3.11 The content of the application is your responsibility. Whilst assistance may be provided, you hold all of the information regarding the circumstances which will support your request for authorisation. Your application will contain all information supporting your request for authorisation. You must provide enough information to satisfy the AO that all the relevant factors have been thought through and are explained. The AO will not make assumptions about what you may have meant to say in your application. You should be prepared to discuss the proposed surveillance in detail with the AO.
- 3.12 Sign the application, date it, scan it and send it to the AO by email.

4 Emergency applications

- 4.1 In exceptional cases there may not be time to complete and submit an application before the surveillance has to begin. These situations are extremely rare.
- 4.2 In an urgent case, a verbal application may be made to the AO and may be granted for up to 72 hours. The urgency should relate to the subject of surveillance and not, for example, to delays in making the application.
- 4.3 If you consider that you require an emergency authorisation you should immediately contact the AO. The AO will assign a URN and enter the application in the Register. You should keep a note of what surveillance activity is being authorised.
- 4.4 You must follow up the verbal authorisation with a written application following the procedure set out above.
- 4.5 If you do not submit a written application on time the verbal authorisation will run out and be cancelled. The AO will confirm the position.
- 4.6 You will be instructed to immediately cease surveillance activity and remove any surveillance equipment.

5 Decision-making

- 5.1 The AO may seek more information from you before making a decision. That will usually mean amending the application to ensure that all the necessary information is included.
- 5.2 The AO may refuse the application. The reasons for refusing it will be explained.
- 5.3 The AO may grant the authorisation. They will sign it and date it, retain it and send you a copy.
- 5.4 You cannot begin your surveillance operation until you have confirmation that your application has been granted. You do not need to have the signed authorisation in your hand to begin the surveillance. However, you must have been told that it has been granted.
- 5.5 The AO will mark the Register to show the decision made and the date.

6 Authorisation

- 6.1 You must retain a copy of the authorisation provided to you by the AO.
- 6.2 The authorisation is valid for 3 months but it will be subject to a review before that and may also be cancelled before the end of that period.
- 6.3 The date for review will depend on the circumstances. The review date may have been discussed and agreed with the AO as part of the application process. If not, the AO will determine an appropriate review date.
- 6.4 You must comply with the authorisation and do all that you can to ensure that others do so as well. That includes keeping written records of surveillance activity carried out (when, where, by who) and information gathered.
- 6.5 You must follow any internal arrangements put in place by your line manager or Head of Service, such as providing periodic progress reports.
- 6.6 You cannot begin your surveillance operation until you have confirmation that your application has been granted. You do not need to have the signed authorisation in your hand to begin the surveillance. However, you must have been told by the AO that it has been granted. In most cases you will receive confirmation by phone and/or email. This will be followed by a copy of the authorised application.

7 Making changes

- 7.1 After starting the surveillance it may be that something has to be changed. For example, it may be that a different officer will have to carry out the surveillance activity; the location from which the surveillance is being carried out might have to be changed; it might be necessary to use some equipment that was not covered by the authorisation. You must contact the AO to explain the necessary change and to justify it.
- 7.2 If the AO decides that the change is significant then the authorisation will be cancelled and a fresh application submitted and authorised.
- 7.3 If the AO decides that the change is not significant then a change may be made to the existing authorisation and recorded by you and the AO as an addition to that authorisation.
- 7.4 Approval by the AO is needed before you proceed under any new arrangements.

8 Review and renewal

- 8.1 The review process is to reconsider the authorisation, whether it is still appropriate for it to be in place and for surveillance to continue. A renewal can only be given before the authorisation ends.
- 8.2 Before the review date you must consider and assess any evidence gathered as a result of the surveillance.
- 8.3 At least four days before the review date you must submit a review form to the AO. It must explain the evidence gathered, state whether the surveillance requires to continue and why. It is your responsibility to do so.
- 8.4 If you fail to submit the review form your authorisation will be cancelled. You will be instructed to immediately cease surveillance activity and remove any surveillance

equipment.

- 8.5 Reviews will not be back dated or considered retrospectively.
- 8.6 The AO may seek more information from you before making a decision. That will usually mean amending the review form to ensure that all the necessary information is included.
- 8.7 If the AO decides the surveillance is to continue, you will be given a further review date and the process will be repeated.
- 8.8 If the AO decides that the surveillance is no longer necessary or justified your authorisation will be cancelled.

9 Cancellation

- 9.1 An authorisation will be cancelled where a written application does not follow a verbal authorisation on time; where a review form is not submitted on time; where you decide that the surveillance should end; or where the AO decides that the surveillance should end.
- 9.2 If you decide that the surveillance should be terminated then you must submit a cancellation form. You must do so as soon as it is apparent that surveillance is no longer needed.
- 9.3 The surveillance operation may be terminated at any time. It is not dependent upon reaching a review date or the expiry of the 3 month period for which the authorisation was granted.
- 9.4 You must always submit a cancellation form to the AO at the conclusion of the surveillance operation. It forms an essential part of the record keeping requirements. There are NO circumstances in which it would be unnecessary.

C GUIDANCE

1 Can an authorisation be given at all?

- 1.1 If the proposed surveillance is “intrusive surveillance” then no activity can be authorised. Council officers must not engage in intrusive surveillance.
- 1.2 Intrusive surveillance is covert surveillance that:-
 - is carried out in relation to anything taking place on any residential premises or in any private vehicle, and
 - involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device

2 Is an authorisation actually required?

- 2.1 No authorisation is needed for:-
 - Overt surveillance – gathering information in an open, transparent and unhidden way (for example, observations from a clearly marked vehicle in a public place)

- *Ad hoc* surveillance – a one-off instance of information-gathering through undirected means with no systematic observation planned or carried out (for example, an initial check on a website or social media page)
 - Unplanned surveillance – the observation of events as an immediate response to events without planning or forward thinking (for example, coming across information by chance in a public place)
 - Surveillance purely internal to the council in its role as employer rather than as a public body (for example, most disciplinary investigations, where information is gathered on council premises or property, although carrying out surveillance of an employee in a public place may mean that authorisation is needed)
- 2.2 However, authorisation may be needed for some activity which does not at first seem to be covert surveillance.
- 2.3 Authorisation may be required for web-based activities, such as internet searching or accessing social media. This applies even though the subject of the surveillance chooses to make information available in those ways. Generally, a first check and a second follow-up check may be permitted without authorisation. That is more likely to be so if no data is recorded or retained. More frequent or sustained or regular checks or the systematic recording of information will usually mean an authorisation is needed.
- 2.4 Heads of Service are responsible for putting appropriate procedures in place to ensure that use of the internet and social media which requires an authorisation does not take place. Those will be steps in internal service procedures, usually embedded in case management systems or other software.
- 2.5 CCTV footage gathered through general and publicly signposted use will not require an authorisation. However, if it is planned to gather and use it as part of a programme of directed surveillance then it should be covered by an authorisation

3 Is there a lawful purpose?

- 3.1 The surveillance must be carried out for a defined lawful purpose, and there are only three:-
- preventing or detecting crime or the prevention of disorder
 - in the interests of public safety
 - protecting public health

3.2 Ministers have the power to add to this list. They have not done so.

3.3 You must identify and explain at least one of these three purposes. It must be related to something the council can do lawfully under the legislation applying to the service.

4 Is the surveillance necessary?

- 4.1 Directed surveillance should be the last resort for gathering information. You must deal with these three issues in the application to show that there are no viable and realistic options available:-
- Is there a reasonable and effective alternative way of achieving the desired objectives in the specific circumstances of the particular case?

- If other methods are available by which the same evidence may be recovered then those alternatives should be applied and exhausted before seeking authorisation.
- If other methods are available by which alternative evidence of similar value may be recovered then those alternatives should be applied and exhausted before seeking authorisation.

5 Is the proposed surveillance proportionate?

5.1 Directed surveillance is a potential infringement of human rights. Part of the legal justification for that is that the infringement is proportionate to the conduct being investigated and the potential harm being prevented.

5.2 These are the points to cover in the application form to meet the “proportionality” arguments:-

- Provide relevant and sufficient reasons in support of the application to show later that a fair decision making process was followed and safeguards against abuse were made clear
- Explain the harm being addressed and why the surveillance planned is proportionate in relation to it
- Show that the degree of intrusion upon the target is not excessive
- Satisfy the AO either that collateral intrusion is avoided, or if it cannot be avoided that it has been identified and addressed. That is done through mitigating, minimising, and safeguarding and controlling access to collateral information gathered. There should be controls to identify, separate and securely destroy data gathered in relation to people other than the subject of the surveillance
- Demonstrate that all other reasonable options for gathering the evidence have been considered and rejected for good reason

6 Will the planned surveillance be effective?

6.1 This is a more practical point. Part of justifying the surveillance is showing that it is likely to be effective in gathering evidence that will help the council deal with the misconduct or harm being investigated.

6.2 You should cover these points:-

- What are the prospects of successful recovery of information required in the pursuit of the investigation?
- Are there trained and experienced officers available to carry out the surveillance and supervise it adequately?
- Are the resources available that are required to properly carry out the surveillance and ensure compliance with the authorisation to be given?

7 What information is going to be acquired?

7.1 Consideration must be given to the type of information which may be gathered, in

particular if it will be private information or confidential information. Surveillance should be planned in such a way as to avoid such material being obtained.

- 7.2 If it is possible that such information will be gathered then the application should explain how it will be identified, how access to it will be controlled and how it will be destroyed once it is no longer necessary.

8 What do you want to do?

- 8.1 You must explain what surveillance actions you wish to undertake.
- 8.2 If technical equipment is to be used then you must say what it is, how it works, and how it will be used to acquire and record information.
- 8.3 You must identify where the surveillance will be carried out and describe the location to help show if there may be collateral intrusion or confidential information gathered. Using maps, plans and photographs may be sensible.
- 8.4 You must say who will be carrying out the surveillance activity and describe their post/position, qualifications, training and experience.

9 Things the surveillance should be planned to avoid

- 9.1 These are things that should be considered when planning the surveillance. You should show that you have thought about them, and that the planned surveillance either avoids them entirely, or minimises them if they are not avoidable.
- 9.2 The proposed surveillance activities must be planned to avoid damage to property and harassment or intimidation of individuals
- 9.3 The risk of collateral intrusion must be considered. This is obtaining information about other persons who are not the subject of the surveillance. Reasonable steps should be taken to avoid or at least minimise that possibility. Where that is likely to happen, steps must be taken to protect that information and ensure it is not retained unless that cannot be avoided.
- 9.4 A risk assessment should be carried out of the risk of harm to the officers carrying out the surveillance. It should be planned in a way to avoid or at the very least minimise and mitigate those risks.

D CHECKLIST

- 1 Have you identified and explained a lawful purpose for the activity?
- 2 Have you fully explained the conduct to be authorised?
- 3 Are the grounds for necessity correct?
- 4 Have you detailed why the activity is necessary?
- 5 Have you detailed why the activity is proportionate?
- 6 Have you explained what it is desired to achieve from the activity?
- 7 Have you detailed potential collateral intrusion, and why it is unavoidable?

- 8 Does the application provide evidence of efforts to reduce collateral intrusion if possible?
- 9 Is it likely confidential information will be obtained and is it unavoidable?
- 10 Does the application provide evidence of efforts to deal with confidential information?
- 11 Have you been able to verify and understand fully the reliability of the information provided to support the application?
- 12 If technical equipment is being used, do you understand and have you explained its capability enough to estimate what it will capture, and therefore how intrusive it might be?
- 13 Have you checked to ensure the activity will not interfere with other operations being conducted?
- 14 Have you covered who, what, why, where, when, and how?

E TERMINOLOGY

See section 8 of the Policy (Page 5)

F CONTACTS

- 1 The Senior Responsible Officer is Graeme Struthers, Depute Chief Executive, 01506 281776, graeme.struthers@westlothian.gov.uk. He has an oversight role and is not involved in the authorisation procedure.
- 2 The Authorising Officers are:-
 - James Millar, Governance Manager, 01506 281613, 078670466449, james.millar@westlothian.gov.uk
 - Carol Johnston, Chief Solicitor, 01506 281605, 07970 478897, carol.johnston@westlothian.gov.uk
- 3 Advice can be requested from the Authorising Officers. Ask in plenty of time!

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

COVID-19: PUBLIC INSPECTION OF DOCUMENTS – SUSPENSION OF DUTIES

REPORT BY GOVERNANCE MANAGER

A. PURPOSE OF REPORT

To review and extend the temporary suspension of statutory duties to make documents open to the public for physical inspection and copying.

B. RECOMMENDATIONS

1. To note the powers given to the council to provide alternative means of access to documents instead of complying with statutory duties to allow physical access for inspection and copying
2. To note that the temporary suspension of these duties in relation to the documents listed in the appendix was implemented through Standing Order 31 on 11 May 2020 and reported to Council Executive on 26 May 2020
3. To note that part of that implementation included an undertaking to review the position at the first Council Executive after 30 September 2020
4. To extend the suspension during the prolonged coronavirus emergency period of the duties listed in the appendix to make hard copies of documents available in council offices for public inspection and copying
5. To note that the suspension will only apply during the coronavirus emergency period, presently till 31 March 2021 or any date substituted by the Scottish Ministers, and full compliance will resume when the emergency ends
6. To agree that the use of these powers will be reviewed at the first Council Executive meeting after 1 April 2021 if the emergency period persists after that date

C. SUMMARY OF IMPLICATIONS

I	Council Values	Being honest, open and accountable; making the best use of our resources
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Coronavirus (Scotland) Act 2020; legislation referred to in the appendix
III	Implications for Scheme of Delegations to Officers	None

IV	Impact on performance and performance Indicators	N/a
V	Relevance to Single Outcome Agreement	N/a
VI	Resources - (Financial, Staffing and Property)	N/a
VII	Consideration at PDSP	None
VIII	Other consultations	Corporate Management Team; Legal Services; Committee Services

D. TERMS OF REPORT

1 Background

- 1.1 The council is subject to many and varied statutory duties to make documents available in its offices for physical inspection and copying by members of the public. In most cases members of the public exercise their corresponding rights by accessing documents online or by receipt of copies attached to emails. However, rights to come to council offices to have sight of hard copies and to make photocopies still exist.
- 1.2 The legislation passed by the Scottish Parliament to deal with the coronavirus emergency acknowledged that compliance with those duties during the emergency period might have implications for public health and for council resources.
- 1.3 The Act therefore allows councils to waive compliance with duties to make documents available to the public in its premises where

2 The new legal powers

- 2.1 The power to waive compliance applies in specified circumstances and subject to conditions:-
 - The statutory duty must be in legislation in the control of the Scottish Parliament
 - The power can only be used during the existence of the COVID-19 emergency (initially until 30 September 2020 but extended till 31 March 2021)
 - It does not apply to the publication of reports concerning the exercise of council functions or services
 - Compliance must be considered to be likely to impede the council's ability to take effective action to tackle coronavirus, and/or may give rise to a significant risk of the transmission of coronavirus
- 2.2 The council must give public notice of its use of the new powers and of any alternative means by which the public can secure access without visiting council premises.

3 The proposals

- 3.1 The appendix contains a list of the inspection duties where it is currently considered that the new powers apply and ought to be used. The basis is principally the risk of transmission of the coronavirus to and through members of the public and to council staff should the right of inspection be exercised during the emergency period.
- 3.2 In all these cases documents can be made available by electronic means. That will be achieved though publication on the council's website or by sending documents or information by email. If required, photocopies can be sent by post.
- 3.3 If the emergency period ends on or before 31 March 2021 then full compliance will be resumed. If the emergency period is extended beyond that date a report will be brought to committee to review the position and consider continuing the use of the powers. Suspension of the duty will continue until committee has considered its continuation.

E. CONCLUSION

- 1 Suspending duties to allow inspection and copying of documents at council premises will contribute in a small way to measures to tackle the coronavirus emergency. Rights to information will not be materially affected due to the use of electronic means of transmission.

F. BACKGROUND REFERENCES

- 1 Coronavirus (Scotland) Act 2020, section 7 and Schedule 3, paragraphs 10 and 11
- 2 Council Executive, 11 May 2020 (SO31) and 26 May 2020

Appendices/Attachments: 1. List of duties suspended

Contact Person: James Millar, Governance Manager, Chief Executive Office, West Lothian Civic Centre, Howden Road South, Livingston, EH54 6FF, 01506 281613
james.millar@westlothian.gov.uk

Graham Hope, Chief Executive

Date of meeting: 6 October 2020

APPENDIX

DOCUMENTS FOR PUBLIC INSPECTION – WAIVER OF REQUIREMENTS

	FUNCTION	DOCUMENT	LEGISLATION	REQUIREMENTS
1	Committee Services	Agendas, reports, minutes, background references	Local Government (Sc) Act 1973, sections 50B to 50F	Hard copy for inspection in Civic Centre, hard copy to press on request, provide photocopy on request
2	Governance	Members' register	Ethical Standards etc., (Sc) Act 2000, section 7	Keep hard copy, make hard copy available for inspection in Civic Centre
3	Member Services	Register of names and addresses of all elected members and committee appointments	Local Government (Sc) Act 1973, section 50G	Hard copy for inspection in Civic Centre
4	Committee Services	Summary of rights of members of the public to attend meetings and access documents	Local Government (Sc) Act 1973, section 50G	Hard copy for inspection in Civic Centre
5	Governance	Scheme of Delegations to Officers enduring for longer than 6 months	Local Government (Sc) Act 1973, section 50G	Hard copy for inspection in Civic Centre
6	Committee Services	Local Review Body case papers	Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, regulation 11	Hard copy for inspection and making copies at Civic Centre
7	Finance	Unaudited accounts and financial statements	Local Government (Sc) Act 1973, section 101	Hard copies available for inspection and making copies at Civic Centre
8	Committee Services	Asset Transfer Review Body case papers	Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016, regulation 5	Hard copy for inspection and making copies at Civic Centre
9	Planning	Planning application files and lists of cases	Development Management (Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013m regulation 22, and Town & Country Planning (Scotland) Act 1997,	Hard copies for inspection and copying at council office

	FUNCTION	DOCUMENT	LEGISLATION	REQUIREMENTS
			section 36A	
10	Planning	Planning enforcement files and register	Town and Country Planning (Enforcement of Control) (No.2) (Scotland) Regulations 1992, Part IV	Hard copies for inspection and copying at council office
11	Planning	Core Paths Plan and maps	Land Reform (Sc) Act 2003, section 18	Keep Core Paths Plan and maps available for inspection and for purchase of copies

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

PROPOSED CHANGES TO PRE-APPLICATION CONSULTATION (PAC) REQUIREMENTS IN PLANNING – PROPOSED CONSULTATION RESPONSE

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise Council Executive of the Scottish Government's consultation Proposed Changes to Pre-Application Consultation (PAC) Requirements in Planning and to agree the council's response to that consultation.

B. RECOMMENDATION

It is recommended that Council Executive:

1. notes the terms of the report; and
2. approves the proposed response to the consultation as set out in Appendix 1.

C. SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; and working in partnership.

II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)

Scottish Government is introducing a package of measures on improving community engagement in planning matters in order to build public trust.

The Town & Country Planning (Scotland) Act 1997 (as amended) provides the legislative framework for pre-application consultation

As this is a Scottish Government consultation there is no requirement for a Strategic Environmental Assessment (SEA) for the response.

There are similarly no equality, health or risk assessment issues associated with the consultation response.

III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	None.
VII	Consideration at PDSP	Ordinarily, a report would have been prepared for the Development and Transport PDSP. However, the timing of the consultation has not allowed for reporting to PDSP although all members of the panel have been made aware of the consultation and proposed response as has the Chair of Development Management Committee
VIII	Other consultations	None.

D. TERMS OF REPORT

D1 Background

The requirements for pre-application consultation (PAC) with local communities on national and major developments prior to submission of a planning application were introduced in 2009. The aim is that local communities are made aware of proposals at an early stage, and have the opportunity to comment to the prospective applicant before the proposal is finalised and an application for planning permission is made.

The basic PAC requirements are currently that the prospective applicant must:

1. Serve a proposal of application notice (PAN) on the planning authority describing the proposal and location and indicating what consultation they intend carrying out as part of PAC.
2. Consult the community councils in whose area the proposal site is located or whose area adjoins the proposal site.
3. Hold a public event.
4. Publish a notice in a local newspaper indicating: where information on the proposal can be obtained; how to make views known to the prospective applicant; and the details of the public event (the notice must be published at least 7 days prior to the public event).

5. Carry out any further PAC measures required by the planning authority (the authority has 21 days from the receipt of the PAN to make such requirements).

The planning application to which PAC relates cannot be submitted to the planning authority until at least 12 weeks have passed since the PAN was served on the planning authority. There is currently no maximum time limit for the application for which PAC relates to be submitted to the planning authority following completion of PAC. If an application is submitted, it must be accompanied by a report on the PAC. Currently the content of such reports is the subject of guidance rather than statutory requirement.

The proposed changes to PAC partly come from the report 'Empowering Planning to Deliver Great Places' (May 2016) by the independent panel assigned to review the Scottish planning system. That report referred to concerns that PAC can be a 'tick box' exercise and that there was a lack of feedback to communities on their views in the pre-application phase.

There have also been concerns about PAC requiring to be repeated in situations where a PAC has been conducted previously and an application made, and then the developer seeks to make a subsequent application for the same, basic development.

D2 Consultation Questions

The consultation paper by Scottish Government seeks views on the detailed legislative proposals for PAC, the approach to engagement with disabled people during PAC, and on the content of guidance on PAC.

The stated objective of the consultation is to improve the PAC process, make it clearer and provide more information on and opportunities for feedback, whilst ensuring that the PAC requirements are proportionate.

The consultation sets out 20 questions. The principle matters on which views are sought are:

1. A requirement for information about the proposal to be available both in hard copy and electronic (online) versions.
2. A requirement for an additional public event (i.e. a required minimum of two public events).
3. Requirements on the content of PAC reports.
4. Exemption from PAC for applications in certain circumstances.

D3 Proposed Response to Consultation

The proposed response to the consultation is set out in Appendix 1. The response set out is generally supportive of the proposals which, if implemented so bring further clarity to those who engage in the process and greater certainty about the actions required of developers.

E. CONCLUSION

The consultation sets out proposals to improve the pre-application consultation requirements in order to enhance the process for the benefit of all stakeholders. The council's response will inform the proposed legislative changes.

F. BACKGROUND REFERENCES

<https://consult.gov.scot/planning-architecture/pre-application-consultation-requirements/>

Appendices/Attachments: One

Appendix 1: Proposed Changes to Pre-Application Consultation (PAC) Requirements in Planning - Consultation Response

Contact Person: Tony Irving, Principal Planning Officer, 01506 282410

Email: tony.irving@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development & Regeneration

6 October 2020

APPENDIX 1

West Lothian Council's Response to Scottish Government Consultation on Proposed Changes to Pre-Application Consultation (PAC) Requirements in Planning

(The following responses will be inputted into Scottish Government's on-line consultation form subject to approval by Council Executive)

Q1. Do you agree with the proposal to require the PAC information, which is to be made available to the public, to be available both by electronic means and in 'hard copy' format?

The council agrees with the proposal to make PAC information available electronically as the online availability of documents and ease of access this results in should encourage and facilitate enhanced community participation in the pre-application process.

Q2. Please give us your experience of using online alternatives to public events during the COVID-19 emergency.

The council's experience of moving services on line has generally been positive although its experience of public events has been fairly limited.

Q3. Do you agree with the proposal to make a second physical public event a minimum requirement of PAC?

It is agreed that a second physical public event has merit as it would firstly allow an opportunity for people who could not attend a first event to engage in the process. Secondly, it would allow feedback from the first event to be considered and the developer would be able to explain how such feedback has influenced the proposal.

Q4. Do you agree that a second physical public event required as part of PAC must include feedback to the public on their earlier engagement in PAC?

It is agreed that inclusion of feedback should form part of a second public event.

Q5. Do you agree with the proposed minimum time period between the required public events in PAC?

It is considered that the proposed minimum period of seven days between a first and second public event is too short and the council suggests this should be increased to a minimum of 21 days.

This is to allow developers meaningful time to assess feedback from a first public event and to consider how or if a proposal should be changed. If a seven day minimum period was adopted by developers as the default period this could undermine the effectiveness of a second event.

Q6. Do you agree with the proposed requirement for an additional newspaper notice for the second required public event?

It is agreed that same publicity arrangements should apply to a second public event as they do to a first public event as there is no reason not to do so.

Q7. Do you agree with the proposed list of required content for PAC reports?

The proposal to specify the content of PAC reports in legislation is welcomed by the council in

order to provide clarity and consistency. The proposed list of requirements would appear to cover all parts of the PAC process.

Q8. Do you agree with the PAC exemption being limited to the same applicant who made the earlier application?

As different applicants are likely to have different views of how to develop a site and thus differing proposals even for the same form of development, it is agreed that any exemption from PAC for a further application should depend on the applicant being the same.

Q9. Do you agree with the circumstances regarding an 'earlier application' (withdrawn, refused etc.) in which a second application would be able to get exemption from PAC?

The council notes the proposal is that, subject to meeting the other proposed criteria, a second application would be able to get an exemption from PAC where the earlier application is either withdrawn; refused; granted; appealed; called-in for determination by Scottish Ministers; or still before the planning authority.

It is considered that these circumstances are appropriate and would avoid PAC that would add little value and could lead to consultation fatigue for communities.

Q10. Do you agree with the approach to linking the description of the proposal in the earlier application and that in the second application for the purposes of a PAC exemption?

The council agrees that linking descriptions of development in order to qualify for PAC exemption is critical to ensure communities have been consulted on essentially the same proposal.

Q11. Do you agree that the exemption from PAC should be linked to the content of the PAN served in relation to PAC for the earlier application?

It is agreed that a further application should fall within the scope of what was included in the PAN for the earlier application.

Q12. Do you agree with the proposed time limit on exemptions from PAC?

The proposed exemption from PAC for a second application up to 18 months from the date the earlier application was made to the planning authority is considered to be a reasonable time period and would ensure further PAC was implemented if this 18 month period was exceeded.

Q13. Do you agree with the proposed transitional arrangements for bringing into force the new PAC requirements, including the time limit for making applications to which PAC requirements apply?

It is noted that it is proposed that an application must be made within 18 months of the PAN. The introduction of this timescale for submission of an application is welcomed by the council as it has been a serious omission to date that has potential to undermine the PAC process.

The proposed transitional arrangements appear to be reasonable.

Q14. Please give us your views on the proposed approach to pre-application engagement with disabled people.

The council would welcome production of guidance for developers on specific engagement with disabled people to ensure development proposals pro-actively take account of the specific needs of this group of the community.

Q15. Please tell us what issues you think should be covered in guidance for PAC.

It is noted that it is proposed to produce guidance supporting the revised PAC arrangements which would include: engagement with access panels, issues to be considered when holding and scheduling public events; consideration of the nature of local communities and approaches to engagement; and the use of information technology in supporting statutory requirements.

The inclusion of the aforementioned subjects in any guidance is welcomed. It is considered that guidance should specifically refer to the locations, timings and publicity of physical public events to ensure attendance is maximised.

Q16. Please give us any views you have on the content of these partial BRIA and combined EQIA/CRWIA.

The council notes the contents of the Business and Regulatory Impact Assessment (BRIA) and the Combined Equality and Child Rights and Wellbeing Impact Assessment (EQIA/ CRWIA) and has no specific comments to make.

Q17. Do you have or can you direct us to any information that would assist in finalising the BRIA and combined EQIA/ CRWIA?

The council has no relevant information.

Q18. Please give us your views on the Island Communities Impact Assessment screening paper and our conclusion that a full assessment is not required.

The council does not have any island communities and offers no comment.

Q19. If you consider that a full Island Communities Impact Assessment is required, please suggest any information sources that could help inform that assessment.

N/A

Q20. Please give us any general comments on the PAC proposals or related issues not covered by earlier questions.

Current legislation requires consultation with community councils. However, in many cases there are also local residents associations that are both formal and informal. There are examples in West Lothian where such residents associations cover many hundreds of homes.

The council considers these are important community organisations and there is scope to make consultation with these a legislative requirement where the planning authority advises it is appropriate to do so.

06 October 2020

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

INTERIM REGIONAL SPATIAL STRATEGY FOR EDINBURGH AND SOUTH EAST SCOTLAND (iRSS)

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise Council Executive of preparation of an interim Regional Spatial Strategy (iRSS) for Edinburgh and South East Scotland (iRSS) and to seek ratification of a decision by the SESplan Joint Committee to submit that document for submission to Scottish Government.

B. RECOMMENDATION

It is recommended that Council Executive:

1. notes the decision by the SESplan Joint Committee of 21 September 2020 to agree the content and terms of an interim Regional Spatial Strategy for the SESplan area and its submission to Scottish Government in order to inform National Planning Framework 4;
2. notes that each of the six authorities in SESplan have to ratify the SESplan decision;
3. notes the call in the strategy for a fully funded 'infrastructure first' approach;
4. ratifies the decision of the SESplan Joint Committee to submit the interim Regional Spatial Strategy to Scottish Government for consideration as part of National Planning Framework 4; and
5. delegates the Head of Planning, Economic Development & Regeneration to agree, in consultation with the Executive Councillor, any changes to the interim Regional Spatial Strategy promoted by any of the SESplan council's provided that those changes do not have a material impact on West Lothian's interests.

C. SUMMARY OF IMPLICATIONS

- | | |
|---|---|
| I Council Values | Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; and working in partnership. |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | As part of the Planning (Scotland) Act 2019 the Scottish Government is in the process of preparing a new National Planning Framework for Scotland (NPF4). NPF4 is anticipated to be laid before the Scottish Parliament in autumn 2021. In order to inform NPF4 Scottish Government has invited submissions from Planning Authorities in the form of interim Regional Spatial Strategies. |

There are no equality, health or risk assessment issues, or SEA issues at this stage.

III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	None.
VII	Consideration at PDSP	The timing for submissions to Scottish Government of iRSS's and the date of the SESplan Joint Committee and the council's Development and Transport PDSP have not allowed for this matter to be reported to the PDSP in advance of the Council Executive.
VIII	Other consultations	None.

D. TERMS OF REPORT

D1 Background

SESplan comprises a partnership of six local authorities (City of Edinburgh, East Lothian, Fife, Midlothian, Scottish Borders and West Lothian Councils). SESplan is responsible for the preparation of Strategic Development Plans (SDPs). That role has changed with the Planning (Scotland) Act 2019 setting out that there is no longer a requirement to prepare SDPs and in time strategic development planning authorities such as SESplan will be wound up. SDPs set out strategic planning matters which would then be required to be reflected at a local level through local development plans.

The Planning (Scotland) Act 2019 sets out new requirements for strategic planning which introduces the preparation of regional spatial strategies to inform National Planning Framework 4. The Act is not definitive about the geographical extent of the spatial strategies but the Scottish Government's Chief Planner suggested that it would be sensible to prepare a spatial strategy for the Edinburgh and South East Scotland City Region Deal area. This proposal was the subject of a separate report to Council Executive on 3 December 2019 where it was agreed to prepare a regional spatial strategy for the SESplan area. An interim Regional Spatial Strategy (iRSS) has now been prepared and was reported to the SESplan Joint Committee on 21 September 2020 - <https://www.sesplan.gov.uk/assets/Joint%20Committee/21%20September%202020/2020-09-21%20agenda%20CONSOLIDATED%20minus%20item%207.pdf>

The iRSS is to be submitted to Scottish Government to inform its preparation of a new National Planning Framework for Scotland (NPF4). NPF4 is anticipated to be laid before the Scottish Parliament in Autumn 2021. The submission date for iRSS's is 18 September however, Scottish Government has been informed that the SESplan Joint Committee would not meet until after that submission date and that any decision of the Joint Committee would need to be considered by each of the SESplan member authorities.

D2 Regional Spatial Strategies

There is no formal description of what an iRSS must comprise however, Scottish Government anticipate they would be illustrated by some form of a strategic diagram accompanied by a brief supporting narrative. The status of the submission is indicative as the Duty to produce RSS is yet to be enacted by Parliament.

Once that Duty has been enacted through the issue of regulation/guidance the iRSS can be formalised, finalised and adopted. The timescale for formal RSS to be finalised and adopted once the Duty is enacted is likely to be towards the end of 2021/start of 2022, subject to confirmation.

D3 The Proposed Interim Regional Spatial Strategy for the SESplan Area

The SESplan iRSS has been prepared within the context of SDP2 Proposed Plan whilst also recognising changed economic and environmental circumstances arising from the COVID-19 situation and Brexit. The iRSS sets out a robust case for requirements for significant investment on the part of Scottish Government in order to deliver proposed developments, for example the strategic growth areas across the SESplan area, including the core development areas in West Lothian, principally Winchburgh, and wider infrastructure needs. The iRSS is attached as Appendix One.

The iRSS commits to supporting the level of growth in SDP2 and the area of North East Fife which is now incorporated within the strategy area. However, if this growth is to be delivered significant investment in sustainable transport and other infrastructure, including schools, will be required. The iRSS emphasises that it is imperative that the review of the NPF addresses the link between development and infrastructure once and for all and puts a funding regime in place which supports an "infrastructure first" approach. This requirement is set out in a number of places in the report including in the Foreword to the document, in the last two paragraphs of Page 5 which set out that infrastructure has to be properly funded, and in the bullet points in Page 6 which identify the need for the Scottish Government to put arrangements in place to ensure that infrastructure is fully funded. This theme is also repeated in other parts of the strategy.

The iRSS sets out a series of shared overarching themes through which the economic and environmental prosperity of the region and benefits to health and well-being can be realised – an adaptable region addressing climate change, ensuring conservation and good design; an accessible region ensuring viable sustainable transport options, access to employment, sustainable housing land and digital access; and regional recovery and renewal, economic renewal, tackling inequality and environmental improvement.

The iRSS has had regard to other key studies/reports recently prepared by bodies such as the Infrastructure Commission and has also had the benefit of input from key agencies such as NatureScot (formerly SNH) and SEPA.

E. CONCLUSION

The iRSS is to be submitted to the Scottish Government for its consideration in the preparation of NPF4. A more formal RSS will follow at a later date and further inform the development strategy which emerges for the SESplan area. This, in turn will require to be reflected in new local development plans for the area.

F. BACKGROUND REFERENCES

Planning (Scotland) Act 2019

Report to SESplan Joint Committee 21 September 2020
<https://www.sesplan.gov.uk/assets/Joint%20Committee/21%20September%202020/2020-09-21%20ITEM%208%20-%20iRSS%20Report%20PDF.pdf>

Appendices/Attachments: One

Appendix 1: Interim Regional Spatial Strategy for Edinburgh and South East Scotland

Contact Person: Fiona McBrierty, Development Planning and Environment Manager, 01506-282418.
Email: fiona.mcbrierty@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development & Regeneration

6 October 2020

Regional Spatial Strategy for Edinburgh and South East Scotland City Region



Foreword

I am delighted, along with my fellow Council Leaders and Planning Leads in City of Edinburgh, East Lothian, Fife, Midlothian, Scottish Borders and West Lothian councils to agree this interim Regional Spatial Strategy for the South East of Scotland. The South East of Scotland has for many years been the powerhouse of the Scottish economy. The six authorities in the southeast have worked individually and in partnership to ensure that growth occurs while ensuring the protection and enhancement of the regions important environmental and culture assets. The authorities have and will support the right developments in the right place, particularly where they increase opportunities for our businesses, people and communities.

The interim Regional Spatial Strategy sets a framework for this support to continue. The regional authorities are committed to meeting significant levels of housing growth already planned for and providing for sustainable economic development but we cannot do this alone. This was most apparent when Ministers rejected the second Strategic Development Plan (SDP2) that covered much of the area now covered by the Regional Spatial Strategy.

SDP2 set a strategy to meet the most recent agreed assessment of housing growth in full. However, questions were raised about the capacity of the roads and transport infrastructure to cope with the level of growth proposed. Ultimately, the plan was rejected on the basis that the transportation impacts had not been fully assessed and mitigated, highlighting the need for an infrastructure led approach to delivering development.

The interim Regional Spatial Strategy commits to supporting the level of growth in SDP2 and the area of North East Fife which is now incorporated within the strategy area. However, if this growth is to be delivered significant investment in sustainable transport and other infrastructure, including schools, will be required. It is imperative that the forthcoming review of the National Planning Framework addresses the link between development and infrastructure once and for all and puts a funding regime in place which supports an “infrastructure first” approach. Fellow Leaders, Planning Leads and I look forward to working with government to achieve this.

Of course, many things have happened since the six authorities agreed the spatial strategy set out in SDP2. The COVID-19 pandemic will undoubtedly change the way people work and the climate emergency requires everyone to think differently about what they do and how they do it. That will require a flexible approach to achieving resilience and sustainable growth. Brexit may also bring challenges for all sectors of the rural and urban economies of the region.

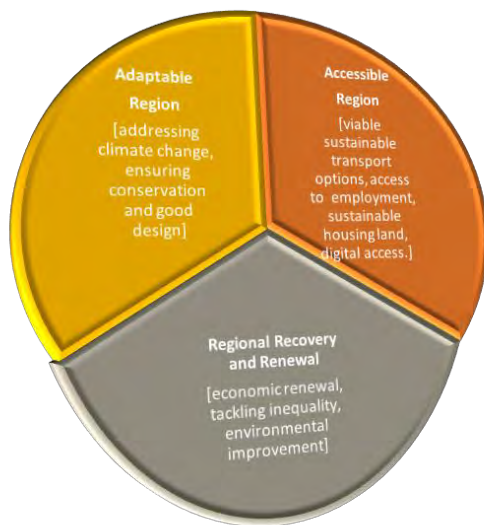
Fellow Leaders, Planning Leads and I believe that the strategy provides a flexible framework to address the challenges ahead and we remain, as a partnership, committed to working with government and agencies to ensure that the necessary investment to support the strategy is in place.



Councillor Russell Imrie

SESplan Convenor

Regional Challenges and Strategy



As the Capital region of Scotland, with connections to the rest of the country and beyond, the South East Scotland Local Authorities will work together for the benefit of the region and Scotland as a whole. As mentioned in the Scottish Government's Advisory Group's Report 'Towards a Robust Wellbeing Economy for Scotland' (June 2020), differences between regional geography and sectors need to be "recognised, respected and championed". To this end, the Local Authorities have agreed on a series of shared overarching themes through which the economic and environmental prosperity of the region and benefits to health and well-being will be realised.

The report of the Advisory Group on Economic Recovery sets out the importance of a green recovery as a major change in renewal in the post Covid environment. All the South East Scotland Local Authorities will soon have declared climate emergencies and are looking to pursue climate change related action at a corporate level and through their Local Development Plans. The National Climate Change Strategy and policy in National Planning Framework 4 (NPF4) must provide the context for the Local Authorities to take decisive action and assist with this green recovery.

As Scotland's capital region, it is vitally important that it functions effectively for the benefit of the whole country. The timely delivery of strategic infrastructure will provide the framework for the delivery of all development that is required to effectively meet the themes outlined above. The implementation of the Transport Transition Plan (TTP) recovery following the COVID 19 crisis, the Infrastructure Commission findings, particularly around on the early delivery of infrastructure, and the alignment of Strategic Transport Projects Review (STPR2) with the progression of NPF4 require to happen to allow carbon reduction and the sustainable delivery of new development.

These national actions will be made a reality through spatial interventions, council policies and through the policy and programmes of other regional stakeholders to achieve a robust, resilient and wellbeing economy. They will also be progressed through a Regional Growth Framework to be developed by the six South East Scotland Local Authorities and partners over the coming year.

Regional Overview

The Edinburgh City Region will continue to be a very attractive area for business and people to locate and this focus will accelerate due to the Covid crisis and the realisation of business that it can locate to smaller city regions without losing their global reach. The population of the region is expected to grow over the next 10 years by over 200,000 people. Including the nation's capital city, the region will continue to be the main driver of the Scottish economy so for the benefit of the country, it requires a significant level of investment and action to successfully perform this role and accommodate this growth. International, national and regional transport infrastructure needs continued investment to support sustainable growth and change.

The six South East Scotland Local Authorities and the wider stakeholders in the region have responded to this demand over the last few years by identifying locations for an unprecedented level of development that will be required to address the increasing population and employment base. To plan for this, effective land for just under 100,000 houses has already been identified across the region for the period to 2032. Tables 1 and 2 below highlight the effective land available when compared with the land supply targets set out in SESplan2 (see Table 3). Although these sites are effective their effective delivery as part of this overall strategy is dependent on the provision of large amounts of strategic infrastructure which requires interventions at a national level. Much of this housing development is still to be delivered and will provide a significant supply of future housing well into the lifetime of this Regional Spatial Strategy and consequently NPF4. A key element of this housing delivery are the seven strategic sites, including the proposed national development at Blindwells, that will deliver new communities in key locations across the region.

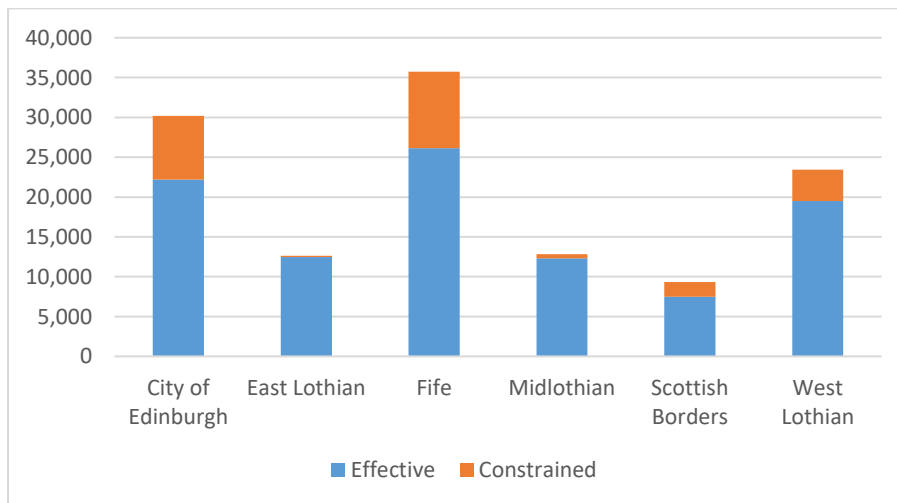


Table 1: Constrained and Effective Housing Supply (2018)

	Effective Land Supply	Average completions for last 5 years	No. of years effective supply
City of Edinburgh	22,194	2,185	10
East Lothian	12,456	486	26
Fife	26,119	1,429	18
Midlothian	12,323	619	20
Scottish Borders	7,500	281	27
West Lothian	19,505	690	28
Total	100,097	5,690	18

Table 2: Effective land supply based on comparison with SDP2 +TAYplan (NE Fife only) housing Supply targets

As Regional Spatial Strategies and Local Development Plans are reviewed they will need to consider the emerging impacts of Covid-19 and Brexit on business and other sectors including tourism, culture, higher education and on population growth through UK, European and world migration trends.

The challenge is always to deliver housing land in a sustainable manner that enhances existing communities and creates low carbon, accessible communities. This is made more important by the critical need to address climate change and community and economic resilience to threats such as Covid 19. Education, transport and green network infrastructure identified must be delivered as an integrated part of this overall development strategy. Without this, the challenges of the region would become acute and the aims set out in this strategy and at a national level cannot be achieved.

Delivering the planned levels of development is a challenge but one which the six South East Scotland Local Authorities are proactively addressing. The projects set out in this strategy have, on the whole, been progressed through being allocated and scrutinised through the development plan process. To assist with delivery, partnerships between the local authorities and wide variety of stakeholders are in place. An example of this is the Edinburgh and South East Scotland City Region Deal which will go some of the way to assist with the delivery of this infrastructure and strategy.

Also, further growth and development can only be accommodated sustainably in the region through appropriate sustainable transport interventions. Infrastructure will have to be programmed and properly funded if the strategy is to be delivered. That will require public and private investment but ultimately it will be for NPF4 to set a framework for deliverable infrastructure investment. This spatial strategy aims to mitigate the delivery of committed development and associated infrastructure and make better use through renewal of existing assets whilst identifying interventions to enhance both sustainability and potential to accommodate further growth with lower climate change impacts and more resilient communities.

Private sector contributions to delivery of some of this infrastructure is often subject to challenge and the extra pressure on local authorities through capital expenditure and revenue consequences is significant and unsustainable. These are significant challenges that the region has faced for a long time without funding mechanisms to address them and cannot be solved simply through developer contributions or local authority action. There are cross boundary issues of national importance which

require interventions and investment at a national level, particularly the shift from car based travel to public transport and active travel. Some of these requirements relate to existing development and needs (e.g. carbon neutral transport) rather than growth so cannot therefore be funded by new development. A holistic approach towards investment is therefore required in order to reach sustainability targets.

The six South East Scotland Local Authorities and stakeholders will actively pursue the delivery of the projects and themes in this regional spatial strategy, a task that will be made easier with their reflection in NPF4. Whilst there has been significant recent investment in the Queensferry Crossing and the rail network across central Scotland and from the city to the Borders, regionally there requires to be substantial investment by national agencies in the infrastructure required to give sustainable movement solutions for the level of nationally important growth and economic activity in the city region. There are also areas of policy that require national action as individually or collectively the member authorities do not currently have the policy backing to implement their aims. These investment and policy gaps must be addressed by NPF4 as well as regional action to allow the shared themes of the Regional Spatial Strategy and national agendas to be delivered.

To achieve this, NPF4 must achieve the following key requirements:

- A commitment from the Scottish Government to fully fund, or where appropriate part fund, strategic infrastructure. The region will, and can, support significant growth, but it cannot be to the burden of individual authorities, or authorities working in partnership, to deliver the infrastructure required to benefit the national economy of Scotland.
- A commitment from Scottish Government to establish an investment mechanism whereby local authorities working in partnership with the development industry and other key agencies can deliver upfront infrastructure so that sustainable development is delivered on an infrastructure first basis as recommended through the Infrastructure Commission report;
- A commitment from Scottish Government to coordinate a low carbon transportation strategy across the Edinburgh City Region, addressing the reasons why Ministers rejected SESplan2. The strategy shall include a commitment to deliver the planned Sheriffhall Roundabout upgrade, Edinburgh bypass orbital public transport solutions and coastal transport options;
- NPF4 needs to set clear housing targets at the levels set out below and included in SESplan SDP2*** Where targets cannot be met, through lack of market delivery, Councils must be supported in the first instance by Scottish Government, rather than being faced with the prospect of housing allocations being awarded on appeal on unsustainable sites contrary to the national planning principle of a plan lead system;
- NPF4 shall enshrine the principles of planning; which include the primacy of place-making and good design for the benefits of communities, economic growth, climate change mitigation, wellbeing, and biodiversity enhancement, enabling local development plans based around significant active travel and public transport solutions; and
- NPF4 shall commit the development industry to carbon neutral and biodiversity enhancement only development, requiring a position statement on carbon and biodiversity offsetting.

Local Authority	Recommended annual average housing supply target	housing supply target ** +	Recommended housing land requirement ** +
*City of Edinburgh	3,100	43,400	47,000
East Lothian	516	9,282	10,224
Fife	1,093	19,674	21,654
Midlothian	518	9,318	10,260
Scottish Borders	289	5,202	5,760
West Lothian	523	9,420	10,350
Total	6,039	96,296	105,248

Table 3: Recommended Housing land requirements and Housing supply targets for inclusion in NPF4

*City of Edinburgh Council Choices for City Plan 2030 and Housing Study, January 2020, subject to approval

**Figures for East Lothian, Scottish Borders, West Lothian, Fife and Midlothian are for the period 2012 – 2030

+ Figures for City of Edinburgh are for the period 2018 to 2032.

*** SESplan 2 plus the NE Fife element of TAYplan

Through NPF4 connections must be made across all relevant policy areas, and major influences on the planning system including; climate, inequality, ecology, housing, health, welfare, education, economy, technology, transport and energy. The current challenges brought about by Covid 19 may have lasting effects on the economy. While demand for new development will recover it is important that in the short-term standards in new development are not prejudiced by a desire to stimulate growth. The ambitions around climate change, health and well-being, connectivity and place making remain through the pandemic and when it recedes.

Regional challenges and strategy

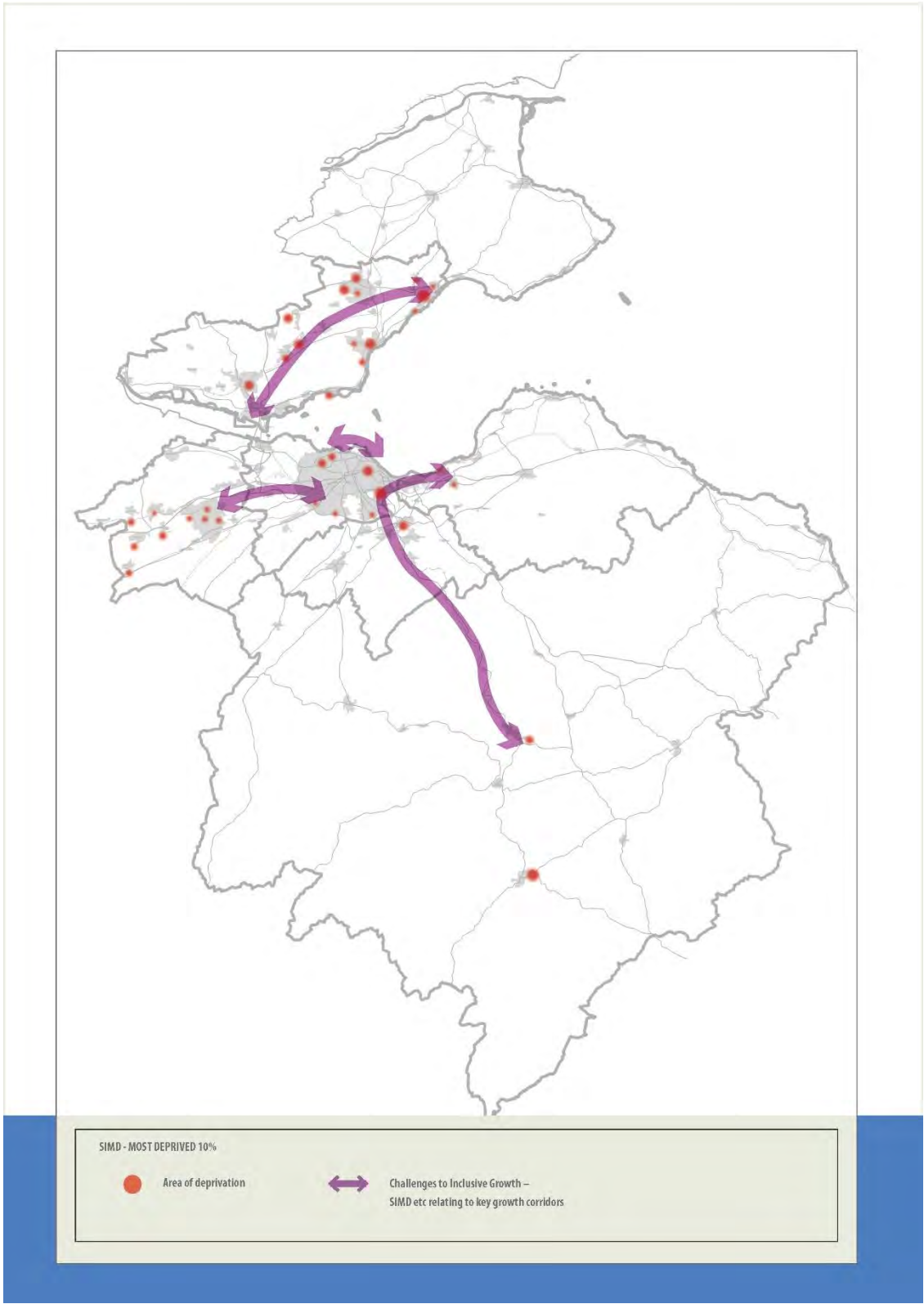
This strategy is expressed in two sections:

The challenges and solutions that affect the whole region or are of a cross boundary nature; and, those that are specific to a distinct part of the region.

The delivery of both sections is required to successfully achieve the environmental, economic and accessibility themes of the spatial strategy for South East Scotland.

Regional Recovery and Renewal [Tackling inequality, environmental improvement, economic renewal]

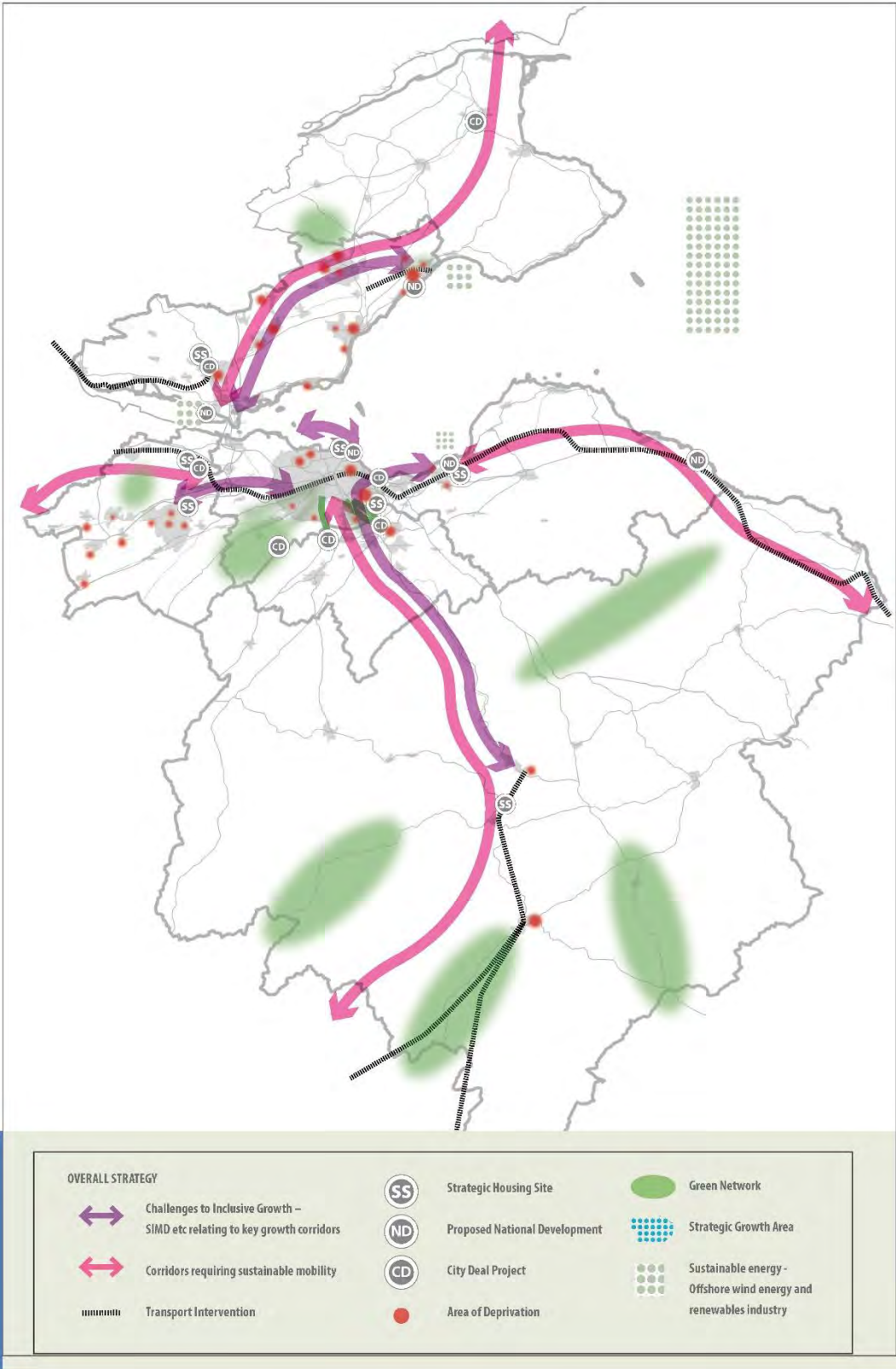
Tackling Inequality



Pockets of multiple deprivation persist in part of the region, and nearly a fifth of children live in poverty. Inequality is reflected, in concentrations of poorer households in relatively poorer neighbourhoods: these include disadvantaged groups such as ethnic minorities and the disabled, in neighbourhood contexts, which have negative effects on economic and social wellbeing. Areas that currently experience higher levels of deprivation including, southwest and northwest Edinburgh, east Edinburgh/west east Lothian, Mid Fife, Midlothian and the west of West Lothian and areas of the Scottish Borders will be the focus of investment to improve the quality of the urban environment including town centres. These areas should be made more accessible through greater affordable connectivity and access to employment and training.

The Covid crisis confirms the importance of digital connectivity and improved investment in this is essential for a just transition into a future economy. Many areas experience digital skills poverty, with almost one in five adults in Scotland not having the skills to make full use of digital technology at home or at work. This presents a significant challenge and opportunity for communities to benefit from digital infrastructure, including how services can be delivered, where this is made accessible.

Housing need and demand has recovered from the levels of the post 2008 recession, with high levels of completions across the area. The need and demand for affordable housing is significantly above deliverable levels given funding arrangements. The impact of Covid on the economy may have a future impact on these levels of housing demand as well as on work and commuting patterns, all of which need to be considered. However, housing will remain an important driver of the economy but delivery must balance local need and emerging sectoral requirements such as adaptable housing for older people, accessible homes for the disabled and appropriate provision for travellers. It is also important to ensure that new housing is situated in genuinely sustainable areas that meet the challenges of accessibility and climate change. Other services and facilities must be readily accessible along with housing through mixed-use neighbourhoods and local connectivity.



Economic Renewal

Committed and potential opportunities provide sufficient employment land for economic renewal, regeneration and redevelopment. The region includes a number of significant business clusters. These are broad locations where groups of similar business sectors operate where there are opportunities for expansion. Some of these largest clusters are around west and southeast Edinburgh, Mid Fife, Dunfermline, and Guardbridge/St Andrews, Galashiels, Midlothian and the M8 corridor. West Edinburgh remains an area of significant strategic potential of national and regional importance and the ongoing collaborative West Edinburgh Study will inform strategy here.

The region has a competitive advantage of data driven innovation e.g. Building Information Modelling as the basis of a circular economy re-using building materials or the 70+ spin outs in central Edinburgh from the University's campus there. Several innovation hubs and new assets are coming on stream through City Region Deal funding. The Local Authorities and partners will work on how best to link them to strategic business clusters so that there is greater regional impact.

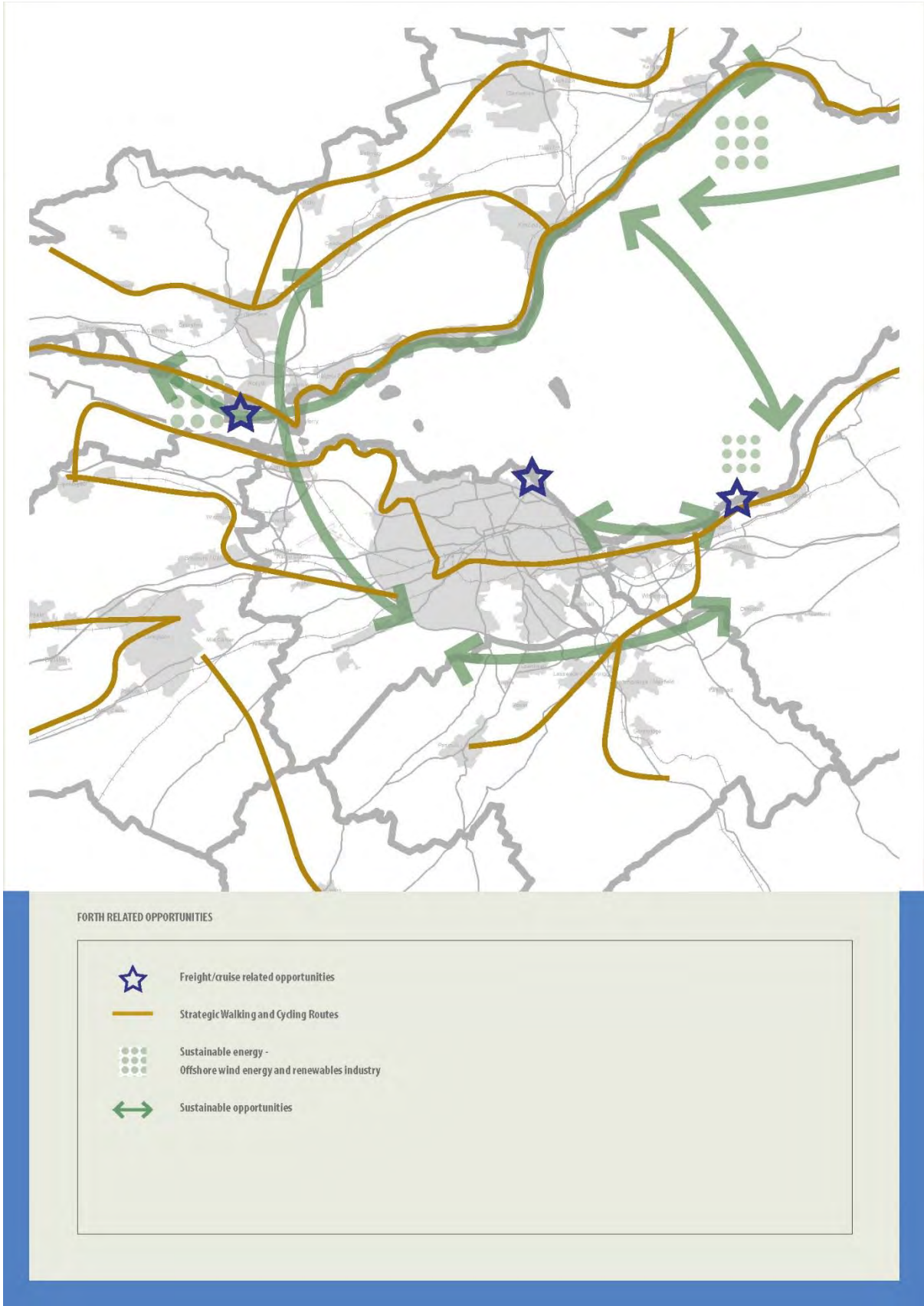
Support for investment along key transport corridors – M8, M9, M90 and existing rail corridors – is crucial to provide for economic development and growth in business clusters at Newbridge, Livingston, Winchburgh, Bathgate and Whitburn, and the M90 through Fife. Economic cluster linkages could be improved by cross boundary tram connectivity e.g. from Edinburgh Bioquarter to the Bush in Midlothian. In addition existing innovation projects will continue to be delivered at Queen Margaret University, Easter Bush, St Andrews, and Eden Campus Energy Centre, Guardbridge. Economic regeneration through low carbon development at Granton Waterfront will be led by City of Edinburgh Council.

Alongside this provision there will need to be flexibility to respond to business sectors which need flexible and co-located/connected industrial/business hubs. This post COVID-19 focus needs to recognise that large serviced and planning policy safeguarded estates may not meet all modern business requirements. Office use and related travel is likely to reduce because of the Covid pandemic but work related travel will still be significant and more sustainable modes of travel must be accessible if climate change targets are to be met, with transport emissions one of the top two impacts on air quality and CO2 emissions.

Not all parts of the region, such as Scottish Borders Council and Mid Fife, have shared the growth or productivity levels typical of other parts of the region. A fundamental strategic aim is to ensure that the economic benefits of the city region are distributed more effectively across the city region's more deprived urban communities and rural hinterland. The rural economy is also very important to the region and will be allowed to diversify in an appropriate manner with particular emphasis being of support in a post Brexit era. In rural areas, the authorities will support further appropriate agricultural diversification, which will be required as a counter to likely Brexit issues. Equally, there will be support for the promotion of tree planting and food production both as a rural industry and due to its positive contribution to tackling climate change. For Borders forestry opportunities may come through the SOSE / Borderlands funding opportunities, which will be developed in conjunction with Dumfries and Galloway Council, Carlisle City, Cumbria and Northumberland Councils. Tourism will be one key area that can be encouraged although the impact on local housing and community will need to be carefully managed.

The region's coastlines are underused and for this to change recognition and action needs to be included in NPF4. On the Forth, there are opportunities primarily at Leith, Rosyth and Burntisland to rebuild and support the resilience of sea freight, deliver associated economic development, which is

underpinned by port infrastructure and through development of cruise infrastructure, support the area as a destination. With this aim passenger/cruise opportunities will also be investigated at the former Cockenzie power station site. The Forth currently has no passenger services either on a local or national level and these require to be developed and implemented.



There are already recreational paths round most of the Forth in the form of the Fife Coastal Path, the Pilgrims Way and the John Muir Way and these must be maintained and extended in an appropriate

manner to provide community access to the coast. Renewable energy opportunities both onshore and offshore can contribute to climate change targets. Climate change will also bring the need to plan for sea level rises. Regional partnership can assist in the consideration of these opportunities, both through this strategy and the proposed regional partnership of the Upper Forth Valley.

Environmental Improvement

The region has a wide range of countryside, coast and urban green, blue networks, and high quality urban environments, important assets for both human health and the wider natural environment. The protection and enhancement of the natural environment is key to retaining the identity of the region. The quality of its urban realm requires to be enhanced through the implementation of a strong place based approach.

The coastline of south-east Scotland helps define the identity of the region and presents significant opportunities and challenges, particularly in relation to an expanding population and climate change. The coast itself is an important asset that supports globally important wildlife and is crucial in the context of climate change. The coast is also increasingly recognised for its value to human health and wellbeing. Consideration will be given to how a regional coastal strategy could assess, balance and plan for all of these issues, particularly in relation to climate change.

Addressing climate change needs general environmental improvement and protection, with green networks for travel and recreation to connect existing and new development as essential parts of any large-scale development. Green and blue networks and active travel links should support decarbonised public transport to ensure the effective connection of new neighbourhoods with adjoining communities, as well as learning and work opportunities and other commercial and public services. Particular focus is needed to ensure that deprived communities have equal access to high quality greenspace and connectivity.

As part of the post Covid 'Green Recovery', the significance of renewables, and the role of regions will increase. To achieve the net zero carbon nation (2045) targets, areas like the Scottish Borders will have a significant role in addressing the carbon challenge through programmes such as tree planting and peat land restoration. This will be carried out in a structured manner.

Proximity and access to green and blue spaces form an important part of the city regional spatial strategy.. Green and blue networks will be extended across the region, including as integral parts of new development. An urban green network will extend across and out from Edinburgh that will link with other networks across the south east. The delivery of the blue network will be assisted by the work of the Edinburgh and Lothian Strategic Drainage Partnership. These networks will provide routes for wildlife and sustainable travel whilst connecting existing assets of the Lammermuirs, the Pentlands and lowland river valleys. The River Leven Project will deliver significant benefits for communities, the environment and wellbeing and has the potential to stimulate economic growth. The role of the Central Scotland Forest and Green Networks requires to be reassessed and reinvigorated through NPF4 to ensure it has the ability to coordinate the delivery of strategic scale green indicatives. Opportunities such as the ClimateZone in East Lothian will be progressed with the dual aim of environmental improvement and the enhancement of the quality of surroundings for deprived communities. Pentland Hills Regional Park is co-managed by Edinburgh, Midlothian and West Lothian, located near to over half of the City region's population and through increased investment can provide for wellbeing benefits for residents and visitors.

Peatland forms a critical carbon sink; restoration of peatland therefore needs to be a regional priority. Afforestation in appropriate locations within river catchment area has the potential to contribute to water flow management.

Adaptable, a more resilient region [Tackling climate change, building design and conservation]

Tackling climate change

Whilst in this Strategy as a specific theme, the response to climate change will flow through all themes of national and local planning policy. Strong policies at a national level and the delivery of sustainable infrastructure are essential now to address sustainable movement, provide sustainable energy, contribute to net zero targets and promote inclusive growth. Without stronger policy in these areas the national climate targets will not be achieved.

The regions changing climate will bring challenges that will require more climate resilient communities. Particular challenges will be around the need to increase flood risk management and manage the impact of sea level rise. Frameworks like the Edinburgh Water Management Strategy will assist with this process. Also, addressing the biodiversity crisis, people's health and wellbeing and urban design need to be integral in climate change strategy as they are key factors in the success of the region's future development.

National and regional strategy must support investments to deliver net zero emissions through green transport infrastructure, local, regional and cross boundary heat and power networks, carbon capture and storage, energy generation and storage, and hydrogen. Building design must improve to address climate change and large-scale new developments must be in sustainable locations, have an energy efficient ethos and be adaptable to future uses.

Councils will, where appropriate and acceptable in planning terms, support the decarbonisation of the energy supply system. However, to make this a reality there needs to be much stronger policy in NPF4 or legislation to allow local authorities to require developments to contribute to net zero targets. To meet the Scottish Governments 2045 target, greater action is required now.

Existing renewable energy across the region can be enhanced by a wide range of as yet unused opportunities including sea water along the Forth Estuary and North Sea coast, mine water across much of the region, solar, and further offshore wind energy. These should be promoted and linked in with future investment and development. The necessary transition to a greener economy will be pursued in a 'just' manner to avoid further exacerbating rural inequality. It is vital to recognise the interrelationship between climate change and biodiversity/ecosystems loss and promote the prioritisation of biodiversity and net biodiversity gain. The development of offshore wind energy is supported however, careful consideration needs to be given to addressing the requirements for land-based infrastructure to support offshore wind energy.

Retrofitting existing housing stock to better energy efficiency standards, construction of low and zero carbon buildings, installation of district heating networks, new renewables technology, hydrogen and new EV technology, the circular economy, all create economic opportunities. The six South East Scotland Local Authorities will pursue the delivery of carbon neutral development at all scales of site but they will put particular emphasis on the delivery of carbon neutral new settlements and areas at locations such as the proposed national development at Blindwells and Granton Waterfront, and

creating opportunities around Fife Energy Park for hydrogen facilities and beyond to Burntisland and Longannet which will advance low carbon technologies into mainstream development on a strategic scale. Overall, design and performance must be pushed up the agenda to enable poor layout, design or response to the landscape context of a proposal become primary reasons for refusing applications. The same should be true in terms of measures to address future climate.

Conservation

The pace and scale of housing growth across the city region is now visibly changing the appearance and character of many of our communities. Across the region the current protection for listed buildings, conservation areas, town centres, open spaces and green networks will continue. Conservation Areas will continue to be promoted and properly managed as the best examples of Scottish townscape that there are and that promote much of the tourism benefit for the country. However, stronger enforcement powers and funding are required by local authorities to deal with dereliction of listed buildings and to manage their maintenance.

Accessible Region [connectivity, infrastructure delivery, sustainable housing sites]

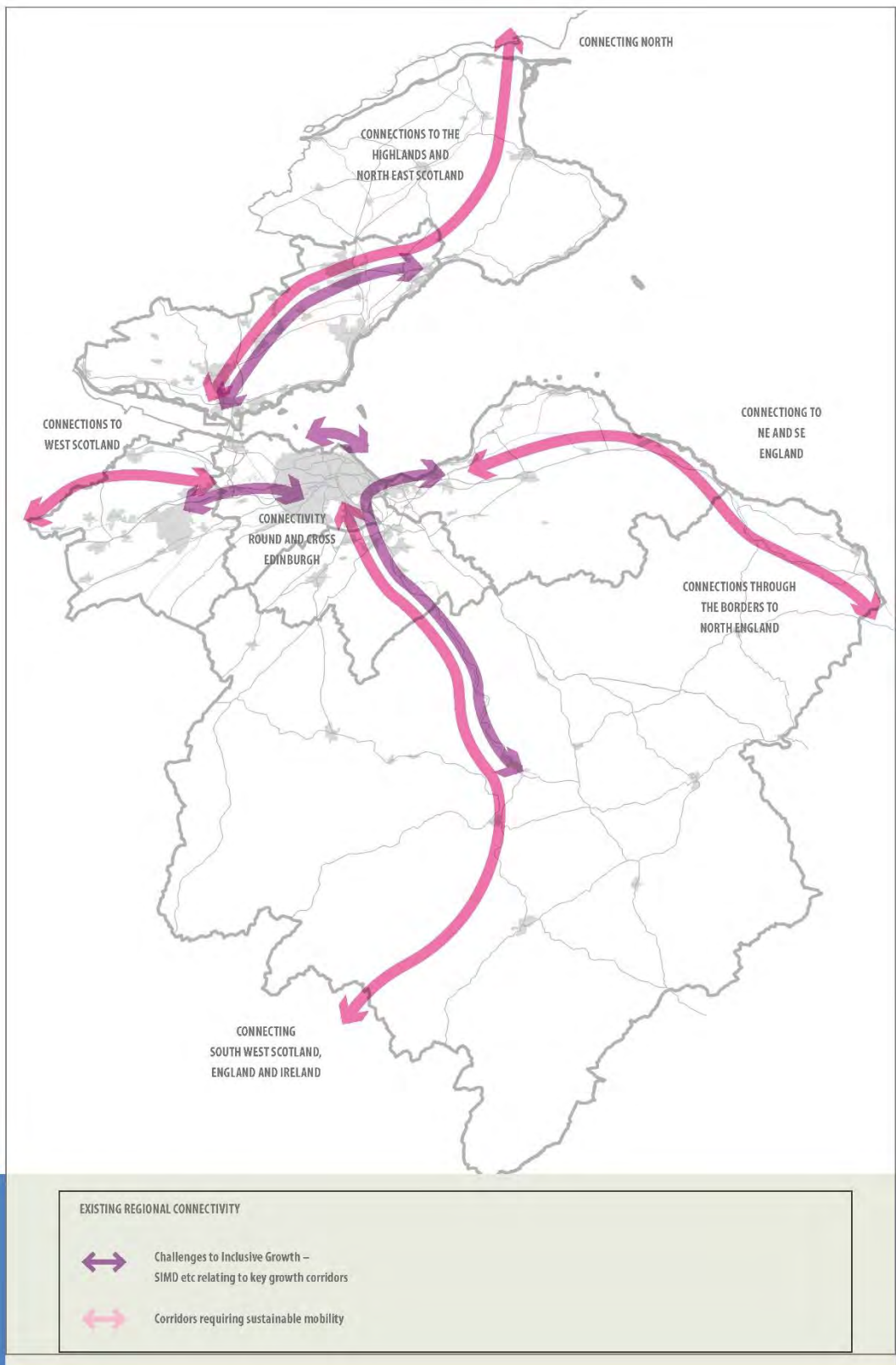
Connectivity

The Edinburgh Forth coast, the west of East Lothian and mid Fife/Levenmouth and parts of the Scottish Borders are particular cases with poor connectivity to the area's economy. Connectivity is both about transport infrastructure and strong connections between communities and settlements to ensure there are no barriers to participation. Addressing the challenges of the Covid crisis and climate change emergency needs a transformational approach to transport and travel - connecting people and places by sustainable strategic public transport and active travel corridors. Cross boundary deficiencies in connectivity and affordable public transport options can mean disconnection from work opportunities, including in more rural areas. To this aim the Local Authorities will actively engage with the STPR2 process and will expect it to align with the development of NPF4.

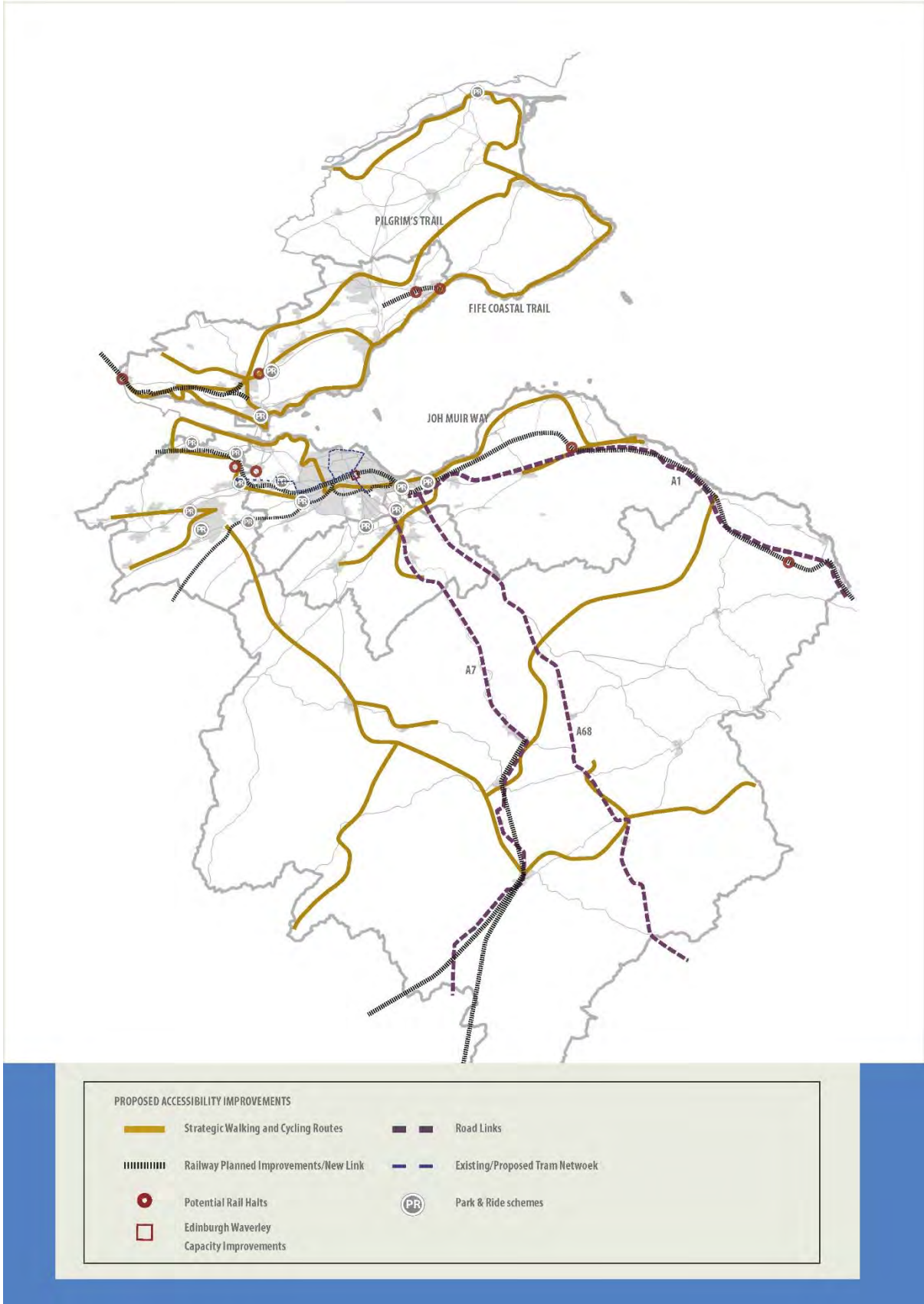
Better connectivity, physical and digital, and new infrastructure that allows sustainable movement is critical to success. This applies to both the urban and rural areas. Indeed, many rural parts of the region experience poor connectivity, putting them at a competitive disadvantage. Connecting infrastructure needs to be identified and delivered before new development sites are completed to give the best opportunity for sustainable habits to develop. In a post Covid19 "new normal" and in response to the climate change emergency this means regional public transport, an active travel commuter network and more sustainable use of road networks through EV infrastructure for public and private transport.

The strategy focus is twofold. Firstly, improve the linkages along existing major transport corridors to enhance connectivity beyond the region. Better direct public transport connections between the City Region and the south and southwest is needed to alleviate significantly higher unemployment in recent years. Connections west and south of Glasgow (including onwards to Ireland) involve changing in central Glasgow adding to journey time or at Carlisle for the southwest. An extended Borders railway line and a link to the West Coast Main Line would create stronger links with Dumfries and Galloway across east and west of South Scotland and to Ireland as well as the more urbanised northern parts of the region. Improvements to the East Coast Main Line, including the delivery of East Linton and Reston Station, will improve accessibility around the region and to the North, Midlands and South

of England and onwards to Europe while also addressing local line congestion issues. Working alongside existing East Coast Mainline stops such as Dunbar, a new Edinburgh to Berwick service could also more local connections to the North of England.



Connectivity to major regional Cities in England from Edinburgh and the wider region is limited and the East Coast Mainline needs better connections with the north and Midlands of England and onwards to Europe and the potential for a direct connection between the Edinburgh City Region and Channel Tunnel via Ebbsfleet to avoid London connections should be promoted. Sustainable public transport development in heavy rail including Waverley and Haymarket Stations capacity, the 'Chord' proposed link with Kirkliston with a potential station, potential 4 tracking of the East Coast Main Line and High Speed Rail would facilitate sustainability and capacity in regional settlements and beyond. Additionally, rail investment would allow for greater connectivity in and beyond the city region, including the regions of England and to Europe and to Ireland. The Alloa-Dunfermline rail line will open up the Fife Circle to wider connections with access to Rosyth Port and opportunities to reopen a direct rail link via Kinross would improve connectivity in Fife and northwards and link to significant growth in south Fife. The regeneration benefits of existing, underused rail infrastructure linking to redevelopment at Leith and Seafeld should be part of an integrated investment strategy. Four tracking of the East Coast Main Line and High Speed Rail requires to be pursued.



Sea connectivity is a very sustainable travel option which is currently very under utilised in a commercial and leisure sense. Sea connections to the rest of the UK and beyond are important and

needs to be developed further. Opportunities for freight and leisure facilities at Leith, Rosyth and Burntisland, as well as the potential for Cruise facilities at Cockenzie require to be explored. Travel across the Forth needs to be improved with routes made available between Fife and East Lothian.

Secondly, enhance the inter region links. Infrastructure investment is essential in both urban and rural areas to ensure that locations such as northeast Fife the Scottish Borders are part of an 'inclusive City Region economy'. Key infrastructure links between deprived areas to the wider region are already planned. Improved connectivity within the region is vital, including North-South transport links such as the full dualling of the A1, A68 and A7 Trunk Road networks. Improved linkages to the North east of England can bring a great deal of economic opportunity. Cross border liaison with proposals in Northern England is essential to ensure coordinated action. East-West links which are currently poor will also require significant investment. The spatial strategy addresses the impact of over a decade of economic austerity with the commitment to the reopen the Levenmouth Rail line, the likely undertaking of the partial electrification of the rail network between Dunfermline and Alloa and the provision of new rail stations in areas such as East Linton and Winchburgh. The extension to the tram network and routes around Edinburgh and major improvements to the West of the City along the M8 and M9 corridors, through new stations and sustainable transport routes and the improvements to rail infrastructure to the East that will increase the level of local services.

The Edinburgh City bypass and its key linkages require a comprehensive solution to address the severe congestion that the area experiences. Although not the focus of climate policy, efficiency in roads is required to be addressed, both around the Edinburgh City Bypass. Implementing existing commitments including the new Sheriffhall junction, the A701 relief road and associated A702 link/active travel improvements and the A7 urbanisation project contribute towards this objective although they must be part of an overall zero carbon vehicle use strategy for the area.

Faster and more efficient bus services in and out of the City from areas like East Lothian would provide a sustainable travel option. Such a move would be supported by the planned moves towards transport interchanges / hubs around Edinburgh, coupled with the increasing uptake and potential of e-bikes, demonstrate that delivery of cross-boundary active travel routes should be planned for if opportunities for modal shift and more sustainable lifestyles are to be fully exploited.

These projects should be supplemented by the delivery of the Edinburgh City orbital bus route, extending the Edinburgh tram network to areas adjacent to Edinburgh, including South Fife and identifying new Park and Ride opportunities. The upscaling of electric vehicle charging infrastructure across the region will support the transition to zero carbon vehicle use.

Infrastructure Delivery

Timely delivery of infrastructure will be key to successful delivery of NPF4 and any regional strategy. Local Development Plans and new development sites need to plan for and identify this connecting infrastructure and have confidence over its delivery before the sites are completed in order to give the best opportunity for sustainable habits to develop. Achieving sustainable growth must be linked to investment in, and realistic programming of, the required infrastructure, facilities and services to support development – a sustainable infrastructure first approach. Such a change will require greater collaboration and partnership between providers, Government, local authorities and the development sector. This could include the development and use of more innovative finance initiatives and extending the City Growth Deal model.

Digital Access

The shift to digital infrastructure will also help with both climate change mitigation and adaptation. The experience of Covid 19 impacts and restrictions have rapidly enhanced the ability for people in some sectors of the economy to work remotely and reduce travel. Major investment in digital connectivity must become a key focus to increase regional and countrywide resilience to maximise the potential benefits of new ways of working. The rural areas which continue to experience poor digital connectivity will be a focus for investment in broadband infrastructure to ensure the increase viability of rural businesses and sustaining dispersed homeworking to reduce commuting.

Critically, there are still significant deficiencies in mobile and internet networks in the area and across the South of Scotland and parts of Fife which recent investment programmes have not adequately addressed. The potential for greater commercial benefits and home working to compete with urban areas can only be realised through investment to unlock the area's economic potential.

Sustainable Housing Sites

Local authorities will aim to ensure that there is a sufficient supply of housing land to meet the housing land requirements/targets as to be set out in NPF4. Within the region policy will continue to promote the presumption in favour of brownfield development and minimum levels of density appropriate to urban and edge of urban sites, to promote better public transport and active travel provision and more sustainable neighbourhoods where the density supports a level of local services, public transport and employment opportunities. Community resilience and sustainability needs to be planned for in this way.

The six South East Scotland Local Authorities will ensure that Planning is aligned with other regimes, including Local Housing Strategies and Health and Social Care Strategic Plans. Planning must be closely linked to Housing to 2040 and the Scottish Government's ambitions for the housing system. To enable this approach, it must also be reflected in planning policy, guidance, decisions and actions to ensure climate change mitigation through low carbon place making

However, there is also the need to develop a new approach to the calculation of required housing delivery through an effective provision of land, as an essential part of its vision for how economic renewal should be distributed across the region. This is not to avoid the need to deliver housing but to allow the planning system to focus on the delivery of high quality development and places.

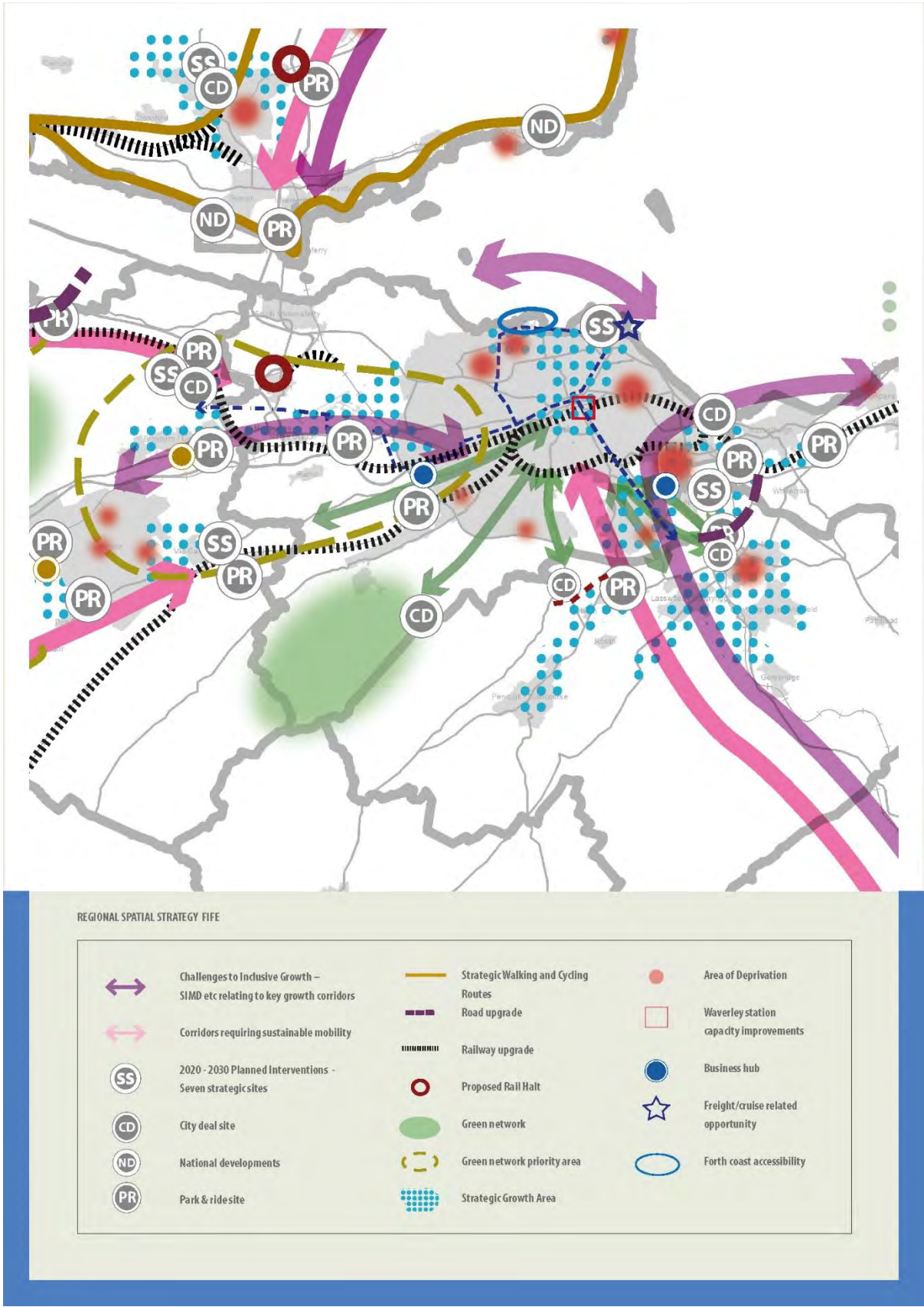
The seven strategic sites and significant brownfield sites are major opportunities to contribute to national and regional growth and should be exemplars in design and place making. This requires appropriate funding mechanisms to ensure that the opportunities for delivery are matched by quality of outcomes.

It is important to recognise that areas of South East Scotland located in close proximity to Edinburgh experience very different rural pressures from some of those in the south of the region. Countryside areas within an hour's drive time of the city, are under significant development pressure and do not need repopulated. Restraint towards housing development will continue to be implemented in these areas, whilst growth should be focused around key sustainable transport locations such as Borders railway stations.

The needs of the rural areas are diverse and this strategy recognises that further away from the city, housing is a key driver of the economy and provides a key part of our social and physical infrastructure. In recent years investment in affordable housing has been particularly important in meeting needs of differing sectors of communities across the city region. It is critical to deliver high

quality housing in the right locations, maximising the benefits of investment from both the public and private sectors.

Focus on the City



Edinburgh is the centre of the city region, providing significant opportunities for employment, higher education and leisure dependent on good connectivity. The city is home to 10% of the Scottish population. In recent years there has been infrastructure investment in central Scotland's heavy rail network, increasing capacity; the first line of the city region tram network and also in active travel. Given the accelerating climate change challenge and requirement for sustainable renewal there is a need for significant ongoing infrastructure investment improving connectivity within the city and city region as part of a coordinated regional and national sustainable growth and change strategy.

Edinburgh has approved commitments to build a minimum of 20,000 affordable homes by 2027, to be carbon neutral by 2030 and for inclusive good growth. The increasingly urgent national and local commitments to address climate change, housing need, inclusive growth and health and wellbeing need planning and transport strategies which deliver the potential for active travel and public transport interventions to support local and national objectives.

Edinburgh and the region must focus on development which enables carbon neutral targets to be reached, building neighbourhoods, promoting brownfield development, higher densities and mixed uses with high amenity green spaces in locations where good public transport and active travel connections can be made and used to ensure need to travel and travel distances are minimised. Transport based development corridors may provide opportunities where needed.

Edinburgh's role in the regional and national economy in providing jobs means it experiences high levels of in-commuting (60,000 in bound car journeys daily). To address congestion, air quality and carbon impacts, investment in decarbonised public transport systems is a priority to promote non car based travel behaviours. The scale of investment to support rail capacity), tram network, bus transit and active travel interventions across the region to support national and regional carbon neutral commitments is significant. The wider area impacts of travel as a result of nationally significant city and region economic growth need to capture the objectives of the National Transport Strategy and STPR2 as requiring national as well as regional and local action.

Mass rapid transit by tram or guided bus through north/south Edinburgh with cross boundary regional links to east, south and west would offer sustainable links to reduce car commuting. This expanding regional network requires to connect key development sites within the city, such as the Waterfront (both at Granton and Seafield) and the Bio Quarter / regional hospitals and for West Edinburgh, providing connectivity within the city and the city region to harness their full potential to provide necessary homes and nationally significant employment opportunities. A wider review of transport options and how these could contribute to the nationally significant contribution of Edinburgh to inclusive growth, carbon reduction and sustainability is listed below.

Green infrastructure needs to be a policy objective in terms of design as well as overall green network and as part of travel and flood risk management options. The latter will require a coordinated approach with other public agencies including Scottish Water. Through increasing rainfall intensity alluvial flooding is an issue which will require to be dealt with through changes to place based attenuation which will require to form a citywide strategy and will require investment.

South East Scotland partners have developed an ambitious regional housing programme, which aims to increase the supply of homes across all tenures, to deliver vibrant and sustainable communities across the region. Taking a place-based approach across infrastructure, land, finance, innovation and skills, it seeks to accelerate the delivery of affordable housing, the seven regional strategic sites and incorporate innovation in construction.

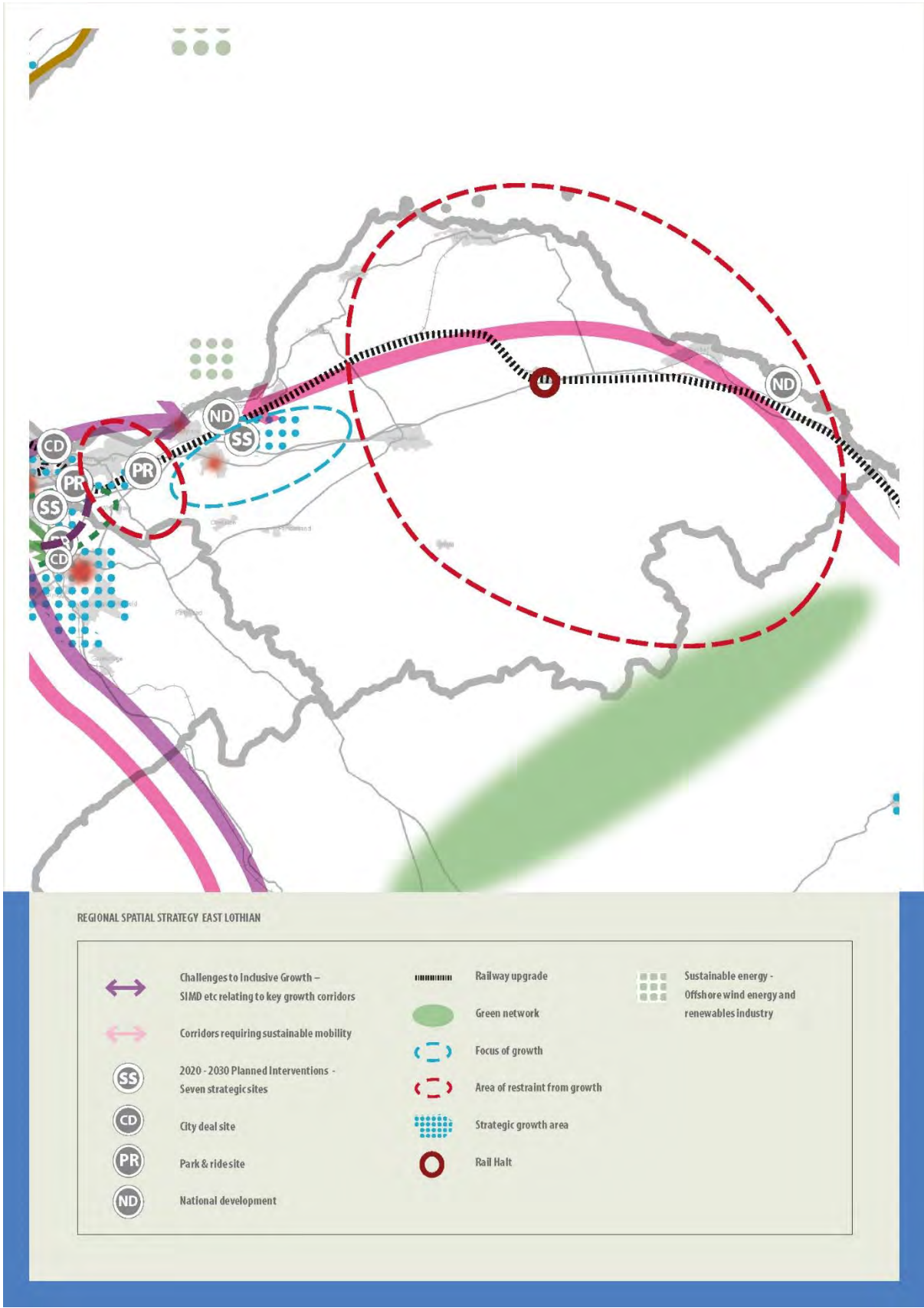
There are significant brownfield development opportunities within the city bypass which can contribute towards sustainable long-term regional growth. A strategic spatial approach for sites which are in public sector ownership, working across national and local public sector agencies to maximise the strategic benefits of their development to the city and city region needs to be encouraged. A coordinated development approach can address affordable housing (including for key workers), provide mixed use communities with integrated facilities and employment opportunities.

Edinburgh's spatial strategy focuses on harnessing the economic and social potential of improved connectivity. Brownfield sites of regional and national significance will be promoted through the next City local development. These will require infrastructure to support them and ensure they are well connected and zero carbon. Coordinated regional and national infrastructure investment in the heart of the city region can enable the above to be delivered, with other significant public health benefits resulting, for national objectives on physical and mental health and wellbeing.

The coastal path linked to development at the waterfront with significant areas of open space also offers opportunity for city regional recreation. These key development sites are physically linked to neighbouring authorities.

The Green Belt forms an important part of the spatial strategy for Edinburgh and the city's relationship to the surrounding countryside. In addition to recreational benefits, prime agricultural land has strategic importance for sustainable local food production. At a micro level the importance of food growing within place making is acknowledged and incorporated into citywide strategies for green spaces.

Focus on the East



Key strategic priorities for East Lothian are to the west of the County around strategic sites at Blindwells and Cockenzie and the ClimatEvolution Zone as an opportunity to genuinely address national climate change targets and to place Scotland as a world leader in developing net zero carbon places.

A one of the seven strategic housing sites in the region, the Blindwells Development Area and former Cockenzie Power Station site are together some 625 hectares of mostly brownfield land. Over a 30 year period, these strategic projects can enable significant new employment and economic development opportunities, including a new regional town centre. There is significant potential enable this long term development opportunity in a sustainable, inclusive, healthy and low carbon way.

Circumstances have changed in relation to the former Cockenzie Power Station and there is a need to recognise the wider opportunities and multiple benefits that a more flexible approach to the delivery of employment generating uses on the site and not just focus on energy and related development.

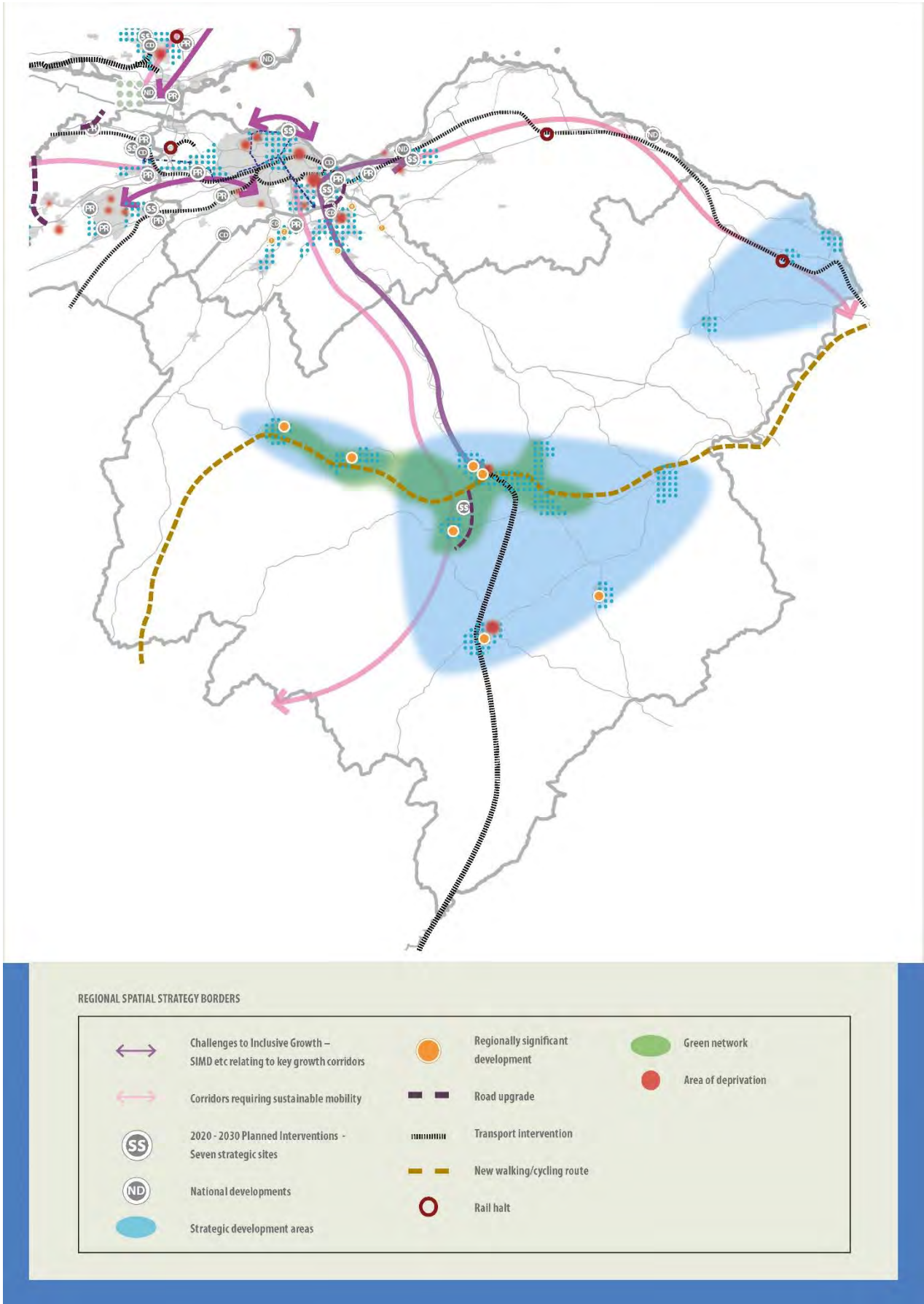
Future housing development will be focused within parts of the west of the County around Blindwells. This is due to the land availability and the sustainable opportunities to link in with travel routes to and from the City. Conversely, restraint to growth will be shown to the far west and east of the county where large scale development has recently taken place. Here existing infrastructure and settlement patterns have been altered at a fast pace and there are few options for the expansion of some infrastructure.

Torness nuclear power station, scheduled to close in 2032, has a major role in the country's energy supply. The Council supports its continued presence and potential for redevelopment, and notes the particular challenges and opportunities that will arise from decommissioning, including its deep-water access. It is important to recognise the key role this site plays in the local economy and the need to have a 'just transition' around any changes proposed.

Torness also provides a grid connection, with another grid connection nearby further inland to serve Crystal Rig Wind Farm. Clearly, the maritime setting off the coast of East Lothian is of increasing national importance for offshore energy generation, and the Council would welcome a national approach through the NPF to addressing the requirements for land based infrastructure to support offshore wind energy whilst considering cumulative seascape and landscape impacts.

One of East Lothian's assets are large areas of prime agricultural land including a good proportion of the very best soils in Scotland. With the need to improve food security and encourage more local production there needs to be greater protection of this resource through the direction of future development across the region to brownfield land.

Focus on the South



Key strategic interventions in Scottish Borders will be delivered through interaction of a range of initiatives including the Edinburgh and South East Scotland City Deal, the Borderlands Deal and the evolving iRSS for Southern Scotland with Dumfries & Galloway Council. Participation in the South of Scotland Regional Economic Partnership and the work of the South of Scotland Enterprise Agency is also be critical to the delivery of inclusive economic growth, sustainable development and addressing existing economic fragility.

There are three identified growth zones in the Borders based around central Borders (incorporating Galashiels, Hawick, Selkirk, Jedburgh, Kelso, Earlston), Eastern Borders (Duns, Eyemouth) and western Borders (Peebles, Walkerburn, Innerleithen), which are the principal areas of search for growth, investment, redevelopment and regeneration.

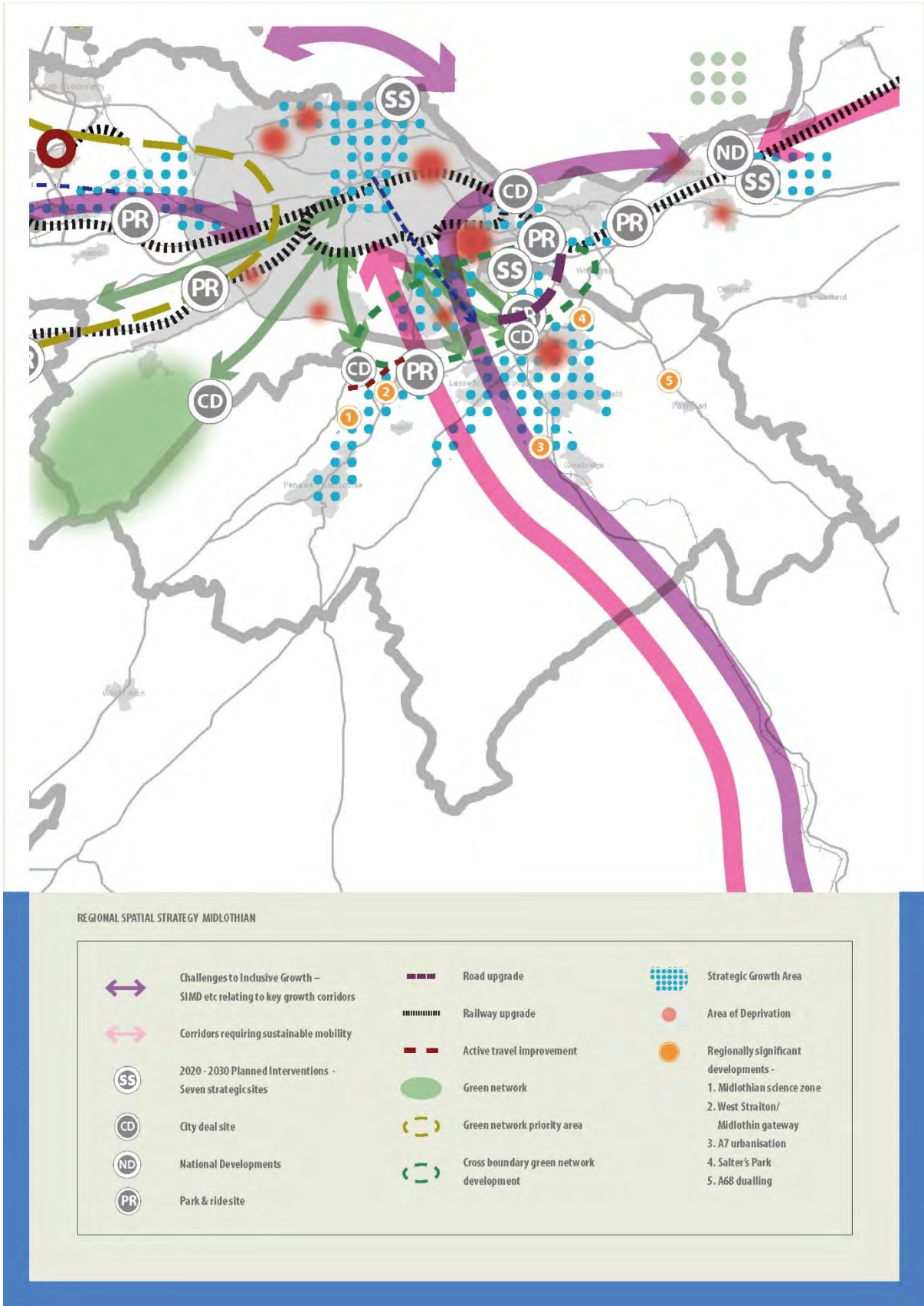
Regionally significant development in the central Borders is linked to the existing railhead at Tweedbank, with the development of the Tweedbank Business Park and a mixed-use expansion of the settlement, plus the potential for the extension of the Borders Rail to Hawick and Carlisle. In the eastern Borders, it relates to the proposed new station at Reston. In the western Borders, this involves the development of the Mountain Biking Innovation Centre in Innerleithen. A significant cross Borders project is Destination Tweed a new National Walking/Cycling route that follows the route of the Tweed from source to sea.

Critically, there are still significant deficiencies in mobile and internet networks in the area and across the South of Scotland which recent investment programmes have not adequately addressed. The potential for greater commercial benefits and home based working to compete with urban areas can only be realised through investment to unlock the area's economic potential.

The strategy promotes a place-based approach to our communities and the repurposing of town centres, moving away from retail and recognising the importance of the integrated service provision including education and community uses as well as supporting the Health and Social Care agenda. Town centre regeneration is promoted through various tools including BID's, CARS schemes and projects such as the Great Tapestry of Scotland in Galashiels.

The Scottish Borders benefits from a high quality natural, built and cultural heritage, the sensitive stewardship of which assists economic and social vitality. The Scottish Borders has a vital role to play in national and regional action in response to Climate Change, reflecting its capacity for renewable energy production and woodland creation.

Focus on the Centre – Midlothian

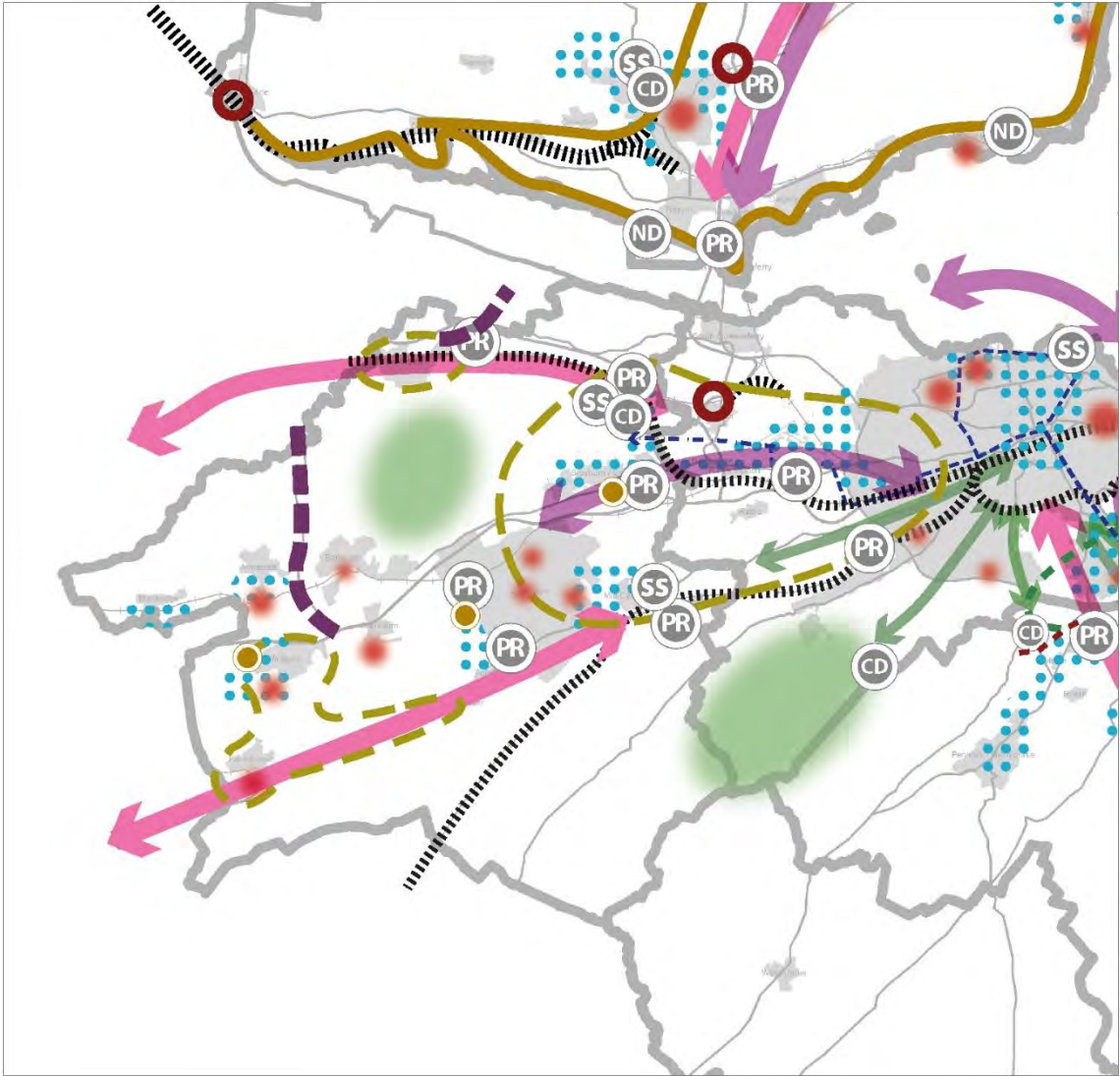


To ensure Midlothian benefits from, and contributes to, the shared prosperity of the region it is important to maintain the identity of Midlothian by supporting and promoting its existing town centres while also seeing key development sites of regional significance being delivered. In particular; the Shawfair new settlement which will comprise over 5,000 new homes, a town centre, 70 hectares of employment allocations, a railway station on the Borders Rail line, renewable energy projects and new schools and community facilities.

In addition it is essential to have the continued development of the Midlothian Science Zone (The biotechnology campus at the Bush); the 60 hectare 'Midlothian Gateway' employment site at West Straiton (which it is hoped will incorporate a new arena to service the south east of Scotland and beyond) and the Salters Park employment site (which it is hoped will incorporate a new film and television studio).

To help, to maintain the character of the area action will be taken to reinforce the green belt and expand cross boundary green network opportunities along the A720 City Bypass between Straiton, Lasswade, Gilmerton and Sheriffhall junctions to mitigate impacts of new development either side of the City bypass.

Focus on the West



REGIONAL SPATIAL STRATEGY WEST LOTHIAN

	Challenges to Inclusive Growth – SIMD etc relating to key growth corridors		Road upgrade
	Corridors requiring sustainable mobility		Railway upgrade
	2020 - 2030 Planned Interventions - Seven strategic sites		Green network
	City deal site		Green network priority area
	National development		Strategic Growth Area
	Park & ridesite		Significant business cluster

In West Lothian the spatial strategy is focused on strategic growth corridors along key transport routes – M8, M9 (Winchburgh) and rail corridors (Linlithgow/Bathgate/Livingston South lines to Glasgow and Edinburgh). This allows for containment and promotion of the urbanised area to deliver the core development areas/strategic allocations at East Broxburn/Winchburgh, Armadale, Livingston and Almond Valley (Calderwood, Gavieside and Mossend) and Heartlands.

Enhanced public transport including rail enhancement, the provision of a new rail station at Winchburgh, park & ride facilities at key transport hubs at Broxburn/Uphall and active travel routes across West Lothian will promote sustainable access to local facilities.

This includes provision of strategic walking and cycling routes within and through the district and key active travel routes identified in the Council's Active Travel and Core Path Plans.

To further promote sustainable transport and connectivity, opportunities to extend the tram line into West Lothian will be kept under review. Improvements to the A801 and M9 junction 3 upgrade will further assist with economic growth and connectivity.

Livingston will continue in its role as a strategic town centre providing a mix of retail, residential, leisure and commercial uses whilst promoting the 5 traditional town centres – Armadale, Bathgate, Linlithgow, Whitburn, Broxburn to continue to thrive as town centres.

Delivery of the Polkemmet and Breich Water Green Network priority area, Linlithgow and west Edinburgh together with the protection of the sensitive landscapes in the Pentlands and Bathgate Hills and enhancement of the landscape character at and around settlement gateways.

Focus on the North



REGIONAL SPATIAL STRATEGY FIVE

	Challenges to Inclusive Growth – SIMD etc relating to key growth corridors		Strategic Walking and Cycling Routes		Area of Deprivation
	Corridors requiring sustainable mobility		Road upgrade		Sustainable energy - Offshore wind energy and renewables industry
	2020 - 2030 Planned Interventions - Seven strategic sites		Railway upgrade		Proposed Rail Halt
	City deal site		Green network		
	National developments		Green network priority area		
	Park & ride site		Strategic Growth Area		

Fife's strategic position stretching between three of Scotland's cities from Edinburgh north to Dundee and west to Stirling with a long coastline and strategic transport routes provides excellent opportunities for investment to strengthen Fife's communities and economy.

Ongoing planned strategic growth of Dunfermline is the largest of the City Region's development areas, with levels of strategic infrastructure investment highest outwith a Scottish city. Fife will build on this strong growth around Dunfermline and the Forth bridgehead area through further development across the former Fife coalfield communities, Kirkcaldy, Glenrothes, and through to Levenmouth to regenerate communities and strengthen town centres.

St Andrews strategic growth area will deliver a mixed use development within a high quality environment. The Eden Campus Energy Centre, and associated research and commercialisation hub at Guardbridge is central to the University of St Andrews' strategic drive to become the UK's first energy carbon neutral university. Strategic growth is also proposed at Cupar North. Opportunities in more rural areas to the west and east for low carbon, renewable energy, and food production need to be considered further. The River Leven Project is significant in its scale with transformational opportunities, and SGN's H100 Fife project is seeking to deliver a 'first of a kind' demonstration of a 100% hydrogen network to supply 300 customers in the area of Levenmouth; this will comprise of an end to end system from power generation, distribution, to customer connections and requires to be reflected in NPF4 as a national development.

Continuing to facilitate the long term planned growth of Fife's strategic growth areas remains a focus to provide over 21,000 new homes with mixed business and commercial development. This requires public sector collaboration, Government investment and partnership working with the private sector to achieve investment in physical and community infrastructure such as transportation, water and drainage and education to support committed development and attract further private and public investment, and in digital infrastructure to enable data driven innovation, diversify the economic base, and create employment opportunities in areas in challenging economic circumstances.

Growth clusters at the Forth bridgehead, mid- and east Fife include opportunities for renewable energy innovation, hydrogen, and district heating which can contribute to a green economic recovery. Each are also set to benefit from significant capital investment in new rail links and road enhancement to establish strategic economic links to Clackmannanshire/Forth Valley and Dundee, and energy network investment at the University of St Andrews' Eden Campus.

In west Fife, the Port of Rosyth can enhance import and export infrastructure, linked by improved road and rail corridors including freight rail access via the Fife Circle. On the M90 regional growth/investment zones have the potential to strengthen Fife's outdoor leisure and tourism opportunities and further economic development potential, as well as A92 corridor. Further opportunities for sea transportation (freight and leisure) on the Forth and Fife coast as part of Scotland's east coast connectivity requires to be part of NPF4's strategy.

As we look to a green economic recovery, the strategy includes exploring the potential for a more sustainable, resilient logistics and distribution network considering experiences in that area during the Coronavirus pandemic. Fife's Sustainable Energy and Climate Action Plan (2020-30) demands changes to land use to decarbonise how we live and increase the resilience of Fife's communities and economy. Funding from across the public sector will be required to deliver this.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

PLANNING GUIDANCE: AREAS OF BUILT HERITAGE AND TOWNSCAPE VALUE – THE SHALE MINERS’ ROWS

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise Council Executive of the outcome of consultation on a draft Planning Guidance (PG) for Areas of Built Heritage and Townscape Value – The Shale Miners’ Rows and to seek approval of the guidance.

B. RECOMMENDATION

It is recommended that Council Executive:

1. agrees the responses to the consultation comments (Appendix 1);
2. approves the content of the planning guidance on Areas of Built Heritage and Townscape Value covering the former shale miners’ rows at Dedridge, Livingston; Oakbank, near West Calder; Roman Camp by Broxburn; South Village, Pumpherston; and Winchburgh as set out at Appendix 2;
3. approves the ‘Screening Report’ (Appendix 3) which is to be submitted to the SEA Gateway and the Consultation Authorities and which sets out the council’s justification that the guidance is exempted from additional Strategic Environmental Assessment because it will not in itself have any significant environmental effects; and
4. delegates authority to the Head of Planning, Economic Development & Regeneration, to timeously issue a ‘Screening Determination’ in the event that the SEA Gateway and the Consultation Authorities confirm their agreement that the guidance will not in itself have any significant environmental effects, and to report the outcome of the SEA screening process to a future meeting of the Council Executive for information.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers’ needs; being honest, open and accountable; making best use of our resources; working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality)	Following the adoption of the West Lothian Local Development Plan (LDP), in September 2018, new statutory Supplementary Guidance and non-

Issues, Health or Risk Assessment)	statutory Planning Guidance is being prepared to replace a raft of previous Supplementary Planning Guidance (SPG) which had been prepared in support of the now superseded West Lothian Local Plan (2009).
	The LDP is a material consideration in the determination of any planning applications for development in West Lothian.
	This new Planning Guidance has been prepared in support of Policy ENV 27 of the LDP - "Areas of Built Heritage and Townscape Value".
	It has previously been determined that the new guidance is in itself unlikely to have significant environmental effects and it is not anticipated that there will be a requirement to make it the subject of separate Strategic Environmental Assessment (SEA). The required 'screening' procedures will, however, be undertaken.
	There are no equality, health or risk assessment issues associated with the Planning Guidance.
III Implications for scheme of delegation	None, although the report details a specific delegation to the Head of Service.
IV Impact on performance and performance indicators	None.
V Relevance to Single Outcome Agreement	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI Resources - (Financial, Staffing and Property)	The report does not raise any financial, property or staffing issues for the council.
VII Consultations at PDSP	The proposed guidance was reported to Development & Transport PDSP on 20 June 2019.
VIII Other consultations	None.

D. TERMS OF REPORT

D1 Background

Planning Guidance provides further information or detail in respect of policies or proposals set out in the West Lothian Local Development Plan (LDP).

This Planning Guidance covers policy requirements relating to 'Areas of Built Heritage and Townscape Value' in the former shale miners' rows at:

- Beresford Rise, Dedridge, Livingston;
- Oakbank Cottages, near West Calder;
- Roman Camp Cottages by Broxburn;
- South Village, Pumpherston and
- Abercorn / Midhope Rows at Winchburgh.

The guidance was originally approved in 1994 and requires to be reviewed and updated to ensure that it remains competent and relevant.

D2 Planning Guidance: Areas of Built Heritage and Townscape Value - Shale Miners' Rows

One of the most distinctive features of West Lothian heritage is the survival, largely intact, of several groups of houses built for oil shale workers known as 'the rows'. However, many of the West Lothian rows have been demolished and it is important that the best of those rows that remain are protected from unsympathetic alterations. The rows are protected by policy ENV 27 of the LDP.

After 25 years, the former designation as 'Areas of Special Control' within the 2009 West Lothian Local Plan and now termed 'Areas of Built Heritage and Townscape Value' within the Local Development Plan, adopted in 2018, has been mostly successful in retaining many of the features of these traditional shale miners' rows and their related separate garden areas, albeit a number of dormer extensions and other changes, still evident today, occurred before the original policy came into force.

Consequently, it is considered that while there is merit in retaining a protective designation related to the former shale miners' rows at Dedridge, Livingston; Oakbank, West Calder; Roman Camp by Broxburn, Pumpherston and Winchburgh, they do not warrant elevation to full conservation area status and with the consequential effect of removing some permitted development rights ordinarily available to householders.

While oil shale industry was unique to the Lothians, both Midlothian & Fife councils were approached as adjacent authorities about their treatment of miners cottages built heritage to.

There are similar miners rows at Newtongrange in Midlothian, which are partly protected as a Conservation Area while other examples of miners cottages at Rosewell are not within Conservation Areas. Midlothian do not have 'second tier' local protection such as West Lothian's 'Areas of Built Heritage & Townscape Value', nor any related Planning Guidance Policy. They also do not have many active Article 4 Directions as they were removed some time ago at the instigation of the then Scottish Executive. Article 4 Directions allow council's to remove permitted development rights

While Fife has a rich mining heritage, their former miners cottages have no specific protection. Fife do not have a local list of heritage assets, but do have Article 4 Directions for the conservation areas, albeit none for miners' cottages and Fife's conservation areas are not associated with the mining areas. Consequently, Fife also has no second tier of non-statutory protection, but protect their built heritage related to the mining industry through the Development Management process.

The new Planning Guidance for the former shale miners' rows provides:

- an updated history of each of the shale miners' rows and associated inset maps showing the boundary of the area the PG will apply to (this is replicated on the LDP proposals maps);
- specific design guidance related to:
 - dormer extensions;
 - other extensions;
 - re-roofing;
 - walls;
 - replacement windows and doors;
 - chimney stacks and cans; and
 - satellite dishes.

The proposed guidance provides examples of good practice and sets out design and finishing materials which will require to be adhered to. Illustrations are used in the guidance to more fully demonstrate the designs that are likely to be acceptable when considering alterations and extensions to the shale miners' rows.

In relation to the garden ground and plots associated with miners rows, the updated Planning Guidance states: *"Garden ground is part of the original setting of the miners' rows. Where development proposals impact on associated gardens ground, owners should discuss proposals with the planning authority"*.

These miners rows, and their related protection boundaries, that also cover related garden plots, can re-assessed through the preparation of Local Development Plan 2

D3 Public Consultation

The draft Planning Guidance was the subject of consultation with relevant parties over a six week period in September/October 2019; this included consultation with community councils. The guidance was also publicised on the council's web site.

Two responses were received to the consultation. These and the proposed response are set out in Appendix 1. Historic Environment Scotland had no specific comments to make but welcomed the new guidance, while Livingston Village Community Council raised several issues.

The community council was supportive of the principal of preserving the character of the miners' rows in West Lothian and agreed with the proposed restrictions on form and detailing of extensions and alterations and correctly concluded that the Planning Guidance cannot be applied retrospectively. It also agreed with the format of the guidance and particularly the inclusion of illustrations.

However, the community council suggested that the miners' rows currently styled as 'Beresford Rise' in Dedridge actually has no locally historical significance and that this came about as part of a naming project undertaken by the former Livingston Development Corporation in the early 1960's. The community council proposes that consideration should be afforded to giving these properties a more authentic local name with suggestions being 'Oakbank Quarters' or 'New Farm Terrace'.

It is outwith the scope of the guidance to initiate a street re-naming project. While street naming is a statutory responsibility of the council, the most recent iteration of the council's '*Street Naming and Numbering Policy and Procedures*' document (2016) makes it clear that only in exceptional circumstances will West Lothian Council consider any proposal from community groups, developers, or members of the public to alter the name of an existing street. As a consequence no changes are proposed to the guidance arising from the comments received during consultation. The proposed Planning Guidance is attached as Appendix 2.

D5 Concluding Procedures

In the event that Council Executive approves the guidance it firstly requires to be submitted to the SEA Gateway and the 'Consultation Authorities' (SEPA, NatureScot and Historic Environment Scotland) in order to test the council's assertion that the guidance is exempted from any additional Strategic Environmental Assessment (SEA) because it will not in itself have any significant environmental effects.

The council is required to set out its justification in a 'Screening Report', provided as Appendix 3, and Council Executive are invited to approve this document for submission to the SEA Gateway.

If, as anticipated, the SEA Gateway and the Consultation Authorities confirm their agreement that the guidance will not in itself have any significant environmental effects, it is requested that the Head of Planning, Economic Development and Regeneration is given delegated authority to issue a 'Screening Determination' which formalises the position that no additional Strategic Environmental Assessment is to be prepared in relation to the guidance. This will be reported for information to a subsequent meeting of the Council Executive at the earliest opportunity.

However, should the SEA Gateway and the Consultation Authorities conclude that a SEA is required the delegated authority would be rescinded and the guidance would be referred back to Council Executive for consideration and an instruction as to how to proceed.

E. CONCLUSION

Several areas in West Lothian, while not at the standard of conservation areas, are worthy of receiving special consideration when determining applications for planning permission to alter and extend the former shale miners' rows at Dedridge, Livingston; Oakbank, near West Calder; Roman Camp by Broxburn; South Village, Pumpherston; and Winchburgh. This is due to their built heritage and townscape value.

The guidance provides an up to date policy position and guidance on matters to be taken into account by residents when submitting planning applications relating to former shale miners' rows and provides a guide to property owners on what is expected in terms of good design when proposing alterations or extensions to properties within these 'Areas of Built Heritage and Townscape Value' in West Lothian.

F. BACKGROUND REFERENCES

- West Lothian Local Development Plan (September 2018)

Appendices / Attachments – three:

- 1) Summary of representations and council's responses.
- 2) Planning Guidance: Areas of Built Heritage and Townscape Value - The Shale Miners' Rows.
- 3) Screening Report

Contact Person: Chris Alcorn, Principal Planner, Development Planning: 01506 - 282 428.

Email: chris.alcorn@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development & Regeneration

6 October 2020

DATA LABEL: PUBLIC

APPENDIX 1

**PLANNING GUIDANCE: AREAS OF BUILT HERITAGE AND TOWNSCAPE VALUE – THE SHALE MINERS ROWS
SUMMARY OF REPRESENTATIONS FROM PUBLIC CONSULTATION (SEPTEMBER – OCTOBER 2019) AND COUNCIL’S RESPONSE**

RESPONDENT	SUMMARY OF COMMENTS RECEIVED	COUNCIL RESPONSE
Historic Environment Scotland (HES)	Welcomes the new guidance and has no comment to make.	Noted.
Livingston Village Community Council	<p>Supportive of the principal of preserving the character of the miner rows in West Lothian. Despite some properties having already been unsympathetically altered in the past it is concluded that their historic appearance and character is still in evidence.</p> <p>Approves of the proposed restrictions on form and detailing of extensions and alterations.</p> <p>Correctly concludes that the guidance cannot be applied retrospectively.</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Works which either did not require planning permission, or works which were the subject of a successful permission, cannot now be enforced against. The guidance can only be applied after approval by the Council. It should however be noted that broadly similar guidance has been in force since 1994 under the terms of the previous Supplementary Planning Guidance and this has most certainly helped to arrest the further erosion of the historical character of these specific properties / areas.</p>

	<p>Approves of the format of the PG and particularly the inclusion of illustrations.</p> <p>Suggests that the miners rows currently styled as 'Beresford Rise' in Dedridge actually has no locally historical significance and that this came about as part of a naming project undertaken by the former Livingston Development Corporation in the early 1960's. Proposes that consideration should be afforded to giving these properties a more authentic local name with suggestions being 'Oakbank Quarters' or 'New Farm Terrace'.</p> <p>It is also suggested that new street naming signage more sympathetic with the historic character of the buildings could be provided.</p>	<p>Comments noted.</p> <p>It is outwith the scope of this PG document to initiate a street re-naming project. While street naming is a statutory responsibility of the council, the most recent iteration of the council's 'Street Naming and Numbering Policy and Procedures' document (2016) make it clear that only in <u>exceptional circumstances</u> will West Lothian Council consider any proposal from Community Groups, developers, or members of the public to alter the name of an existing street.</p> <p>The issue of style of the street name plates and signs will be taken up with Roads and Transportation Services.</p>
--	---	--

DATA LABEL: PUBLIC



A Development Management policy

AREAS OF BUILT HERITAGE AND TOWNSCAPE VALUE :
The Shale Miners' Rows

Adopted : Insert Date

Planning Guidance: Areas of Built Heritage and Townscape Value: *The Shale Miners' Rows*

1. Introduction

One of the most distinctive features of West Lothian's industrial heritage is the survival, largely intact, of several groups of homes built for oil shale workers known as "the rows".

The oil shale industry was unique to the Lothians. The West Lothian rows are therefore also unique. Many of the former miners' rows have been demolished and it is important that the best of those that remain are protected from unsympathetic alterations.

This Planning Guidance explain the guidelines which have been designed to protect the miners' rows at Winchburgh, South Village in Pumpherston, Dedridge Cottages in Livingston, Roman Camps near Broxburn, and Oakbank near West Calder. All of these areas have previously been designated "Areas of Special Control" in the West Lothian Local Plan (2009) and now benefit from designation as 'Areas of Built Heritage and Townscape Value in the LDP (2018).

The Winchburgh Rows

Of the rows which have survived, those at Winchburgh represent the most extensive and some of the most intact examples of this local vernacular building style. They were built in the 1900's for workers at the nearby Niddry Castle oil works. The works were closed in 1959 and demolished four years later. The company housing in Winchburgh was sold to individuals and the council between 1963 - 1965 and since then the area has been well preserved, though minor modernisation has occurred.



South Village, Pumpherston

Together with a site to the north, South Village originally provided over 200 houses when first built for the Pumpherston Oil Company in 1883. Now, following demolition and renovation, only 55 houses remain.

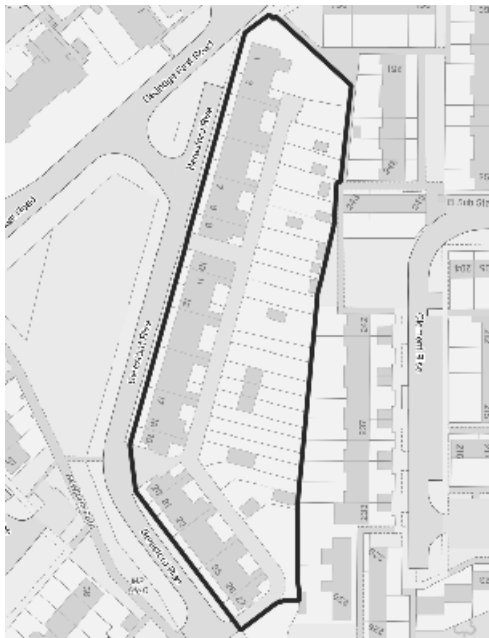
Whilst the rows at South Village have been altered, these alterations have fortunately not destroyed their original character. The basic design and the integrity of the layout remain.





Oakbank Cottages near West Calder

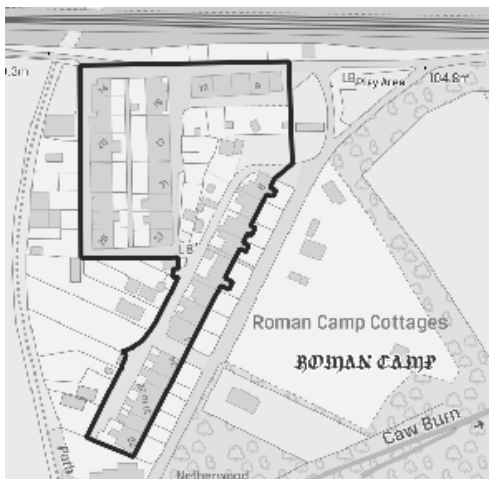
There are only 14 cottages here, in two terraces. They were constructed probably in the 1920's to house workers in the nearby Westwood mine, and are occasionally referred to as Westwood Cottages. Consisting of one row of six and one row of eight spacious homes, the rows have been partly modernised, some fitted with dormer windows, but have otherwise remained remarkably unaltered.



Beresford Rise, Dedridge, Livingston

These cottages consist of three buildings, totalling 27 houses. They were constructed by Oakbank Oil Company in 1909 to house workers in New Farm Mine, which operated between 1909 and 1919.

Although scheduled for demolition in the 1960's, they have been retained and have not been substantially altered. The cottages are surrounded by 1970's housing built by the former Livingston Development Corporation in the Dedridge area of Livingston, and are now known as Beresford Rise.



Roman Camp Cottages, by Broxburn

There are 34 cottages here in eight terraces of three distinct types. They were built around the late 1880's to house workers at the Roman Camp works.

These cottages have been the most altered of all those considered as Areas of Built Heritage and Townscape Value. Because of the number of alterations, the only part of the design advice which apply to Roman Camp Cottages is the specific advice on dormer extensions for the three distinct cottage types.

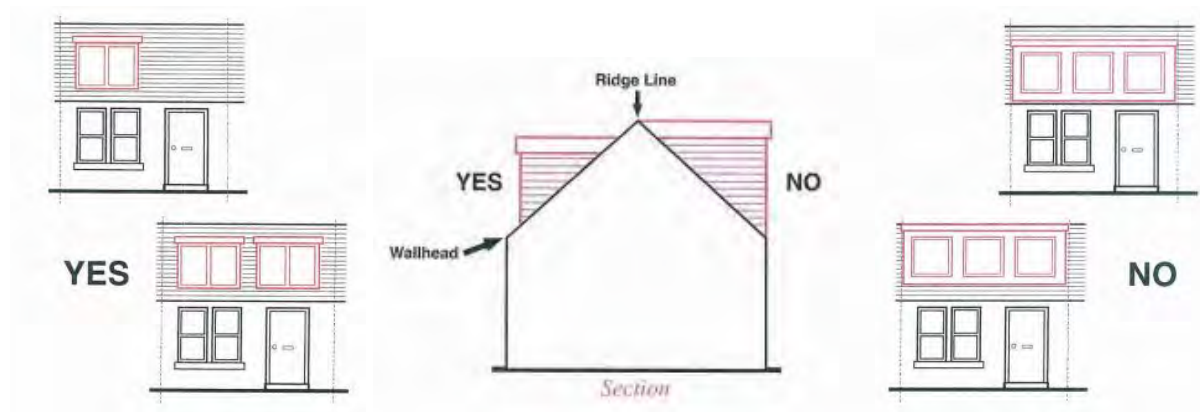
2. Design Guidance

This advice is intended to ensure that the special character and integrity of the miners' rows is retained if any extensions or other improvements are being considered. Since the rows share many of the same features, much of the advice applies to all areas. However, there are certain characteristics which are specific to individual areas and these have been given special attention.

Dormer Extensions

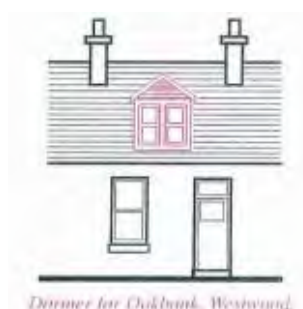
(a) All areas

When considering an attic conversion, thought should first of all be given to the possibility of using roof lights. Where a dormer is proposed it should be designed appropriately for the varying types of cottages. Some simple examples of goods and poor designs are shown in the diagrams below. The dormers should be set back from both the wall-head and below the ridgeline. New dormer windows should be centred on existing ground floor openings, windows or doors. Timber fascia boards should be kept to a minimum depth and painted black, not white, to make them inconspicuous. In all cases dormers should be clad in natural slate to match the existing roof. Whenever possible, dormer extensions to different houses in the same row should be similar in height, projection and length.



(b) South Village, Pumpherston

At the south-east of South Village there are cottages of a slightly different design to the others in this area. These cottages have a distinctive dormer style. Only dormers which match this design will be acceptable to the front, as illustrated to the left. Box dormers as described in the previous section will be acceptable at the rear.

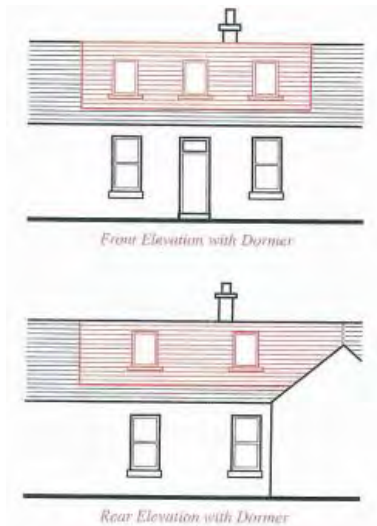


(c) Oakbank, Westwood

Again the cottages at Oakbank have a distinctive style of dormer to the front, as shown to the left. Any further dormers to the front should respect this style. Dormers to the rear should be individual and should be kept from the wall-heads and ridgeline as explained above.

(d) Roman Camp

At Roman Camp different groups of buildings have different requirements, for dormer extensions, due to differing ridge heights. The following illustrations give examples of dormers which would be acceptable within the different groups of buildings.

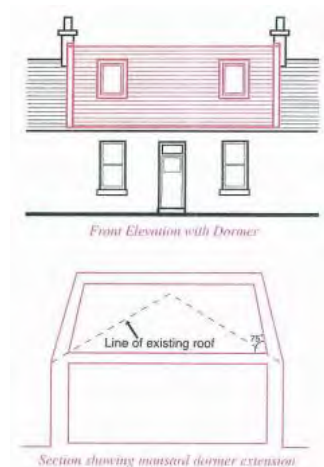


Cottage No's 1-8

Because the existing roof space is so small, the ground floor ceilings should be lowered in order to provide enough headroom whilst still keeping the dormer below the level of the ridge of the existing roof, as shown in the sketches on the left. The same principles for size and scale of dormers at the other rows apply here also.

Cottage No's 9-28

These cottages are slightly smaller than cottages 1-8 and unfortunately it is not possible to adopt the same solution of lowering the ceiling to keep the dormers below the ridgeline without reducing the aperture of the existing ground floor windows. Therefore, at these cottages, a mansard-type extension should be adopted where the slope of the new mansard roof should be 75°. The sketches on the right illustrate this approach.



Cottage No's 29-34

These are the largest cottages in the village and dormer extensions can be accommodated which can be kept back from the wall-head and below the ridgeline. Again, the guidelines detailed above for all areas apply here.

Other Extensions – All Areas (except Roman Camp)

All other extensions to the cottages should respect the scale and character of both the individual building and the row as a whole. Rear extensions and, where appropriate, side extensions should not encroach beyond the building line.

At the miners' rows at Oakbank, Dedridge and Winchburgh, extensions should be finished in a suitable red brick to match the existing buildings. At all miners' rows no extension should be higher than the eaves of the existing building. Front extensions will not be permitted.

Re-roofing – All Areas (except Roman Camp)

At all miners' rows, the roof finishes are a most important part of the integrity and character of the cottages. Only natural slate should be used where re-roofing is required. The use of modern materials such as concrete tiles will not be permitted.

Walls

(a) Winchburgh, Oakbank and Dedridge

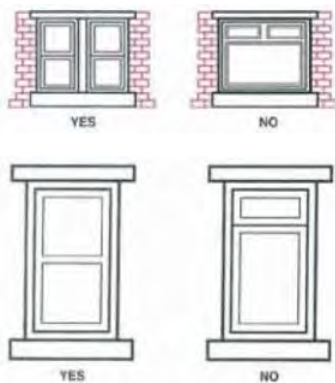
Part of the character of the miners' rows at Winchburgh, Oakbank and Dedridge is that they are all constructed from the same red brick. Whilst roughcasting and painting may improve the appearance of an individual cottage, thought should be given to the appearance of the row as a whole. Where possible on front elevations, red brickwork should be retained.

(b) South Village and Roman Camp

At Pumpherston and Roman Camp most cottages have been roughcast when being improved. Therefore, at these locations re-roughcasting or painting should respect the tones and colours of adjacent properties.

Replacement Windows and Doors – All Areas (except Roman Camp)

Windows



Replacement windows should be the same size and as the original windows and have the same glazing proportions.

Where a mullion is present between two windows this should also be retained.

Where it is a single window, the proportions should remain the same.

Doors

Doors should be timber framed, panelled doors to match the existing. Fully glazed modern doors should be avoided.

Chimney Stacks and Cans

Existing chimney stacks and cans should be retained in-situ and repaired or replaced using similar materials whenever necessary.

Garden Ground

Garden ground is part of the original setting of the miners' rows. Where development proposals impact on associated garden ground owners should discuss proposals with the planning authority.

3. Other Shale Miners' Rows

Although not within an Area of Built Heritage and Townscape Value, the former shale miners' rows at New Holygate off West Main Street in Broxburn are within the Broxburn Conservation Area. Similar guidelines to those explained in this leaflet will, therefore, also apply to all applications for alterations to the houses at the Holygate Rows.

4. Further Advice and Contacts

It is impossible for these guidelines to cover every situation. They are intended to be used by householders to assess whether a proposal is likely to be acceptable.

Should you require further advice please contact the Development Management team.

Applicants can also make use of the council's [pre-application enquiry service](#) which can be accessed on the council's website. *Please note however that this is a chargeable service.*

5. Contacts

**West Lothian Council, Development Management, Civic Centre, Howden South Road,
Livingston, EH54 6FF**

Tel: 01506 28 00 00 Email: planning@westlothian.gov.uk

(PG) Areas of Built Heritage and Townscape Value : *The Shale Miners Rows*

Approved by West Lothian Council Executive **DATE TO BE INSERTED**
Subsequently adopted as Planning Guidance (PG) **DATE TO BE INSERTED**





SEA SCREENING REPORT

**PLANNING GUIDANCE - AREAS OF BUILT HERITAGE
AND TOWNSCAPE VALUE: THE SHALE MINERS' ROWS**

STEP 1 – DETAILS OF THE PLAN

Responsible Authority:

West Lothian Council.

Title of the plan:

Planning Guidance – Areas of Built Heritage and Townscape Value: The Shale Miners' Rows.

What prompted the plan:

(e.g. a legislative, regulatory or administrative provision)

The West Lothian Local Development Plan gives an undertaking to produce guidance in relation to a variety of planning policy topics including the protection of the built environment from inappropriate development.

The guidance sets out detailed criteria to assist the preparation and assessment of planning applications specifically related to Shale Miners Rows and supports planning policy ENV 27: "Areas of Built Heritage and Townscape Value", of the adopted LDP.

The previous Supplementary Planning Guidance (SPG) that covers West Lothian's Shale Miners Rows dates from 1994. These were protected in the 2009 adopted West Lothian Local Plan as "Areas of Special Control." There is recognition of the need to ensure that the council's planning guidance is up-to-date and reflective of the most current policies and practices.

Plan subject:

(e.g. transport)

Town and Country Planning

Screening is required by the Environmental Assessment (Scotland) Act 2005.

Based on Boxes 3 and 4, our view is that:

☐

An SEA is required, as the environmental effects are likely to be significant: Please indicate below what Section of the 2005 Act this plan falls within

☐

Section 5(3)

☐

Section 5(4)

☒

An SEA is NOT required, as the environmental effects are unlikely to be significant: Please indicate below what Section of the 2005 Act this plan falls within

☒

Section 5(3)

☐

Section 5(4)

Contact details:

Chris Alcorn,
Principal Planning Officer,
West Lothian Council Civic Centre
Howden South Road,
Livingston, EH54 6FF.

01506 - 282428 / chris.alcorn@westlothian.gov.uk

Date:

1 April 2020

STEP 2 – CONTEXT AND DESCRIPTION OF THE PLAN

Context of the Plan:

The West Lothian Local Development Plan (LDP) was adopted on 4 September 2018.

A Strategic Environmental Assessment (SEA) - Environmental Report was published in August 2014, which set out the likely significant environmental effects of implementing the LDP strategy for protecting built and natural heritage assets, as well as the development contained within the LDP and is the primary means by which development sites are allocated. Each site allocated for development within the LDP has been subject to an individual site assessment.

The principal Report of Examination was issued on 11 December 2017 (augmented with an additional Report of Examination dealing with a single site issue issued on 8 January 2018).

The West Lothian Council Executive on 22 March 2018, resolved to accept all of the modifications recommended in the Report of Examination, and agreed to adopt the Local Development Plan (as modified). This was notified to Scottish Ministers on 5 April 2018. At the same time, the council made a determination under Section 8(1) of the Environmental Assessment (Scotland) Act 2005 that the modifications proposed by the DPEA to the West Lothian Local Development Plan were unlikely, overall, to have any major significant negative environmental effects and that a further SEA was not required.

Planning Guidance – Areas of Built Heritage and Townscape Value: The Shale Miners' Rows is now required to support the understanding and delivery of planning policy ENV 27: Areas of Built Heritage and Townscape Value, in the adopted West Lothian Local Development Plan (2018).

The PG will expand on the principles of this policy and will provide detailed guidance to help achieve the outcomes expected from related development in the five Shale Miners rows that are situated across West Lothian at Beresford Rise Dedridge, Livingston; Oakbank Cottages, near West Calder; Roman Camp Cottages by Broxburn; South Village, Pumpherston and Abercorn / Midhope Rows at Winchburgh.

The proposed Planning Guidance provides location specific guidance and its aim is to support consistent interpretation and application of planning policies, including ENV 27, related to these important built heritage areas through the development management process.

The guidance identifies good practice in-line with the policies.

Description of the Plan:	<p>The proposed Planning Guidance expands on the principles set out in policy ENV 27 and provides further detailed guidance to help achieve the outcomes expected from developments in Areas of Built Heritage and Townscape Value and specifically the Shale Miners Rows located across West Lothian.</p> <p>The Planning Guidance is intended for use by anyone considering development in the Shale Miners Rows including:</p> <ul style="list-style-type: none"> • applicants who wish to alter their property; • Architects and Agents working for their clients on such proposals; • Officers assessing planning proposals; • Elected Members representing constituents and making decisions on related planning applications; and • Community Councils and other civic organisations and members of the public with an interest in these development proposals within their local community that affect Shale Miners Rows. <p>The Planning Guidance will be reviewed in line with the statutory review of the West Lothian Local Development Plan (or as required by emerging legislation).</p>
What are the key components of the plan?	<p>The Planning Guidance will provide further guidance to support the application of the planning policy ENV 27 and the design and assessment of proposals in the Shale Miners Rows that are important built heritage areas in West Lothian.</p>
Have any of the components of the plan been considered in previous SEA work?	<p>Yes. The document is produced to support planning policy ENV 27 of the West Lothian Local Development Plan (LDP) which was adopted on 4 September 2018. An Environmental Assessment has previously been undertaken in respect of policies and proposed land allocations in the West Lothian LDP. The Environmental Assessment undertaken in respect of these policies concluded that they would have no significant environmental implications. Any impacts of the policies were considered to be largely positive. In order to ensure compliance with the Environmental Assessment (Scotland) Act 2005, a Screening Opinion for this Planning Guidance is required.</p>
In terms of your response to Boxes 7 and 8 above, set out those components of the plan that are likely to require screening:	<p>The proposed Planning Guidance will expand on the principles set out in the aforementioned policy and provide detailed guidance to help achieve the outcomes expected from development proposals related to various Shale Miners Rows across West Lothian. The guidance will support consistent interpretation and application of planning policy through the development management process. The guidance will also encourage good practice in-line with planning policies. The potential environmental effects of any proposed development considered under the terms of these policies can however only be fully assessed at the planning application stage when the specific site and development details are known.</p>

**STEP 3 – IDENTIFYING INTERACTIONS OF THE PLAN WITH THE ENVIRONMENT AND
CONSIDERING THE LIKELY SIGNIFICANCE OF ANY INTERACTIONS**

Plan Components	Environmental Topic Areas										Explanation of Potential Environmental Effects	Explanation of Significance
	Biodiversity, flora and fauna	Population and human health	Soil	Water	Air	Climatic factors	Material assets	Cultural heritage	Landscape	Inter-relationship issues		
Planning Guidance – Areas of Built Heritage and Townscape Value: The Shale Miners' Rows		✓		✓	✓	✓	✓	✓	✓	✓	<p>The PG brings together all of the elements that help contribute towards minimising environmental impact and achieving sustainable development.</p> <p>It provides a clear set of guidance and standards to explain what the council will expect from such new developments and identifies what information is required as part of a planning application for a Shale Miners Rows property in 5 locations that are Areas of Built Heritage and Townscape Value.</p> <p>It also provides contact details for various Council officers and other organisations.</p>	<p>The SEA for the LDP considered any potential overall effects of all the planning policies contained within the LDP.</p> <p>The PG for Areas of Built Heritage and Townscape Value: The Shale Miners' Rows is not considered to have any additional significant environmental effects.</p>

											<p>The PG shares the strategic objectives of the LDP which include promoting development where its environmental impact can be ameliorated and having regard to climate change by minimising the carbon footprint of development and supporting mitigation and adaption measures in relation to design and materials.</p> <p>Any impact on the Environmental Topic Areas will be positive and beneficial.</p>	
--	--	--	--	--	--	--	--	--	--	--	---	--

STEP 4 – STATEMENT OF THE FINDINGS OF THE SCREENING REPORT

Summary of interactions with the environment and statement of the findings of the Screening:

(Including an outline of the likely significance of any interactions, positive or negative, and explanation of conclusion of the screening exercise.)

West Lothian Council has prepared this Planning Guidance to proactively inform and encourage owners to adopt a more considered approach when preparing proposals for Areas of Built Heritage and Townscape Value that involve Shale Miners' Rows at Beresford Rise Dedridge, Livingston; Oakbank Cottages, near West Calder; Roman Camp Cottages by Broxburn; South Village, Pumpherston and Abercorn / Midhope Rows at Winchburgh.

The guidance has been conceived to help positively influence the nature of these Areas of Built Heritage and Townscape Value, that are unique to West Lothian, and to mitigate any potentially minor adverse effects of new development on these areas and the surrounding environment.

With careful thought and sensitive execution, particularly in terms of design and the use of materials, proposals related to the West Lothian Shale Miners Rows can be designed to be in much better harmony with their neighbours and the wider built environment.

In common with other guidance prepared by West Lothian Council, it has been subject to internal and external consultation, in this case with related community councils, civic organisations, architects, agents and planning consultants and regard has been had to the responses and feedback which has been received and presented to elected members to consider.

In conclusion, the Planning Guidance will result in no, or minimal, environmental effects and therefore it is concluded a Strategic Environmental Assessment is **NOT** required.

The guidance sets out detailed criteria to assist progression and assessment of proposals relating to Shale Miners Rows in in the plan area and specifically supports policy: ENV 27 - Areas of Built Heritage and Townscape Value of the adopted LDP which seeks to prevent and minimise visually and environmentally intrusive development.

When completed send to: SEA.gateway@scot.gov or to the SEA Gateway, Scottish Government, Area 2H (South), Victoria Quay, Edinburgh, EH6 6QQ.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

PLANNING GUIDANCE: THE VENNEL, LINLITHGOW

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise Council Executive of the outcome of a consultation on Planning Guidance for The Vennel, Linlithgow, and to consider a request from Linlithgow & Linlithgow Bridge Community Council's to make further representations on the guidance in accordance with an approved Participation Request.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. notes the comments received on the draft guidance following consultation (Appendix 2);
2. approves the responses to the comments received during consultation on the draft guidance (Appendix 2) including the further submission from Linlithgow and Linlithgow Bridge Community Council (Appendix 4);
3. approves Planning Guidance for The Vennel, Linlithgow (Appendix 1);
4. notes that the guidance will be a material consideration in any future development proposals for the site;
5. approves the screening report for submission to the SEA Gateway (Appendix 5); and
6. delegates to the Head of Planning, Economic Development and Regeneration to agree and conclude a SEA "screening determination" as to whether a SEA is required, having taken account of the views offered by the Consultation Authorities.

C. SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; and working in partnership.

II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)

The planning guidance supports the terms of the West Lothian Local Development Plan and will assist in the development management process when considering any

future planning applications for the site.

The planning guidance in itself is unlikely to have significant environmental effects and it is not anticipated that there will be a requirement to make it the subject of separate Strategic Environmental Assessment (SEA). The required 'screening' procedures will however be undertaken.

There are similarly no equality, health or risk assessment issues associated with the proposed planning guidance.

Participation in the preparation of the planning guidance was the subject of an approved participation request by Linlithgow & Linlithgow Bridge Community Councils.

III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	The site has the potential to generate a capital receipt and / or a revenue stream for the council.
VII	Consideration at PDSP	A report on the draft planning guidelines was considered by the Development and Transport PDSP on 3 April 2017. The PDSP was supportive of the terms of the draft guidance and was agreeable to it being made the subject of public consultation with the outcome to be reported to the Council Executive with a recommendation that the guidance be approved. A further report was considered by the Development and Transport PDSP on 4 September 2020.
VIII	Other consultations	Head of Property and Finance; external consultation including Historic Environment Scotland and the Linlithgow & Linlithgow Bridge Community Council.

D. TERMS OF REPORT

D1 Background

The opening of the new partnership centre at the County Buildings (Tam Dalyell House) and the move of partnership services to this building has resulted in a number of properties in and around The Vennel becoming surplus to requirements.

Planning Guidance has been prepared to guide the potential re-use or redevelopment of land and buildings in the vicinity of The Vennel, Linlithgow. The proposed guidance is attached as Appendix 1. The purpose of the guidance is to set out the considerations which will guide any future marketing of the site and redevelopment of the area.

D2 Planning Guidance

Any redevelopment of The Vennel, in accordance with the Planning Guidance would be consistent with the policy and terms of the West Lothian Local Development Plan. The Planning Guidance complies with national guidance and seeks to ensure that the policy principles of 'placemaking' and sustainability' set out in Scottish Planning Policy (SPP 2014) are adhered to and that the terms of supporting documents such as the Scottish Government's *Designing Streets*, *Creating Places* and *Designing Safer Places* are respected.

The guidance details potential uses for the site and sets out a number of matters which would have to be addressed in any future redevelopment. It provides guidance on scale and massing of buildings on the site. Whilst the guidance allows for a range of potential uses and development options, the status of the site in the conservation area and its constrained nature create some design challenges but also some opportunities. For example the guidance supports recreating a frontage to the High Street. Potential uses include residential, retail and / or uses such as hotels and restaurants. An element of business uses, such as office space may also be acceptable as would other service uses including facilities for health care.

D3 Consultation

The draft guidance was the subject of consultation over a nine week period during 2017. The consultation period was extended at the request of consultees. The draft guidance was published on the council web-site and consultees included Linlithgow Community Council and a number of local organisations and public bodies including Historic Environment Scotland (HES), Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA). Approximately 175 letters were sent to addresses in The Vennel area including the multi-storey flats and all properties adjacent to the site. Details of the draft guidance were also publicised in the local press.

A total of nineteen responses were received during the consultation period. These are set out in Appendix 2 together with the proposed council response. In some instances comments have led to proposed amendments to the draft guidance. Relatively few changes have been deemed necessary in response to the comments received. However, the extent of the area covered by the planning guidelines has been reduced to focus on land which is solely in the control of the council and most likely to be appropriate for early development. Further opportunities to comment will be available if and when detailed redevelopment proposals are submitted.

The two main areas of change have been to ensure that access arrangements for neighbouring properties in the area are respected and that a direct access from the High Street to the loch is considered.

The plan associated with the guidance has also been refined to show the extent of the area considered most likely to be appropriate for redevelopment. This includes the Vennel Car Park area which is currently leased to a private operator.

Members will note that some consultees wished to see a much wider redevelopment of The Vennel area promoted. However, this included properties which were not in the council's ownership and these proposals have not been incorporated within the planning guidance. Nevertheless, if these areas were to become suitable for redevelopment in the future, the design principles set out in the guidance could equally be applied to these sites.

Following consultation on the draft guidance a Participation Request was received from Linlithgow and Linlithgow Bridge Community Council. That participation request, which sought further engagement by the community council in progressing the draft planning guidance, was approved by officers in accordance with agreed council procedures. In doing so officers undertook to bring the community council's representation on the draft guidance to the attention of the PDSP (Appendix 3) together with the officer response to it (incorporated in Appendix 2). The community council was also afforded a further opportunity to comment on the process and the community council's further response is provided as Appendix 4.

D4 Consideration at Development and Transport Policy Development and Scrutiny Panel (PDSP)

During discussion at the Development and Transport PDSP on 4 September 2020, it was requested that the planning guidance be referred to as Planning Guidance and not a Planning Brief. The document has been updated to reflect this request.

The representative from the Linlithgow and Linlithgow Bridge Community Council suggested that the Planning Guidance should say "*protect important views from all of Linlithgow*" and that sale of the site for development was the community council's least desirable approach. The Planning guidance has been amended to reflect the need to protect important views from all of Linlithgow. Comments in relation to development of the site are noted and do not require any amendment to the guidance which is to be used as a tool for marketing purposes and to inform any future development and re-use of the site.

D5 Concluding Procedures

In the event that Council Executive approves the guidance it firstly requires to be submitted to the SEA Gateway and the 'Consultation Authorities' (SEPA, NatureScot and Historic Environment Scotland) in order to test the council's assertion that the guidance is exempted from any additional Strategic Environmental Assessment (SEA) because it will not in itself have any significant environmental effects.

The council is required to set out its justification in a 'Screening Report', provided as Appendix 5, and Council Executive are invited to approve this document for submission to the SEA Gateway.

If, as anticipated, the SEA Gateway and the Consultation Authorities confirm their agreement that the guidance will not in itself have any significant environmental effects, it is requested that the Head of Planning, Economic Development and Regeneration is given delegated authority to issue a 'Screening Determination' which formalises the position that no additional Strategic Environmental Assessment is to be prepared in relation to the guidance. This will be reported for information to a subsequent meeting of the Council Executive at the earliest opportunity.

However, should the SEA Gateway and the Consultation Authorities conclude that a SEA is required the delegated authority would be rescinded and the guidance would be referred back to Council Executive for consideration.

In the event the guidance is approved, an initial soft market testing will be undertaken to ascertain the market viability to take any future development proposals forward. Once this is completed it is proposed that a report will be presented to the Council Executive outlining the findings and any intentions with respect to the site.

E. CONCLUSION

The guidance will assist in any future marketing of the site and, in time, can be used to inform future development should the council look to bring the site to the market.

It is proposed that it should be adopted as non-statutory Planning Guidance in support of the West Lothian Local Development Plan and, unlike Statutory Guidance, it does not require to be submitted to Scottish Ministers for scrutiny before adoption.

F. BACKGROUND REFERENCES

West Lothian Local Development Plan

Appendices/Attachments: Five

Appendix 1: Planning Guidance: The Vennel, Linlithgow

Appendix 2: Summary of Consultation Representations with proposed council Response

Appendix 3: Consultation response from Linlithgow & Linlithgow Bridge Community Council

Appendix 4: Further submission from Linlithgow & Linlithgow Bridge Community Council

Appendix 5: SEA Screening Report

Contact Person: Fiona McBrierty, Development Planning and Environment Manager, 01506 282418

Email: fiona.mcbrierty@westlothian.gov.uk

Craig McCorrison

Head of Planning, Economic Development & Regeneration

6 October 2020



Development Planning and Environment

PLANNING GUIDANCE

THE VENNEL, LINLITHGOW

Urban Design Framework for The Vennel & former Watergait re-development area

SITE INFORMATION

LOCATION: The development site is centrally located in Linlithgow on the north side of Linlithgow High Street in close proximity to Linlithgow Palace and Loch.

OWNERSHIP:

All owned or under the control of West Lothian Council

AREA: 0.60 hectares

EXISTING USE:

Various public uses (i.e. former library, public conveniences), retail units, parking, road access, green areas with mature trees, footpaths and public spaces.

PROPOSED USES: town centre uses which contribute to the vitality and well-being of Linlithgow would be acceptable and are likely to comprise a mixed-use development. Potential uses include:

- Residential
- Commercial / retail
- Health care facility
- Tourism facilities
- Employment – office/business; small workshops
- Community events, outdoor space

PLANNING POLICY

LOCAL PLAN:

West Lothian Local Development Plan (LDP, October 2018)

KEY POLICIES:

DES 1 Design principles
EMP 7 Tourism
HOU 3 Infill/ windfall housing development within settlements
TRAN 3 Core Paths and Active Travel
TCR 1 Town Centres
TCR 2 Town Centres First Sequential Approach
TCR 3 Commercial Entertainment and Hot Food Premises
ENV 1 Landscape Character and Special Landscape Areas
ENV 23 Conservation Areas (Designations)
ENV 24 Conservation Areas (Demolitions)
ENV 25 Linlithgow Palace and Peel and High Street Rigs
ENV 28 Listed Buildings
ENV 33 Scheduled Monuments
ENV 34 Art and Development
NRG 1 Climate Change and Sustainability
EMG 2 Flooding
EMG 3 Sustainable Drainage
WMG 4 Air Quality
EMG 5 Noise
Other development plan policies may apply dependent upon development proposals which may come forward.

<p>PREVIOUS PLANNING PERMISSIONS:</p> <p>There is a long history of town centre uses however there are no current planning consents which directly apply.</p>	<p>SPECIAL STATUS:</p> <p>The site is in a highly sensitive location in the historic town centre near Linlithgow Palace and Loch with important views both into and out of the site. Any re-development proposal will be required to address significant issues related to the:</p> <ul style="list-style-type: none"> ▪ Historic Town Centre and site history ▪ Linlithgow Palace and Peel ▪ Linlithgow Loch – nature conservation, biodiversity, water environment ▪ Urban Form - integrate this key town centre location into the traditional urban fabric ▪ Usage of the site area by the local community and increasingly wider visitor interest ▪ Vehicular circulation, access and parking ▪ Pedestrian access and circulation routes
--	--

DEVELOPMENT GUIDANCE

Purpose of the Guidance

This guidance is intended to inform the development of land/buildings which have been declared surplus to the council's requirements. Its purpose is to identify key design, environmental and infrastructural requirements. The council is committed to creating high quality environments by raising design standards across all forms of development and retaining/safeguarding any specific items of special merit.

Any proposals for the redevelopment of the site will be subject to the normal requirements of the statutory planning system and will be subject to any relevant new policy guidance, which may emerge between the issuing of these guidelines and the submission of a planning application. The guidance provided is without prejudice to any further comments and decisions that may be made by the council on any formal consideration of a planning application to develop the site.

Site Context

The area from The Cross west to and including the three blocks known as The Vennel flats was part of a comprehensive redevelopment scheme in the 1960s and 70s to re-use former industrial areas and provide post-war housing. As a result of this re-development a historic pedestrian route from The Cross to Linlithgow Loch – the Watergate/gait – was lost and the new Vennel route was re-configured as a pedestrianised street with many level changes.

Refurbishment of County Buildings to form a new Partnership Centre for Linlithgow (Tam Dalyell House) was completed in Winter 2017-18 with re-location of the library and public toilets thus making existing buildings on the site surplus to requirements. Consequently, that part of the Vennel covered by this Planning Guidance is currently under-used.

The site area comprises the former library, shop units, toilets, circulation, landscaping and green space and The Vennel car park.

While the parkland between the High Street and the loch is not part of the site, consideration will have to be given to the relationship between the site and the parkland/loch, the surrounding historic environment and other surrounding uses. It should be noted, however, that the guidance does not preclude a development expanding beyond the boundaries shown. Where an extended development area is proposed the same design principles set out in this guidance will generally apply.

Historic Environment: Linlithgow Loch / Linlithgow Palace and Peel / St Michael's Church and Cross House / Conservation Area

Linlithgow Palace, Peel and Royal Park– is a Scheduled Monument for which Historic Environment Scotland's (HES) schedule includes a Statement of National Importance and a description giving the following spatial characteristics which is pertinent to any proposed development in its vicinity:

The monument comprises Linlithgow Palace and the core of the Royal Park, including Linlithgow Loch, the ground beneath St Michael's Church and the church burial ground. The palace was built between 1424 and 1624 and is the largest non-defensive royal residence in medieval Scotland. The monument includes the upstanding palace buildings, as well as earthworks and buried archaeological remains in the surrounding parkland that preserve evidence both for early occupation of the site and for activity contemporary with the palace. The monument lies immediately north of the medieval town of Linlithgow, between the town and Linlithgow Loch. The palace stands at 60m above sea level on a natural hill of glacial drift, giving it a commanding position overlooking the loch. The monument was last scheduled in 1994, but the documentation does not meet modern standards: the present rescheduling rectifies this.

Policy ENV25 of the adopted West Lothian Local Development Plan states: *"There is a presumption against development which would have an adverse effect on the amenity, outlook, character or setting of the Palace and Peel at Linlithgow. Developments within 800m of the Palace and Peel will be assessed for their potential effects."*

Linlithgow Loch - is part of the scheduled area for Linlithgow Palace and is administered by HES. Other designations with corresponding policy support include: Area of Great Landscape Value / Special Landscape Area, Site of Special Scientific Interest (SSSI), Conservation Area status and Geodiversity (BGS). The loch is encircled by a protected path. It is anticipated that a buffer zone will require to be agreed with HES and the Scottish Environment Protection Agency (SEPA) with respect to heritage protection and water quality issues. Scottish Natural Heritage (SNH) manages the SSSI and consent may be required for any nearby operations such as changes to tree and woodland management, drainage, construction etc. against which proposals would be assessed.

St Michael's Church and Cross House – St Michael's Church is an iconic building with its distinctive modern steeple and will require inclusion in the visual impact assessment work for any proposal. The church is described on the HES / CANMORE web-site as 'perhaps the finest parish church in Scotland'.

Cross House forms the northwest corner to the town's Cross and is an historic building with some residential accommodation. The well-used church hall is located in an extension to Cross House and is accessed off The Vennel Car Park. The CANMORE catalogue citation for Cross House (circa 1700) states that it is the:

Town house of Andrew Crawford of Lochcote, framing the ceremonial entrance up to the palace. Three-storey, white-harled and crowstepped, dominated by baroque doorway; geometric plasterwork within. Swelling 18th-century bow-windowed extension to the west, the upper room having a rococo ceiling.

Conservation Area - the site area is completely contained within the Linlithgow Palace and High Street Conservation Area. There are many Listed Buildings and Scheduled Monuments within the Conservation Area including those by The Cross and Kirkgate. Meeting Historic Environment Scotland's requirements will be an important stage in the progress of any design proposal.

A range of heritage and environmental policies in the development plan will apply as appropriate to proposals coming forward.

Interested developers should refer to the Historic Environment Scotland guidance: *New Design in Historic Settings* (2010) to inform successful design development of proposals.

A historical analysis of historic townscape and a Heritage Statement will be required to inform future design and to accompany any forthcoming planning application for the site.

Urban Design

This planning guidance is drawn up as an Urban Design Framework to inform any proposals for the re-development of The Vennel and former Watergait area of central Linlithgow.

Key urban design aims for the masterplan to be prepared by interested developers are:

- barrier free disabled & multi-user access through improved levels and integration
- improved access between The Cross, High Street and loch
- protection of and enablement of views in, out and across the site
- improved definition of public-private space gradient i.e. sensitive treatment of the spaces around and amenity of existing residents
- integration with local and historic townscape context
- sustainable buildings and design
- integrated soft and hard landscaping to retain and improve the leafy environment with semi-formal planting and a well-designed landscape treatment

Design proposals should demonstrate the six qualities of successful places and be:

1. Distinctive
2. Safe and Pleasant
3. Welcoming
4. Adaptable
5. Resource Efficient
6. Easy to Move Around and Beyond

(*Scottish Planning Policy* (2014, paras 36 – 46))

Consideration should be given to the urban design aims above. The council will seek to ensure that proposals reflect the Scottish Government's Principle Policies of 'Sustainability' (SPP 2014, paras. 24 – 29) and 'Placemaking' (SPP 2014, paras. 36 – 46). Further relevant national guidance is found in:

- *Creating Places*: A policy statement on architecture and place for Scotland (June 2013)
- *Designing Streets*: A policy statement for Scotland (March 2010)
- Planning Advice Note 77 (PAN77) *Designing Safer Places* (March 2006)

Interested parties will be required to submit a Visual Impact Analysis for any proposals with potential to impact on the palace, church buildings, loch and conservation area.

Development Approach

A variety of uses would be considered appropriate for this town centre location. In addition, local employment opportunities are sought within the town, which would arise from new retail provision, a tourism or leisure facility, or small business(es). The site would also be suitable for the provision of healthcare facilities. A mixed-use proposal is anticipated where an acceptable level of residential amenity could be achieved. Demolition to accommodate new build is anticipated.

Design/ Materials – high quality design and materials which support local aesthetics.

Massing – new development will require to be stepped to protect important views from across Linlithgow to the palace, church and loch and their settings. Three storey development may be acceptable on the High Street frontage, subject to design, with one and two-storeys in height beyond this.

Pedestrianisation and Circulation Space

The ancient desire lines for the existing Vennel walkway and the former Watergait, which connected The Cross to the loch, underpin the historic street plan. Improved and barrier free circulation between The Cross, loch, High Street and existing Vennel flats area will be required. Where vehicular access and circulation may clash, 'traffic calming' type design solutions are sought for which reference should be made to Scottish Government's *Designing Streets* guidance.

Public Transport, Cycling and Electronic Vehicle charging

With a town centre location, The Vennel site is well served by public transport with a main line train station a short walk away and regular local and regional buses available on Linlithgow High Street.

Electric vehicle charging points will be required in line with the requirements set out in [Supplementary Guidance Residential Development Guide](#) and [Planning Guidance Air Quality](#)

Vehicular Access

Access is envisaged from the existing access point on the High Street. A further access point is provided off The Cross, providing access to the Vennel car park.

Parking

The site is being marketed for a variety of proposed uses for which parking standards vary. Interested parties are therefore advised to consult with the council's Roads and Transportation Service on requirements. The council's residential parking standards are available on the council's web site and in the [Residential Development Guide](#). Other parking standard requirements will be assessed against specific proposals.

Public Art

There may be opportunities for the integration of craftwork and design with street engineering such as innovative lighting schemes to support the night-time economy and security by design. The recently refurbished Burgh Halls has successfully married historic architecture with contemporary design and quality materials.

The re-development of The Vennel area incorporated fragments of historic stonework from some of the buildings which were lost as well as new works such as the metal mural adjacent the library entrance. A conditions survey of these works on site is required to consider their conservation and relocation.

Landscape / Greenspace / Open Space

A tree conditions survey with accurate plans is required to assess potential impacts on existing arboriculture assets.

Design proposals will require detailed landscape plans including a strategy to demonstrate how new trees and other planting is to be integrated into redevelopment of the area. Semi-formal planting style appropriate to an urban location between town centre and loch is preferred.

For specific residential or other urban proposals, internal open space and communal landscaping are encouraged. However, such areas should be kept to the minimum and should be simple, durable and easily maintained. The developer, in liaison with the council's Development Management Unit, must establish a maintenance agreement and transfer of funds either to an approved maintenance agent or to the council.

A tree survey will be required to inform any future development of the site. A detailed landscape plan is also required which should include a plan at 1:500 scale and a planting schedule and include consideration of replacement community flowerbed.

Housing / Education

For residential proposals the terms of the council's [Residential Development Guide](#) would apply.

For any housing, the site would be regarded as a windfall housing site and thus not allocated for development in the development plan. Consultation with the council's Education Planning Officer will be required to determine available capacity within the catchment schools and may require any residential development to be phased.

Site Development

Appropriate regulations and standards for site development will be incorporated in any planning consent as planning conditions. Other council services and regulatory bodies will be consulted and additional consents are likely to be required. An archaeological assessment will be required as part of any planning application to re-develop the site.

Sustainable Urban Drainage/Flood Risk

A Flood Risk Assessment to include a site-specific assessment, sound design and construction will be required and interested parties will be expected to demonstrate this to WLC Flood Risk Team. Early engagement with Scottish Water and SEPA will be required to ensure best practise is applied. Interested parties must submit a Pre-Development Enquiry (PDE) form found at www.scottishwater.co.uk

Developer Contributions

The council has identified a series of additional contributions which developers of new sites are now required to provide. These fund infrastructure for additional housing as identified for particular settlements and school catchment areas. In so far as this particular site is concerned, contributions would be assessed as part of the planning application process based upon the proposed usage and dwelling numbers. Details of developer contributions will be assessed against current information at the time of any application.

Should residential development be proposed the following supplementary guidance would apply: Education, Affordable Housing, Cemeteries, Public Art and potentially others according to proposal requirements, details can be found on the council's website at <https://www.westlothian.gov.uk/article/44259/Planning-guidance-and-background-information-supporting-the-West-Lothian-Local-Development-Plan-LDP->

Planning Applications

Interested parties should be aware that the accompanying plans and boundaries are indicative and should not be scaled. Exact boundaries must be agreed at the time of any planning application and disposal agreement.

Developers must satisfy themselves in all matters relating to the site including ground conditions, and are strongly advised to contact the council's Development Planning, Transportation Planning and Development Management and Building Standards units to discuss proposals prior to making an offer for the site. The above guidance is provided without prejudice to any further comments or decisions that may be made by the council on formal consideration of a planning application to develop the site.

Application forms, neighbour notification procedures and fee scales are available from the Development Management Unit, West Lothian Civic Centre, Howden South Road, Livingston EH54 6FF, planning@westlothian.gov.uk or contact: 01506 280-000. Alternatively, forms can be downloaded from the council's web site at www.westlothian.gov.uk

APPENDIX 1: LOCATION PLAN - THE VENNEL AREA, LINLITHGOW

[illegible][illegible]

WEST Lothian Council – Planning, Economic Development & Regeneration

Consultation Summary

Planning Guidance – The Vennel, Linlithgow

Consultee	Summary of comments	Proposed council responses)
(7)	MEMBERS OF THE PUBLIC	
John D Carswell	<p>Redevelopment – suggests demolishing as much as possible; mixed development; private developer with suitable architect; desirable for flats to west side of The Cross can be incorporated.</p> <p>Urban design - consider relationship with Palace, Church, Peace Garden, Victoria Halls, Cross House, The Cross, Partnership Building, Templars Court etc.</p> <p>Housing – mixed tenures suggested but notes conflict of social housing and making money; considers unsuitable area for families.</p> <p>Tourist Buses parking / setting down – long overdue; should not be at The Cross; use lower level to screen; provide toilets and shelter adjacent.</p> <p>Youth Centre – good to have town centre location.</p> <p>Car Parking / public transport – too much parking in the town; some parking may be required for church, Cross House, housing and tourists.</p> <p>Should mention public transport.</p>	<p>Support for mixed development is welcome. Flats to the west side are not wholly within council ownership and have not been declared surplus to requirements.</p> <p>Guidance includes urban design parameters; consultation with Historic Environment Scotland has been undertaken; no change to the Planning Guidance required.</p> <p>Housing is one of the proposed potential uses subject to education capacity being available; no change to guidance required.</p> <p>Beyond scope of the Planning Guidance.</p> <p>A youth centre would be compatible with acceptable uses set out in the planning brief</p> <p>Requirement for a parking assessment has been added to the Planning Guidance.</p> <p>Reference to public transport links has been added to the Planning Guidance.</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>Traffic – excessive in the town, not to be encouraged by the development; remove as much as possible from The Cross area; no traffic in front of the Burgh Halls and if possible no exit from the development; consider mini-roundabout at Bryerton House to help access and traffic using High Street.</p> <p>Views of the Loch – improve views; can be enhanced by trees; several extant walls block possible views.</p> <p>Trees – keep as many as possible but do not let them hinder development and replant as required.</p> <p>High Street – do not reduce or undermine the role of the High Street.</p> <p>Grass / greenspace – have green areas along Loch for public use; picnic tables useful; discourage dogs and swans fouling paths and grass etc.</p> <p>The Loch – enhance as much as possible and do not build beside it e.g. café.</p> <p>Litter – always bad after a fine evening: improve the bins and their collection.</p>	<p>Beyond the scope of the guidance; some impact is anticipated but is not considered to be significant.</p> <p>Reference to a visual impact assessment has been added to the Planning Guidance.</p> <p>A tree conditions survey and detailed landscape plans are required by Planning Guidance.</p> <p>Beyond the scope of the Planning Guidance.</p> <p>Path around the loch is a Right of Way and core path; there are picnic sites elsewhere by the loch; animal fouling restrictions; area beyond the scope of the Planning Guidance.</p> <p>Planning Guidance has provisions for protection of the loch; views on loch-side development in consultation response are contradictory and inconclusive; no change to Planning Guidance required.</p> <p>Beyond the scope of the Planning Guidance, however urban improvements usually lead to greater respect of the environment.</p>
Ian Fowell	<p>Views / access to Loch - should also emphasise that there is scope to 'open up' the area at the back of The Vennel (near the public toilets) to give visual and pedestrian access to the woodland beyond.</p> <p>Parking - no loss of public car parking is welcomed as the existing Vennel car park is crucial in giving visitors and local access to town centre. However, the car park also serves the adjacent Church Hall and the Burgh Halls, both of which hold large scale public events and functions, as well as providing parking for visitors to St Michael's Church and</p>	<p>No change to Planning Guidance required as it includes the following urban design aims which would improve visibility of trees nearer the loch:</p> <ul style="list-style-type: none"> ▪ <i>improved access between The Cross, High Street and loch</i> ▪ <i>protection of and enablement of views in, out and across the site</i> <p>Concern over parking requirements is understood, however analysis of how a future development would impact parking usage is not possible to assess in advance given the open nature of the brief, the</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>the Palace. Guidelines should refer to these requirements which means parking should be retained at eastern side of the site and not anywhere on site as suggested in draft guidelines.</p> <p>Tour bus parking - there is presently a significant difficulty with tour bus access to the Cross, Burgh Halls and Palace; the need for a safe and purpose-designed bus drop-off point should be included in the guidelines.</p> <p>Access to St Michael's Church Hall and Manse - is presently across part of the site, and should be maintained.</p> <p>Archaeology - the area would have been extensively redeveloped in the 1960s, but consideration should still be given to the possible need for archaeological excavations during development.</p> <p>Clarification - does not understand reference to pinch point caused by rail embankment, and think it should be sufficient to simply indicate there are no parallel rear streets in this part of the town centre.</p> <p>Mapping - there is no longer a surgery or clinic in The Vennel as marked on the site plan.</p>	<p>unknown type of uses and configuration of future development. It is standard practice for planning applications to be reviewed by the Council's Roads and Transportation service.</p> <p>Outwith the scope of the Planning Guidance and site area.</p> <p>Requirement noted and will be assessed in any subsequent planning application.</p> <p>Reference to archaeological assessment has been added to the Planning Guidelines.</p> <p>Traffic is constrained in central Linlithgow by geography and historic townscape pattern.</p> <p>Noted.</p>
Kirsty Leonard	<p>Opportunity for redevelopment of this town centre area is welcome and overdue; the Planning Guidance contains many relevant ideas and suggestions for this opportunity WLC capitalising on value of site high quality design difficult to realise.</p> <p>Flats /shops at The Cross – suggest refurbishing and notes not included in the Guidance; but probably reflects the view of many residents and because they are partly owner occupied and council tenants it may be impossible to knock them down and start again.</p> <p>Design for new residential buildings – care needed here to avoid the mistake of the past in which modern idiom became quickly outdated and despised; prefer pastiche of Poundbury approach in southwest England.</p> <p>Vehicular circulation, access and parking / usage of the site area by the local community and increasingly wider visitor interest - an innovative approach to the problems of a modern town, tourist and retail destination would be welcome; consider a new roundabout</p>	<p>Support for redevelopment and Planning Guidance noted; Planning Guidance is not statutory but is a planning tool to encourage better design and engagement with the planning process.</p> <p>Points noted; The Vennel multi-story blocks are outwith the site area; no change to guidance required.</p> <p>Planning Guidance has additional and sufficient urban design requirements; no change to the Planning Guidance is required.</p> <p>Planning Guidance includes rigorous design requirements; roundabout proposal outwith site area; no change to guidance required.</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>by including part of the wide pedestrian space presently occupied by a flower bed, whitebeam and silver birch trees between the Vennel passageway and the shops to the west</p> <p>Garden beds - important to retain or move the flower bed as it is the only Town Centre bed that can be used for feature floral designs.</p> <p>“Pedestrian access and circulation routes” – yes.</p> <p>“Barrier free disabled & multi-user access through improved levels and integration” etc. – yes.</p> <p>No loss of parking provision underlined and supported.</p> <p>Provision for tourist coaches is badly needed.</p> <p>Landscape / Greenspace / Open Space - the Scots pines in the Vennel gardens are probably past their best and should go; the Norway Maple in the centre of the green space should be retained if possible; other trees on the loch-side, planted 50 years ago, appear to be mostly in good condition, lime, larch, alder, willow, although the sycamores have little to recommend them.</p> <p>Lochside area, including the part outlined in the Planning Guidance map - should not be built on but remain as a public park amenity with better access.</p> <p>Northeast bank to carpark - could be improved.</p> <p>No buildings, residential or retail – underlined because there are plenty of cafes in the area and the litter problem would be exacerbated.</p> <p>Concern that developers tempted to build luxury flats / hotel for the wealthy on land that is well used by both residents and visitors.</p>	<p>Landscaping will be a requirement of any re-development of the site. A landscaping scheme will be required as part of any planning application for the re-development of the site.</p> <p>Support noted.</p> <p>Support noted.</p> <p>Support noted.</p> <p>Beyond scope of the Planning Guidance.</p> <p>Requirements for a tree survey and detailed landscape plans have been added to the Planning Guidance.</p> <p>Lochside area is outwith the area covered by the Planning Guidance.</p> <p>Presume this is the unkempt, overgrown bank below lower carpark and is included in the area covered by the Planning Guidance.</p> <p>It is for developers to determine best usage of the site with respect to market conditions; litter management is beyond scope of Planning Guidance.</p> <p>The Planning Guidance sets out matters interested parties will be required to take into account in any proposals for the area.</p>
--	---	---

DATA LABEL: PUBLIC**APPENDIX 2: Consultation Summary**

	Iron artwork on the side of the Library – believe there is another panel of the nativity scene stored in a basement somewhere that was never hung, possibly due to weight issue.	The Planning Guidance includes reference to artwork.
Nicholas Leonard	<p>Redevelopment should be carried out by a private developer or a consortium in partnership with the Council, which should have a profit-sharing agreement to enable it to share in any financial gains which may arise but which would not expose it to any loss.</p> <p>All of the existing Vennel buildings together, if possible, with those at the west side of the Cross should be demolished and replaced by housing, together with cafes and shops to replace the existing ones.</p> <p>The design and construction materials of the new buildings should blend in unobtrusively with the existing high street.</p> <p>All existing green spaces should be preserved and, where possible, enhanced, with full access for the general public.</p> <p>More parking for cars and coaches should be provided.</p> <p>To ensure the widest possible acceptability of the redevelopment, suggest that prior to final legally binding approval of the plans, there should be a consultative, non-binding referendum in Linlithgow to obtain the endorsement of a majority of the residents of the Burgh.</p>	Commercial arrangements for the development a site are not a material planning consideration.
Colin Sumpter	<p>Pleased to see council is proposing redevelopment of area.</p> <p>More green space to the greatest extent possible.</p> <p>Advocate opening up an aspect from the High Street to the loch...that this could be achieved by a green corridor running through the existing library site down to the waterfront.</p>	<p>Support welcomed.</p> <p>Landscape, greenspace and open space requirements are covered by the Planning Guidance. No change to the guidance is required.</p> <p>Improved access to the loch is promoted by the guidance. A requirement for a Visual Impact Assessment has been added to the guidance.</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>Would support a café on the waterfront if this fitted with the HES requirements.</p> <p>Ask that the phrase 'it is accepted that there will be tree loss' be removed from the document and replaced with a statement that there will be a net increase in trees in the area....understand some mature trees will need to be removed, but it is not clear that these will be replaced.</p> <p>Solar energy generation / energy efficiency improvements for social housing at the Vennel flats</p> <p>Should be a requirement that development be as carbon neutral as possible.</p> <p>Reduction in car parking / car access – should be removed from centre of town and used as green space with sensitively designed commercial and leisure activities, because short distance from well-linked train station; there should be no need for regular vehicular access to palace, around well and on redeveloped site.</p> <p>Strongly supports proposed barrier free pedestrian access across the site.</p> <p>Does not support improved vehicular access.</p>	<p>A café would fall under the acceptable uses however there are mixed views about proximity to the loch; the loch area no longer forms part of the Planning Guidance.</p> <p>Trees were built into to the design of the car park therefore not feasible to redevelop without damage / loss; a tree survey is required along with a detailed landscape plan; reference to this has been added to the Planning Guidance.</p> <p>The Vennel flats are outwith the site area.</p> <p>Reference to this is included in the Planning Guidance: Scottish Government's principle policies of sustainability consideration; cycle facilities and Electric Vehicle charging point requirements have been added to the Planning Guidance.</p> <p>Conflicting views on car parking received; assessment will be required of any parking proposals by the council's transportation team; a parking assessment will be required and reference to this has been added to the Planning Guidance.</p> <p>Support noted.</p> <p>Clarifying access arrangements is one of the prime reasons for producing planning guidance; proposals will be reviewed for satisfactory access and transportation arrangements by specialist council officers; reference to a parking assessment has been added to the Planning Guidance.</p>
--	--	--

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>Parking provision - strongly plead with the Council to remove the requirement to re-provide parking spaces on a 1:1 basis as is suggested in the document; any multiple storey car parks should go down rather than up to save views from the High Street and be made as dense (and expensive) as possible; more spaces will just produce more drivers.</p> <p>Desirable if redevelopment could coincide with decision on an alternative east – west transport route around the north side of the loch, or to the south of the high street.</p> <p>Air quality – with respect to draft AQMA planning guidance, cars are the primary cause of air pollution harming our health in Linlithgow; main wish for the redevelopment of site is that it puts rail passengers, pedestrians and cyclists first, and cars should be actively discouraged by design.</p> <p>Would like confirmation that the draft AQMA planning guidance will be followed; that redevelopment will be <i>required to provide full air quality assessment. in particular:</i></p> <p>Public access and public ownership - keen that as much of the land as is possible stays in Council hands, stays free to access for all residents, is free from as many restrictions on use as feasible and that its care be integrated into the community; a space for people and looked after by the people, not sold to private developers or restricted to residents of any housing development.; because this is a trend that has been seen in other towns; a statement to this effect and commitment to a plan for how residents will be involved in how the site is managed would be good to see in this document.</p>	<p>Parking will be assessed at the planning application stage in accordance with proposed usage and regulatory framework; reference to a parking assessment has been added to the Planning Guidance.</p> <p>Beyond the scope of the Planning Guidance.</p> <p>Sustainability principles are a consideration in the Planning Guidance; text added in support of public transport usage, cycle facilities and EV charging.</p> <p>Air quality impacts are assessed at planning application stage against relevant guidance; reference to council policy on these matters has been added to the Planning Guidance.</p> <p>The Planning Guidance will assist in marketing of the site now that Linlithgow Partnership Centre has been opened; access, circulation and urban design requirements are included in the Planning Guidance; there will be an increase in public access at the partnership centre nearby; no change to the Planning Guidance is required.</p>
John Watson	<p>The town desperately needs enhanced medical facilities and coupled with adequate car parking, sensitively designed; this central area would be ideal for such a facility.</p> <p>Car parking - the town has a serious shortage.</p> <p>More drastic action has to be taken against those individuals parking illegally, and causing unnecessary congestion on the High Street.</p>	<p>Reference has been added to identify that a medical centre could be acceptable in any redevelopment of the site.</p> <p>Conflicting views received from respondents on car parking; parking requirements of proposals to be assessed; the Planning Guidance includes reference to a requirement for a parking assessment.</p> <p>Illegal parking is a police matter; no change to the Planning Guidance required.</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

Mike Vickers	<p>Council asked to withdraw the proposed guidance for the development at The Vennel.</p> <p>Agree with point that the Vennel is central to the wellbeing of Linlithgow as a thriving community now and in the future.</p> <p>Any development needs to be carefully designed from 'The top down' but guidance makes no attempt to consider what is appropriate other than state the obvious; a mixed development covering any of residential, parking, commercial / retail, tourism facilities, small workshops, outdoor space.</p> <p>Presume it is expected that developer/s will come forward with a proposal: this is unacceptable; planning department must take the initiative bearing in mind The Vennel's central position, limited space, the Palace and the Peel, educational and access constraints etc. Propose that guidance for the development is withdrawn and that the council undertakes some real town planning of the Vennel area.</p> <p>Site - suggest consideration of extending the site to include the Vennel flats on the High Street to the east of proposed site.</p> <p>The town should undertake a controlled charrette.</p>	<p>Development and Transport PDSP agreed to take the site forward to consultation stage on 3/05/17; the Planning Guidance will assist in any future marketing of the site.</p> <p>Noted.</p> <p>Planning Guidance is not a statutory requirement and the council has produced guidance with enhanced urban design and historic sections given the sensitivity of this town centre site; no change to the Planning Guidance is required.</p> <p>Planning Guidance is an early stage in the development process; any proposal will ultimately be handled and determined by the council as local planning authority; no change to the Planning Guidance is required.</p> <p>The Vennel flats are beyond the scope of the Planning Guidance due to site arising from the conversion of County Buildings and the consequent relocation of many of the uses which are in the site area and the mix of private and public ownership within the multi-story blocks renders their redevelopment problematic. There are also many long-term residents for which the Vennel flats are their homes. No amendment to the Planning Guidance is required.</p> <p>Pre-applications consultation (PAC) is more appropriate in this case given that site is for private sale; no change to Planning Guidance is required.</p>
--------------	--	---

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	Ownership - rejects the implication that the site should be sold to the developer / developers; the ground is so central to the beauty and wellbeing of Linlithgow it must remain in public ownership; there must be no selling of the family silver to cover short term money difficulties.	The Vennel area has only been in public ownership since the original redevelopment of this former, partly industrial area. The site has become surplus as a result of investment in other public buildings in the town. No change to Planning Guidance is required.
(6)	COMMUNITY GROUPS	
Linlithgow Civic Trust (LCT)	<p>It is suggested that West Lothian Council has carried out a 'very basic method of consultation' for the draft planning guidance.</p> <p>The Civic Trust has worked with the other member organisations of the Linlithgow Planning Forum (Linlithgow & Linlithgow Bridge Community Council, Transition Linlithgow, the Linlithgow Business Association, the Linlithgow Victoria Hall Trust and the Linlithgow Community Development Trust) to undertake a more detailed and informative public consultation exercise than would have been possible in direct response to the development ideas (set out in the response's Appendix One: Suggested Draft Layouts from Vennel Exhibition) were submitted 'as draft ideas to which the public could respond more easily than in relation to the Council's general Planning Guidance document'.</p> <p>The LCT summarises conclusions on the public response to the proposals from the Linlithgow Planning Forum (Appendix 2: Vennel Redevelopment Exhibition - Summaries of Questionnaire Results), in the following points...</p> <p>Many Linlithgow people acknowledge that this is a once in several life times' opportunity to substantially improve the centre of Linlithgow.</p> <p>Linlithgow Civic Trust believes that the current draft planning guidance is insufficient to seek development proposals which will answer the requirements of the Linlithgow Community In both the initial survey and the final questionnaire; over 80% of respondents wished to see the Linlithgow community actively represented at all stages of the development of the project brief. Representatives of the Community Council, the Linlithgow Civic Trust, the Linlithgow Business Association, Transition Linlithgow and Linlithgow Community Development Trust and 41 residents of Linlithgow have stated that</p>	<p>The council has carried out the standard approach to planning guidance preparation including a large mail-out to neighbour properties and press releases; there is no statutory requirement to produce planning guidance and in this case additional detail on urban design and the historic environment have been added; no change to Planning Guidance is required</p> <p>The Linlithgow Planning Forum was advised that the consultation on the planning guidance for The Vennel site was limited to the terms of that guidance. Hence much of the detailed submission does not relate to the consultation on the draft Planning Guidance for the Vennel site.</p> <p>The summary in point form of the conclusions of the Linlithgow Planning Forum is welcome.</p> <p>Point noted.</p> <p>There will be a further opportunity for input into the process at pre-application consultation (PAC) stage and at later stages in the planning process.</p>

DATA LABEL: PUBLIC**APPENDIX 2: Consultation Summary**

	<p>they would like to be involved in all stages of the formulation of the Vennel redevelopment project.</p> <p>There is 94% support for the redevelopment of the parts of the Vennel site identified by the Council for redevelopment (as a minimum).</p> <p>There is 90% support to extend the redevelopment area as far as the west side of The Cross.</p> <p>Housing - 81% support at least a quarter of the houses in any redevelopment scheme being social-rented and 91% would like to see housing for younger people such as first-time buyers. Room sizes larger than the minimum standard are supported by 82%.</p> <p>83% want more car parking than at present.</p> <p>92% want public toilets included in the scheme.</p> <p>88% would like existing shopkeepers to be given new shop units on site.</p> <p>Youth facilities - 76% want to see youth facilities to continue to be catered for.</p>	<p>Support noted.</p> <p>The Vennel flats are beyond the scope of the Planning Guidance due to the site arising from the conversion of County Buildings and the consequent relocation of many of the uses which are in the site area; the mix of private and public ownership within the multi-story blocks renders their redevelopment problematic. There are also many long-term residents for which the Vennel flats are their homes. No amendments to Planning Guidance required.</p> <p>Residential usage is one of the potential uses given in the Planning Guidance; room sizes are a matter for Building Standards; no amendments to Planning Guidance required.</p> <p>There are conflicting views on parking levels; car parking will be assessed for proposals forthcoming; reference to requirements for a parking assessment have been added to the Planning Guidance.</p> <p>Public toilets are now available nearby at the Linlithgow Partnership Centre and the Burgh Halls; no amendments to Planning Guidance required.</p> <p>Retail is a potential use in the Planning Guidance; the Vennel blocks are beyond the scope of the Planning Guidance.</p> <p>Linlithgow Young People's Project (LYPP) is a tenant of WLC and may need support for re-location at a later date; WLC Estates to address in due course; no change to Planning Guidance required.</p>
--	--	---

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>Design - 95% wish to see a design in sympathy with Linlithgow's traditional buildings in terms of built form and building materials.</p> <p>Connectivity & Views - there is similar support for new / attractive links between the High Street and the loch, making the area more attractive to tourists, upgrading the quality of existing open space and preserving important views to the tower/spire of St Michael's Parish Church and the tower of the Burgh Halls</p> <p>Vennel flats - 78% want to see some of the existing central open space allocated more clearly for Vennel residents.</p> <p>Design - With regard to the draft development ideas 89% indicated their support (i.e. Linlithgow Planning Forum: Map 1 – Possible Townscape & Landscape Framework, Map 2 – Possible Layout & Content of Development; Map 3 – Possible Phasing of Development).</p> <p>Consultation and engagement - 97% thought that the Linlithgow Planning Forum should be involved in the formulation of a detailed Development Brief for the site.</p> <p>Potential usage - there was lesser, but still substantial support for: housing for the elderly (60%), a small hotel/restaurant overlooking Linlithgow Loch (67%), shop units for specialist/tourist-related businesses (62%) and a 'business centre' or similar (61%).</p>	<p>Design, open space and urban design parameters are provided in the Planning Guidance.</p> <p>Agreed that important views should be assessed and protected through visual impact assessment; reference to visual impact assessment has been added to the Planning Guidance.</p> <p>Provision of external grounds for Vennel residents is beyond the scope of the Planning Guidance.</p> <p>Premature for detailed design at planning guidance stage; no change to Planning Guidance.</p> <p>The usual practice is for planning guidelines to be sent to the local community council, local groups and publicised in the media; planning guidance is not a statutory requirement</p> <p>All of these suggestions are contained within the proposed uses are set out in the Planning Guidance.</p>
Linlithgow Community Development Trust (LCDT)	<p>Urban design - The LCDT supports the aim of the document "to seek a comprehensive urban design offering a contemporary redevelopment of the site befitting its historic and town centre location."</p> <p>For proposed uses we support a mixed use development.</p> <p>Community space - We would welcome the inclusion of 'Community Space, rather than just 'Community events and outdoor space'. The need for some form of community space has been raised by a number of groups during this consultation period.</p> <p>Air quality - guidance must highlight current designation Air Quality Management Area. Vehicular circulation access and Parking, and Pedestrian access and circulation routes, which are mentioned in the guidance, will be impacted by the measures being discussed</p>	<p>Support for urban design approach noted.</p> <p>The guidance supports the possibility of mixed use development.</p> <p>Linlithgow is well served by buildings in the town offering potential community space, and, now with the addition of the renovated Linlithgow Partner Centre.</p> <p>Proposals would be assessed at planning application stage for potential air quality impacts; reference has been added to the Planning Guidance for the need to</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>to address air quality problems on the High Street. Vennel Development must complement forthcoming Air Quality Action Plan.</p> <p>Urban design - we support the key urban design aims. We are pleased the guidance mentions the importance of 'place making'.</p> <p>Engagement - design proposals ought to demonstrate how the community will be involved in developing the design.</p> <p>Town centre renewal - this development offers a perfect opportunity for Linlithgow to make use of the Scotland's Towns Partnership Town Centre Toolkit, which helps the local authority, wider public sector, businesses and the community identify what is required to make their town centre more attractive, active and accessible. Given the pivotal central location of the site in Linlithgow's town centre this, or a similar, exercise should be a requirement of the development guidance.</p> <p>Private and community development approach - Linlithgow Community Development Trust is open to discuss ideas with interested developers, and we are aware of other community groups who have noted interest in being involved. Exploring a private and community development approach may help to secure wider investment for this crucial but complex and sensitive site. It would be helpful to outline this within the guidance to encourage potential developers to make early contact with community groups to discuss possibilities.</p>	<p>comply with council policy in relation to air quality.</p> <p>Support for urban design aims noted.</p> <p>A further opportunity for input will be at pre-application consultation (PAC) stage and later when a planning application is forthcoming; reference to PAC has been added to the Planning Guidance.</p> <p>Town centre wide renewal is beyond the scope of the Planning Guidance.</p> <p>As before, further opportunities for involvement will be at pre-application consultation (PAC) stage and through the planning process.</p>
Linlithgow and Linlithgow Bridge Community Council (LLBCC)	<p>(Based on cover letter / consultation response to draft planning guidance)</p> <p>Many Linlithgow people acknowledge that this is a once in several lifetimes' opportunity to substantially impact the centre of Linlithgow</p> <p>We believe that the current draft Planning Guidance is insufficient to seek development proposals which will answer the requirements of the Linlithgow community.</p> <p>Engagement - In both the survey and the questionnaire over 80% of respondents wished to see the Linlithgow community actively represented at all stages of the compilation of the</p>	<p>Point noted.</p> <p>There is no requirement for the council to produce planning guidance; therefore robust and succinct guidance is an added benefit and will assist in any future marketing of the site.</p> <p>There will be a further opportunity for input into the process at pre-application consultation (PAC) stage and at later stages in the planning process</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>development brief. Policy HER 18 states “The Council will work with communities on the formulation and promotion of community led enhancement schemes where appropriate to the character of the area”</p> <p>Our response to the Draft Planning Guidance is as follows: Design/ heritage - The majority answering either the survey (70%) or the questionnaire (95%) wish to see a design in sympathy with Linlithgow’s traditional building in terms of built form and building materials.</p> <p>Landscape - 70% of survey respondents wished to see more open space and gardens, 81% of questionnaire respondents wished to see an upgrade in the area through soft landscaping.</p> <p>Vennel garden area - a primary concern of the residents of the north and west blocks of Vennel flats is the loss of the existing garden area to the south of the north block. We suggest that the garden be excluded from the development area on the plan.</p> <p>Vennel parking - we also suggest that an area of residents only parking be included south of the north block.</p> <p>Tourism - In the survey only 3% of respondents would not wish to encourage more tourists and 97% of those expressing an opinion in the questionnaire wanted this area of the town to be more attractive to tourists. Therefore facilitating more tourists is a prime requirement. 64% of respondents to the survey wish to see a visitors centre with public toilets as a part of the Vennel redevelopment.</p> <p>Slightly less than half of respondents (46% survey and 47% questionnaire) would like to see a loch side hotel.</p> <p>Traffic, parking - parking of cars and tourist buses and traffic on the High St generally is a study in its own right and should be carried out in the context of Linlithgow as a whole.</p>	<p>Robust urban design and heritage guidance has been provided which is to be supported by a further documentation on townscape and historic environment; reference to submission of a Heritage Statement has been added to the Planning Guidance.</p> <p>A detailed landscape plan is a requirement of the Planning Guidance and reference to this has been included in the Planning Guidance.</p> <p>The site is not within the area covered by the guidance.</p> <p>Dedicated parking for the Vennel flats is to the west of the barrier adjacent the west block; reference to a requirement for a parking assessment has been added to the Planning Guidance.</p> <p>Tourism facilities are identified as a potential use in the Planning Guidance; public toilets and visitors facilities are relocated to the Linlithgow Partnership Centre (Tam Dalyell House).</p> <p>Tourism facilities are identified as a potential use in the Planning Guidance.</p> <p>Urban traffic analysis is beyond the scope of the Planning Guidance; a requirement for a parking assessment has been added to the Planning Guidance.</p>
--	--	--

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>Retail - although there was some concern at increasing the retail offering, (31% of survey respondents did not want more shops) there was a majority view (59% survey, 62% questionnaire) that small shops to attract specialist and / or tourist related retailers would be desirable.</p> <p>Housing - the majority of survey respondents (55%) supported more housing as a part of the project with a strong following (questionnaire 66%) for 25% of housing being social rented.</p> <p>Business centre - 43% (survey) and 40% (questionnaire) would like to see a business centre with facilities for start-ups, rentable desks and meeting rooms particularly for micro businesses and home workers. There are a high proportion of micro businesses and home workers in Linlithgow, a group which is currently unsupported in terms of central facilities.</p> <p>Community facilities - 59% of survey respondents wished to see flexible space for daytime clubs and evening youth activities and 30% liked the idea of a rentable quality function room for family and other events.</p> <p>Youth centre – Linlithgow Young People’s Project, which currently occupies space in the Vennel, is highly regarded in Linlithgow as providing an invaluable service. There was mixed opinion regarding whether LYPP should occupy space at the Vennel or have a dedicated facility on the Low Port Centre site. What was not in doubt was that, as presently, LYPP need a town centre location near to bus services.</p> <p>Views - the draft PG states “new development will require to be stepped, of one and two storeys in height to protect important views of the palace, church and loch and their settings”. In reality, because of topography and trees within the peel the Palace cannot be seen from the High St even if there were no Vennel buildings. The spire of St Michael’s Parish Church and the tower of the Burgh Halls can only be glimpsed from certain angles given the current buildings outwith the proposed redevelopment area. 95% of questionnaire respondents wished current views to be retained but it would be perfectly practical to build to up to four storeys and not compromise these views, It is suggested that existing views of St Michaels spire be protected but not specify building height.</p> <p>Education - the design guidance states that housing should be restricted to retirement accommodation or one-bedroom flats on the basis of a temporary constraint on educational places. This constraint will be largely resolved once Winchburgh Academy is completed and therefore it seems illogical to restrict the type of accommodation based upon a temporary constraint.</p>	<p>Commercial / retail is indicated as a potential use in the Planning Guidance and cannot be discounted as it is within the Town Centre Boundary; support noted.</p> <p>Housing is indicated as a potential use in the Planning Guidance.</p> <p>Employment is a potential use in the Planning Guidance; a business hub has recently been initiated near the station.</p> <p>Linlithgow has considerable provision for community facilities including new provision at the Linlithgow Partnership Centre (Tam Dalyell House).</p> <p>This is a matter for WLC estates to address and outwith the scope of the Planning Guidance.</p> <p>Views are better in winter when the leaves are off the trees and from the west area of the high street looking across the Vennel site towards the church; the Vennel shopping parade were designed as low-rise to protect views; reference to a Visual Impact Assessment has been added to the Planning Guidance.</p> <p>New supplementary guidance setting out education requirements has been prepared by the council; new high school provision is to be provided at Winchburgh; any educational constraints will be addressed at the time of any application for residential development.</p>
--	---	--

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>Elderly housing - only 19% of respondents to the survey (42% answering a slightly different question in the questionnaire) saw further apartments for the elderly as being a desirable requirement.</p> <p>Sustainability - in respect of policy NRG 1 referred to in the draft Planning Guidance we would wish to see a more proactive statement regarding renewable energy generation projects, such as a solar energy cooperative, heat recovery or heat/cooling from the Loch.</p> <p>Loch - The water quality at Linlithgow Loch must not suffer at any stage of the development.</p> <p>Cross flats - there is a majority view in the survey (82%) and the questionnaire (90%) that the Cross flats should be included in the development for aesthetic and one important social reason. The Cross flats are in a deteriorating condition and many residents complain of being cold through leaking windows and suboptimal insulation. The Cross flats building will fail at some point in the future. Whether this point is reached in 5, 10 or even 15 years is immaterial in the context of the proposed project. This project gives the opportunity for residents to be permanently rehoused in the new flats on the Vennel site prior to the demolition of the Cross flats. If this decision is delayed and the new flats on the Vennel site are all occupied then, on inevitable future demolition, the existing community of residents will be split up and rehoused, possibly all over West Lothian. Businesses would also need to be temporarily or permanently accommodated in new premises as part of a phased construction programme.</p> <p>Other projects - a significant proportion of Linlithgow people view the Vennel redevelopment project as requiring the planned inclusion of other potential projects as well as the area depicted in the draft Planning Guidance namely; the double deck car park at the Regent Centre, the Victoria Hall, and the flats adjacent to the Cross (the Cross flats).</p> <p>The LLBCC Submission also includes: Online survey and paper based survey at Linlithgow Library; summary of Results of a Questionnaire recorded at the Exhibition for the Redevelopment of the Vennel 29th August 2017 at Low Port Centre; comments received online, from the door to door survey of Vennel residents and written comments received at the library; comments recorded at the exhibition for the redevelopment of the Vennel 29th August 2017 at Low Port Centre</p>	<p>Any housing applications would be assessed on their merits.</p> <p>Sustainability principles are indicated in the Planning Guidance. It is premature to constrain future proposals which will have above average energy efficiency due to rising Building Standard requirements. Electronic vehicle charging and cycling requirements have been added to the Planning Guidance.</p> <p>SEPA is a key consultee to the draft guidance and for any proposals forthcoming.</p> <p>The Vennel flats are not appropriate to be included in the site area for the planning guidance; no change to Planning Guidance.</p> <p>These other properties are outwith the site area and beyond the scope of the Planning Guidance and site boundary.</p> <p>Detailed design suggestions are premature at this stage of the development / planning process and leaders of the community council were advised of this in advance; these items are beyond the scope of this consultation summary and have not been reviewed; no change to Planning Guidance required.</p>
--	--	--

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	Linlithgow; Map - Possible Townscape & Landscape Framework;; Map – Possible Layout and Content of Development; Map – Possible Phasing of Development.	
Linlithgow Reed Band (LRB)	<p>Seek community space in which to hold rehearsals because do not have a regular space; parking would be crucial for such a facility for the reed band.</p> <p>Some central parking is vital for local businesses and those with restricted mobility.</p>	<p>The Linlithgow Partnership Centre will offer community space; there are also many other buildings in Linlithgow which offer potential space; no change to Planning Guidance.</p> <p>Any proposal would be assessed by the council's Roads and Transportation Service as is standard practice; reference to a parking assessment has been added to the Planning Guidance.</p>
Elma Birrell, St Michael's Parish Church (SMPC)	<p>Vennel car park – retain to serve the church buildings in the area.</p> <p>Vehicle access to Manse and Kirk Hall via the car park would need to be protected</p> <p>Vennel flats – sensitivity to the needs of the residents should be paramount.</p> <p>Visual impact of any proposals on the church's properties would need to be carefully considered.</p>	<p>Any proposal would be assessed by the council's Roads and Transportation Service as is standard practice; reference to a parking assessment has been added to the Planning Guidance.</p> <p>Access points have been indicated on the revised plan for neighbour buildings; as above access will be assessed at proposal stage.</p> <p>Point noted; pre-application consultation stage will address neighbour issues;</p> <p>Reference to Visual Impact Analysis has been added to the Planning Guidance.</p>
1st Step Group, (1SG), Linlithgow	<p>Community space - seek community space to be included in the planning guidance due to the visibility of the Vennel site which have found over time is linked to their continuing development and success; recognise that other space either is or may become available in and around the town in the short to medium term, the opportunity to create a flexible hub space in the longer term which can be used across a number of local groups needs to be recognised in the guidance.</p> <p>Dedicated space - the group currently operates over more than one site and would benefit greatly from the kind of space which would be offered by a single location in the Vennel site and have been in contact with the Community Trust in this regard.</p>	<p>There are many community spaces, indoor and outdoor, within Linlithgow; the Linlithgow Partnership Centre (Tam Dalyell House) will provide additional space.</p> <p>Issue is beyond the scope of the Guidance; no change to Planning Guidance.</p>

(4)	SCOTTISH GOVERNMENT (QUANGOs)	
Historic Environment Scotland (HES)	<p>HES broadly welcome the provision of guidance to direct future development in this sensitive area of Linlithgow</p> <p>Early engagement and dialogue on any proposals that may come forward for the site is welcomed with the local authority and prospective developers to discuss how this potential might be delivered</p> <p>Path - The section of path adjacent to the loch which falls within the site boundary is in the ownership of Scottish Ministers.</p> <p>HES Consider that the proposed uses are appropriate.</p> <p>HES welcomes that the guidance outlines heritage assets which may be affected by the development of this site, and gives direction on relevant policy for their protection.</p> <p>Historic townscape and context - HES consider sections on urban design and development approach in particular could be stronger in emphasising the necessity of understanding and responding to the historical development of the current townscape. In large town centre re-development sites such as this, we find successful schemes are generally accompanied by a thorough analysis of the historic environment, which in turn can provide inspiration for the layout, form and appearance of a finalised design. The PG should seek to build upon the specific location of the Vennel and its relation to the Palace and medieval burgh.</p> <p>Archaeology - there is potential for desk-based study and archaeological techniques to inform development proposals which would support place-making and distinctiveness.</p> <p>Scheduled Monument consent - map identifies that part of the development area is within the Linlithgow Palace and Peel scheduled monument boundary. HES recommend that the PG explains that any works in the scheduled area would require an application to HES for Scheduled Monument Consent and it is unlikely that consent would be granted for works that adversely affect the scheduled monument.</p>	<p>Support for guidance noted.</p> <p>Important advisory role of HES regarding the historic setting and environment is noted.</p> <p>Noted.</p> <p>Support for proposed uses noted.</p> <p>Support for guidance on heritage assets is noted.</p> <p>The Historic Environment Scotland guidance: <i>New Design in Historic Settings</i> (2010) has been added to the Planning Guidance; requirements for historical analysis of townscape and Heritage Statement to accompany any forthcoming planning application have been added to the Planning Guidance.</p> <p>Requirements for historical analysis of townscape and Heritage Statement to accompany any forthcoming planning application have been added to the Planning Guidance. Requirement for an archaeological survey has been further added as a standard requirement to the Planning Guidance.</p> <p>Reference has been added to the Planning Guidance in relation to implications of any proposals on Scheduled Monument status of Palace and its curtilage.</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

	<p>Reference the document <i>New Design in Historic Settings</i> in the Planning Guidance.</p> <p>Developers to prepare a historical analysis / heritage statement to accompany any forthcoming planning application.</p>	<p>Reference to <i>New Design in Historic Settings</i> has been added to the Planning Guidance.</p> <p>Requirements for historical analysis of townscape and Heritage Statement to accompany any forthcoming planning application have been added to the Planning Guidance.</p>
Scottish Environment Protection Agency (SEPA)	High quality Sustainable Urban Drainage Systems (SUDS) should be used in any development on this site and opportunities to retrofit SUDS should be taken, since it is unlikely that there are SUDS in the existing development.	Reference to SUDs and best practice has been added to the Planning Guidance.
Scottish Natural Heritage (SNH)	No comment.	No comment; no revision required.
Scottish Water (SW)	<p>Water - Balmore Treatment works has sufficient capacity for development.</p> <p>Wastewater - Linlithgow Treatment works has sufficient capacity for development.</p> <p>Pre-Development Enquiry - to allow us to conduct further assessment of the development's impact on the local network we encourage the Developer to submit a Pre-Development Enquiry (PDE) form (found at www.scottishwater.co.uk). We recommend all planned development relating to more than a single house connection submits a PDE to Scottish Water as early as possible. When the Developer submits the completed PDE form - supplying as much information as they can about the development - this detailed information will allow us to determine if further investigation on the local network is required. Please note there is existing infrastructure within the site. We would hope that these water mains/sewers can be accommodated with the appropriate standoff areas in our current guidelines adhered to, if this is not possible the developer will be required to design a diversion with approval from our Asset Impact Team who should be consulted when such an occasion arises.</p> <p>Early engagement is recommended and the Developer can contact our Asset Impact Team using service.relocation@scottishwater.co.uk as early as possible so that these can be investigated further.</p>	<p>Noted that there is currently site capacity.</p> <p>Noted that there is currently site capacity.</p> <p>Reference to early engagement with Scottish Water has been added to the Planning Guidance.</p> <p>Reference to early engagement with Scottish Water has been added to the Planning Guidance.</p>

DATA LABEL: PUBLIC

APPENDIX 2: Consultation Summary

(2)	WEST LOTHIAN COUNCIL	
WLC Environmental Health	Regarding parking requirements, because Linlithgow is an Air Quality Management Area (AQMA) it would be useful to provide charging facilities for electric cars, bike shelter or bike facilities for other forms of transport.	Requirements for bike shelter/ facilities & EV charging point have been added to the Planning Guidance.
WLC Flood Risk Management	<p><i>Flood Risk</i> - SEPA's Flood hazard maps suggest that parts of the site are at risk of flooding from surface water. Although the maps are prepared using coarse data not suitable for assessment of risk at a property level, the data that they provide does accord with local knowledge. In particular large volumes of surface water run down Dog Well Wynd into the High Street and surcharging sewers cause water to rise out of the road gullies when the capacity of the combined sewerage system is temporarily exceeded. It is considered that the potential damages can be avoided though detailed site-specific assessment, sound design and construction but the developer will be expected to demonstrate this.</p> <p><i>Sustainable Drainage & Mitigation of Flood Risk</i> - the following information should be submitted and approved before consent is issued –</p> <ul style="list-style-type: none"> ○ Surface water attenuation should be in accordance with CIRIA SUDS Manual C753 and the current Drainage Assessment Guide. Calculations are required to show how the greenfield run-off rate has been determined plus information on how interception storage has been included. ○ Surface water treatment should be in accordance with CIRIA SUDS Manual C753 and the current Drainage Assessment Guide. SUDS selection should be to the new Simple Index Approach and outputs presented in this format. ○ Sewers should be designed and constructed in accordance with Scottish Water current design and vesting standards – SFS3 is the current version. ○ Calculations should be provided to show how exceedance is managed on site in accordance with the Drainage Assessment Guide, Chapter 8. Calculations should be provided to confirm details. ○ Information should be provided to confirm how soft landscaped areas are to be drained ○ Information to be provided showing what sewers are to be vested in Scottish Water, what sewers are to be adopted by WLC as road drainage and what assets (SUDS etc.) are proposed to be jointly maintained between SW and the Council under a prospective section 7 arrangement. ○ Details should be provided on how surface water run-off will managed during the construction period. 	Requirements for flood risk assessment have been added to the Planning Guidance.

APPENDIX 2: Consultation Summary**DATA LABEL: PUBLIC**

(2)	RESPONSES OUTWITH CONSULTATION PERIOD	
Transition Linlithgow	<p>(Submitted before consultation commenced in response to the committee report to Development and Transport PDSP 3 April 2017)</p> <p>Community Orchard - planted by Transition Linlithgow between the flats and the loch-side on council land with the approval and support of the council.</p> <p>Key location - this space is a sensitive and critical one to our town centre, and has the potential to address major issues including air quality, noise pollution, sustainable transport choices and support for high street businesses.</p> <p>Please allow sufficient time and a genuine consultation process, so that an excellent design solution can be developed.</p> <p>Greenspace - prominent high street flower bed which volunteers from Transition Linlithgow design, plant. Seek equivalent flower bed space in the redesign</p> <p>Trees - number of trees in this area should be increased rather than decreased during the redevelopment.</p> <p>Engagement in community gardening has been proven to benefit mental and physical health, and there is the opportunity to create growing spaces for both residents and community groups.</p> <p>Should ensure that green spaces are properly considered, but to meet horticultural needs such as soil quality, depth, drainage, water retention, access to water, and also safe access for maintenance.</p> <p>The quality of the buildings to the East of this site are sub-standard with local residents contacting us to examine their issues and give guidance.....dampness, windows needing replaced, poor insulation.</p> <p>The Council's brief should be true to its legal obligations on Climate Change.</p>	<p>Tree survey to be undertaken including all trees on site.</p> <p>Beyond the scope of the site redevelopment guidance.</p> <p>A PAC is required from the developer and reference to this has been added to the Planning Guidance.</p> <p>Consideration of a replacement community flowerbed added to detailed Landscape Plan requirement.</p> <p>A detailed landscape plan and tree survey is required of the developer.</p> <p>Community gardening is not a suggested use for the Planning Guidance; there are other potential sites in Linlithgow and West Lothian.</p> <p>A detailed landscape plan and tree survey is required of the developer; reference to this has been added to the Planning Guidance.</p> <p>These are matters for WLC Housing; The Vennel flats are outwith the site area.</p> <p>The guidance includes sustainability requirements.</p>
Janice Scott	Email received after closing date: seeking to reply to community groups consultation.	Advised of correct email & re-directed.

ACRONYMS & ABBREVIATIONS

AQMA - Air Quality Management Area

EV – electronic vehicle

HES – Historic Environment Scotland

LCT - Linlithgow Civic Trust

LCDT - Linlithgow Community Development Trust

LLBCC - Linlithgow and Linlithgow Bridge Community Council

LYPP – Linlithgow Young Peoples Project

PAC – Pre-Application Consultation (an early application through the planning process to allow for wider consultation)

PDSP – Planning Development and Scrutiny Panel

PG – planning guidance

SEPA – Scottish Environmental Protection Agency

SUDS – sustainable urban drainage system

Table A - *Summary of Additional Documentation and Assessment* appended to final version of planning guidance

WLC – West Lothian Council

WoSAS – West of Scotland Archaeological Service (consultants to WLC)



Linlithgow & Linlithgow Bridge Community Council

Please reply to:

John Kelly



6th September 2017

Department of Planning and Economic Development
West Lothian Council
West Lothian Civic Centre
Livingston
EH54 6FF

Dear Sirs,

Draft Planning Guidelines (PG) on The Vennel, Linlithgow - Consultation

Further to your invitation to respond to a consultation on the Draft Planning Guidance on the Vennel, Linlithgow, the Community Council has set out below its primary conclusions and has enclosed the data gathered in support of these conclusions. In undertaking the consultation we have followed the guidelines described in the “engaging communities toolkit”. The Community Council has through the Linlithgow Planning Forum cooperated with The Linlithgow Civic Trust, Transition Linlithgow, The Linlithgow Business Association, Linlithgow Victoria Hall Trust and the Linlithgow Community Development Trust. “We” and “our” in the following pages refers to the Community Council in association with the other bodies.

We have undertaken in chronological order

- An on-line survey and an identical paper based survey at the Library (259 replies). This is referred to hereafter as “the survey”
- Two Saturday morning table events at the Cross
- A BBQ with the Vennel residents.
- A door to door survey with all Vennel residents.
- Articles in the Linlithgow Gazette and the Black Bitch magazine.

These activities all informed

- An exhibition at Low Port Centre (10.30am to 6.30pm) (150 visitors)
- A feedback questionnaire prior to people leaving the exhibition (120 replies). This is referred to hereafter as “the questionnaire”.

A summary of the initial survey and the exhibition questionnaire is given in enclosed Paper A. All written comments either given on-line, in the library and from those at the exhibition have been recorded and are given in enclosed Paper B. When West Lothian Council replies to the comments we will feed back the Council's answers to all responders.

We were also invited by Craig McCorriston to address the queries we sent at the commencement of the consultation. The text of Craig McCorriston's email and our response is given in enclosed Paper C.

The primary conclusions are as follows:

1. Many Linlithgow people acknowledge that this is a once in several lifetimes' opportunity to substantially impact the centre of Linlithgow.
2. We believe that the current draft Planning Guidance is insufficient to seek development proposals which will answer the requirements of the Linlithgow community. In both the survey and the questionnaire over 80% of respondents wished to see the Linlithgow community actively represented at all stages of the compilation of the development brief. Policy HER 18 states "The Council will work with communities on the formulation and promotion of community led enhancement schemes where appropriate to the character of the area". Representatives of the Community Council, the Linlithgow Civic Trust, the Linlithgow Business Association, Transition Linlithgow and Linlithgow Community Development Trust and 41 residents of Linlithgow wish to be involved in all stages of the Vennel redevelopment project.
3. Our response to the Draft Planning Guidance is as follows:
 - a. The majority answering either the survey (70%) or the questionnaire (95%) wish to see a design in sympathy with Linlithgow's traditional building in terms of built form and building materials.
 - b. 70% of survey respondents wished to see more open space and gardens, 81% of questionnaire respondents wished to see an upgrade in the area through soft landscaping.
 - c. A primary concern of the residents of the north and west blocks of Vennel flats is the loss of the existing garden area to the south of the north block. Residents' comments are given in paper B. We suggest that the garden be excluded from the development area on the plan. We also suggest that an area of residents only parking be included south of the north block.
 - d. In the survey only 3% of respondents would not wish to encourage more tourists and 97% of those expressing an opinion in the questionnaire wanted this area of the town to be more attractive to tourists. Therefore facilitating more tourists is a prime requirement. 64% of respondents to the survey wish to see a visitors centre with public toilets as a part of the Vennel redevelopment.
 - e. Slightly less than half of respondents (46% survey and 47% questionnaire) would like to see a loch side hotel.

- f. Parking of cars and tourist buses and traffic on the High St generally is a study in its own right and should be carried out in the context of Linlithgow as a whole.
- g. Although there was some concern at increasing the retail offering, (31% of survey respondents did not want more shops) there was a majority view (59% survey, 62% questionnaire) that small shops to attract specialist and/or tourist related retailers would be desirable.
- h. The majority of survey respondents (55%) supported more housing as a part of the project with a strong following (questionnaire 66%) for 25% of housing being social rented.
- i. 43% (survey) and 40% (questionnaire) would like to see a business centre with facilities for start-up's, rentable desks and meeting rooms particularly for micro businesses and home workers. There are a high proportion of micro businesses and home workers in Linlithgow, a group which is currently unsupported in terms of central facilities.
- j. In the context of community facilities 59% of survey respondents wished to see flexible space for daytime clubs and evening youth activities and 30% liked the idea of a rentable quality function room for family and other events. Clearly there is a high commonality of function between meeting rooms and a small function room which could in effect be the same space.
- k. LYPP, who currently occupy space in the Vennel, is highly regarded in Linlithgow as providing an invaluable service. There was mixed opinion regarding whether LYPP should occupy space at the Vennel or have a dedicated facility on the Low Port Centre site. What was not in doubt was that, as presently, LYPP need a town centre location near to bus services.
- l. The draft Planning Guidance states "new development will require to be stepped, of one and two storeys in height to protect important views of the palace, church and loch and their settings". In reality, because of topography and trees within the peel the Palace cannot be seen from the High St even if there were no Vennel buildings. The spire of St Michael's Parish Church and the tower of the Burgh Halls can only be glimpsed from certain angles given the current buildings outwith the proposed redevelopment area. 95% of questionnaire respondents wished current views to be retained but it would be perfectly practical to build to up to four storeys and not compromise these views, It is suggested that existing views of St Michaels spire be protected but not specify building height.
- m. The design guidance states that housing should be restricted to retirement accommodation or one-bedroom flats on the basis of a temporary constraint on educational places. This constraint will be largely resolved once Winchburgh Academy is completed and therefore it seems illogical to restrict the type of accommodation based upon a temporary constraint. Only 19% of respondents to the survey (42% answering a slightly different question in the questionnaire) saw further apartments for the elderly as being a desirable requirement.
- n. In respect of policy NRG 1 referred to in the draft Planning Guidance we would wish to see a more proactive statement regarding renewable energy generation projects, such as a solar energy cooperative, heat recovery or

heat/cooling from the Loch. The water quality at Linlithgow Loch must not suffer at any stage of the development.

4. There is a majority view in the survey (82%) and the questionnaire (90%) that the Cross flats should be included in the development for aesthetic and one important social reason. The Cross flats are in a deteriorating condition and many residents complain of being cold through leaking windows and suboptimal insulation. The Cross flats building will fail at some point in the future. Whether this point is reached in 5, 10 or even 15 years is immaterial in the context of the proposed project. This project gives the opportunity for residents to be permanently rehoused in the new flats on the Vennel site prior to the demolition of the Cross flats. If this decision is delayed and the new flats on the Vennel site are all occupied then, on inevitable future demolition, the existing community of residents will be split up and rehoused, possible all over West Lothian. There is an interesting comment in paper B from a resident of the Vennel flats, previously a resident of the St Ninians flats which were demolished and the site sold to a private developer. Businesses would also need to be temporarily or permanently accommodated in new premises as part of a phased construction programme.
5. A significant proportion of Linlithgow people view the Vennel redevelopment project as requiring the planned inclusion of other potential projects as well as the area depicted in the draft Planning Guidance namely; the double deck car park at the Regent Centre, the Victoria Hall, and the flats adjacent to the Cross (the Cross flats).

The above defines the results of a logical approach to the consultation following the guidelines in the “engaging communities toolkit”. The consultation commenced with a wide ranging multimedia survey which informed an exhibition and concluding questionnaire. The exhibition displays prepared by the Linlithgow Civic Trust illustrate exemplar development ideas and possibilities which attendees related to. The penultimate question in the questionnaire was “Do you agree with the sort of development approach outlined in the plans on Exhibition Boards 6, 7 and 8?” 89% of those expressing an opinion agreed. The Vennel presentation boards accompany this letter.

In conclusion, it is the wish of the Linlithgow Community to be actively involved in the all stages leading up to and including the development of the brief for the redevelopment of the Vennel and we believe that the consultation summarised above gives us such a mandate. The draft Planning Guidance mentions a forthcoming master plan for the proposed redevelopment of the Vennel and former Watergate area of central Linlithgow. We would wish to be involved in the forthcoming masterplan but suggest that it be extended to cover the High St, the Cross, the Regent Centre and Low Port Centre such that the redevelopment of the Vennel will be in context with the environment of central Linlithgow.

Yours faithfully

Dr John R Kelly
Planning Secretary

PAPER A

Redevelopment of the Vennel Online survey and paper based survey at Linlithgow Library Results of 259 survey returns

<p>1. What do you like about the existing Vennel area? (Tick all that apply)</p> <p>14% Nothing</p> <p>37% Convenient parking</p> <p>38% Toilets</p> <p>6% The look of the place</p> <p>54% Gardens in front of the flats</p> <p>71% Trees & floral displays</p>	<p>6. What other community facilities would you like to see in this area? (Tick all that apply)</p> <p>59% Flexible space for daytime clubs and evening youth activities.</p> <p>26% Serviced space for start-up businesses</p> <p>31% Business centre and meeting rooms for micro businesses & home workers</p> <p>30% Rentable quality function room for family & other gatherings</p>
<p>2. What would you wish to see done to improve the area? (Tick all that apply)</p> <p>58% Open views from High St to palace, church and loch</p> <p>22% No development just demolish & create large garden/park</p> <p>32% Increase amount of car parking</p> <p>58% Include public toilets in redevelopment</p> <p>63% Improve open space and gardens</p> <p>33% Widen Vennel avenue and extend it to loch side</p>	<p>7. What sort of look would you like for the new development? (Tick all that apply)</p> <p>11% Modern - concrete/glass/timber</p> <p>70% Traditional - stone/render/pitched slate roofs</p> <p>24% A luxury/high quality feel</p> <p>17% Practical/functional</p> <p>14% I don't mind, leave it to the architect</p>
<p>3. What would you like to see to encourage more tourists into the town? (Tick all that apply)</p> <p>3% Nothing, I would not wish to encourage more tourists.</p> <p>41% Parking for tourist buses</p> <p>64% Visitors centre with public toilets</p> <p>46% Loch side café/restaurant/hotel</p> <p>45% Increased car parking</p> <p>70% Floral displays & garden/park</p>	<p>8. Should the flats adjacent to the Cross be included in the redevelopment? Currently they are not but providing residents & businesses are offered equivalent accommodation in the new development is this the right time to demolish and re-build. (Tick only 1 answer)</p> <p>82% Yes</p> <p>18% No</p>
<p>4. What housing should be in the redevelopment? (Tick all that apply)</p> <p>45% None, we require no more town centre housing</p> <p>34% Apartments for families, couples or single people</p> <p>19% Apartments for the elderly</p> <p>31% Affordable apartments for first time buyers</p> <p>21% Social housing</p>	<p>9. Who should manage the specification of the development? (Tick only 1 answer)</p> <p>5% A private developer</p> <p>7% West Lothian Council</p> <p>83% A Linlithgow Community group in partnership with developer and/or West Lothian Council</p> <p>5% A Linlithgow Community group on its own</p>
<p>5. What shops would you like to see in the new development? (Tick all that apply)</p> <p>31% None, at present we have enough shops</p> <p>39% Art & craft studios/shops to encourage tourists</p> <p>16% A few large shops to attract national retailers</p> <p>56% Small shops to attract specialist retailers</p>	<p>10. Would you like to be involved in the development process? (Tick only 1 answer)</p> <p>126 No, I do not wish to be involved, just informed of progress through Black Bitch, Gazette & other media.</p> <p>116 I would like to receive regular updates by email. (give email address)</p> <p>41 I am interested in being involved in a Linlithgow Community group to develop proposals. (give email or other contact details)</p>

PAPER A (continued)

Summary of Results of a Questionnaire recorded at the Exhibition for the Redevelopment of the Vennel 29th August 2017 at Low Port Centre Linlithgow

	Yes	No	Indif	Blank
1. AIM & SCOPE OF THE VENNEL PROJECT.				
Do you think that the part of the Vennel area, as defined by the Council's intended development boundary should be redeveloped?	85%	5%	3%	8%
Should the redevelopment boundary be extended to include the flats and premises between the library and The Cross	77%	8%	8%	8%
2. HOUSING CONTENT OF REDEVELOPMENT.				
a) Should at least 25% of the houses in any redevelopment be social-rented?	66%	15%	12%	8%
b) Should any new housing provide for the needs of young people, eg first-time buyers?	74%	8%	10%	8%
c) Should any new housing provide for the needs of the elderly eg sheltered housing or care home?	42%	28%	20%	10%
d) Should any redevelopment scheme aim to include privately-rented flats as well as flats for sale?	33%	31%	23%	13%
e) Should room sizes in any new housing be bigger than the minimum standards laid down by law?	51%	11%	29%	9%
3. OTHER POSSIBLE TYPES OF DEVELOPMENT IN THE NEW SCHEME.				
a) Increased off-street car parking?	74%	15%	6%	5%
b) Space for a number of tourist buses to park?	48%	38%	8%	5%
c) Public toilets?	83%	8%	7%	3%
d) A small hotel/restaurant overlooking Linlithgow Loch?	47%	23%	20%	11%
e) Shop units to relocate existing businesses as required?	74%	10%	9%	7%
f) More shop units to cater for specialist and/or tourist-related businesses?	46%	28%	21%	5%
g) Space for offices or workspaces?	38%	29%	24%	9%
h) Facilities for start-up businesses such as a 'business centre' with hireable desks and meeting rooms?	40%	26%	26%	8%
i) Youth facilities?	61%	19%	13%	7%

4. DESIGN OF ANY NEW DEVELOPMENT.

a) Should the design of any new development be sympathetic to Linlithgow's existing traditional buildings in terms of built form and building materials?	88%	4%	3%	5%
b) Should new and attractive routes for pedestrians link the High Street to Linlithgow Loch?	89%	4%	2%	5%
c) Should this area of the town be made more attractive to tourists?	86%	3%	6%	6%
d) Should the quality of the open space around the existing flats near the loch be upgraded by soft landscaping?	81%	4%	8%	7%
e) Should any of the existing central open space be defined more clearly for the use of existing and future residents of the surrounding houses and flats?	52%	14%	27%	8%
f) Should views across the site to the tower/spire of St Michael's Parish Church and the tower of the Burgh Halls be respected in any development design?	82%	4%	9%	5%

5. GENERAL QUESTIONS.

a) Do you agree with the sort of redevelopment approach outlined in the plans on Exhibition Boards 6, 7 and 8	79%	10%	3%	8%
d) Should West Lothian Council involve the Planning Forum in drawing up a detailed Development Brief for the site?	80%	3%	1%	17%

Summary of Results Excluding Undecided and Including Demographic Information

	Yes	No
1. AIM & SCOPE OF THE VENNEL PROJECT.		
Do you think that the part of the Vennel area, as defined by the Council's intended development boundary should be redeveloped?	94%	6%
Should the redevelopment boundary be extended to include the flats and premises between the library and The Cross	90%	10%
2. HOUSING CONTENT OF REDEVELOPMENT.		
a) Should at least 25% of the houses in any redevelopment be social-rented?	81%	19%
b) Should any new housing provide for the needs of young people, eg first-time buyers?	91%	9%
c) Should any new housing provide for the needs of the elderly eg sheltered housing or care home?	60%	40%
d) Should any redevelopment scheme aim to include privately-rented flats as well as flats for sale?	52%	48%
e) Should room sizes in any new housing be bigger than the minimum standards laid down by law?	82%	18%
3. OTHER POSSIBLE TYPES OF DEVELOPMENT IN THE NEW SCHEME.		
a) Increased off-street car parking?	83%	17%
b) Space for a number of tourist buses to park?	56%	44%
c) Public toilets?	92%	8%
d) A small hotel/restaurant overlooking Linlithgow Loch?	67%	33%
e) Shop units to relocate existing businesses as required?	88%	12%
f) More shop units to cater for specialist and/or tourist-related businesses?	62%	38%
g) Space for offices or workspaces?	56%	44%
h) Facilities for start-up businesses such as a 'business centre' with hireable desks and meeting rooms?	61%	39%
i) Youth facilities?	76%	24%
4. DESIGN OF ANY NEW DEVELOPMENT.		
a) Should the design of any new development be sympathetic to Linlithgow's existing traditional buildings in terms of built form and building materials?	95%	5%
b) Should new and attractive routes for pedestrians link the High Street to Linlithgow Loch?	96%	4%
c) Should this area of the town be made more attractive to tourists?	97%	3%

d) Should the quality of the open space around the existing flats near the loch be upgraded by soft landscaping?	95%	5%
e) Should any of the existing central open space be defined more clearly for the use of existing and future residents of the surrounding houses and flats?	78%	22%
f) Should views across the site to the tower/spire of St Michael's Parish Church and the tower of the Burgh Halls be respected in any development design?	95%	5%
5. GENERAL QUESTIONS.		
a) Do you agree with the sort of redevelopment approach outlined in the plans on Exhibition Boards 6, 7 and 8	89%	11%
d) Should West Lothian Council involve the Planning Forum in drawing up a detailed Development Brief for the site?	97%	3%

Demographic of Respondents to Questionnaire

6. AGE

Under 17	1%
17 -20	3%
21-35	5%
36-55	25%
56-65	25%
66+	41%

7. RESIDENCE

Vennel Flats	12%
Elsewhere in Linlithgow	83%
Outwith Linlithgow	5%

PAPER B

Comments received online, from the door to door survey of Vennel residents and written comments received at the library

Resident Number	Comment
16	The LYPP has been in the Vennel for years and has helped numerous young people from all different backgrounds with many difficulties which they can face. It would be horrible for them to close down as they have been a massive support to a lot of people
18	If not demolishing buildings adjacent to the Cross, at least re-render with a surface which is sympathetic with the natural stone colour of the historic surrounding buildings of the town.
19	Would like to see a fenced off garden for the Vennel residents to use and some community space (a community cafe/bistro overlooking the loch and a community hall)
23	Board with map of town in a central place
27	More parking space for residents only (Vennel flats)
28	You mention tourists, but this development should also be done to enhance the area for the people of Linlithgow. I think that it MUST include a place for young people to be able to go to - a "coffee bar" type of thing, where they can gather in an informal setting and enjoy themselves. More "adult" ie like a pub - but without the alcohol of course! I have seen some young people of a certain age - too old for play areas but too young for cafes and bars - they just hang around the parks/streets. They need a place to go. Also, make use of the beautiful lochside setting and provide cafes and restaurants. Also being that a LOT of people in the town own dogs it would be great if a couple of these could be dog friendly. I have encountered places (Dunblane) where this does work. I think that these ideas would not only work for residents, but also tourists. Mum and Dad can leave their kids (supervised of course) and go for a quiet meal. Then the whole family plus dog can have a trip to the loch followed by a visit to a cafe. And lastly, thank you for your continued work in looking after Linlithgow's best interests
29	Please ensure we don't repeat the mistakes of the 1960's
30	To gain anything of value from such an exciting opportunity the Vennel flats must be replaced - they are at the end of their life and will seriously limit the scope for the whole redevelopment project's impact if kept
31	The survey would be improved if every question has a tick option for "Other, please specify". That way you will get other ideas proposed rather than support for ideas you already have. I have not ticked an option for Question 3 because none apply for me. Parking for Tourist Buses - yes this would be nice, but I wouldn't want them parked up in this area (possible drop off zone?). Visitor centre/cafe/Toilets - we have the Burgh Halls. More car parking - the multi story at Tesco proposal was a brilliant solution to the Town's parking and would be my top consideration for improving parking in the town. Finally about the look of the development - I am strongly in favour of it being traditional with it so close to the Palace and the Cross. I understand the Outlander fans are loving coming to the area, so there is an opportunity for Linlithgow to benefit further from this and redevelop a prime central area of the town with a period facade. Linlithgow has the potential to become the hub for Outlander tours, not a stop off point.
34	Whilst it is important to have space for youth and community projects, this is not the correct area. Mill Road Industrial Estate is more appropriate. This is a touristy area and so needs to look beautiful to enhance the town. The area definitely needs improving as the flats and the surrounding low lying buildings are an eyesore. However, you don't want to go putting car parks in this beautiful space, unless the cars are hidden. Shops would be good, but there are

	too many empty spaces along the High Street already.
36	Town needs an open covered space for entertainment for all seasons
37	Serious consideration to park and ride.
38	The Vennel is an eyesore that makes me wonder why on earth is that still standing. Please get rid of ASAP.
39	Please get rid of all of the horrible concrete buildings. Any new buildings should be required to mirror the look of the other historic buildings in the town centre. It will make the High Street so much more lovely!
42	Just do it well.
47	Really excited to see the area improved.
48	There is an opportunity to create the best tourist town in central Scotland here. We should demolish the white flats and recreate a high quality town centre full of character and which reflects the town's history. Views of the loch and Palace should be maximised from all locations. An indoor market/ function area full of character similar to Leadenhall market in London.
49	Skate park long overdue
50	We don't need more shops but could we find other ways of attracting business to the town? Conference centre/ meeting spaces - Linlithgow is convenient for travel from across the country.
57	Be sensitive to the feelings of people for whom the Vennel is their home - don't refer to 'eye-sores' or wholesale demolition
59	My daughter attends the LYPP at the Vennel and I think is a vital free service for all teenagers and think it's important to keep them in mind within the project for the children of Linlithgow
60	The budget needs to be kept to a minimum. A rentable space for local groups and a hub for young people to hang out would be a good and much need facility in the community
65	Please encourage access to the loch and the buildings should be 'sympathetic' to the existing buildings
66	The town needs more housing but we also need open space for the community to use.
71	The flats are very very ugly. Realise it's a huge problem for people who live there to move out but I look at them every time I am in the town and think "who allowed that?"
72	The flats are horrible and ruin the look of the town. It would be great to see them go.
73	We do not need more parking for local people. Local people need to learn to walk more than 20yds. The Vennel ought not to have been neglected the way it has, in fact I'd do the same as for the County Buildings, I'm just thankful for the beautiful work Jim Hay has done at the Court because that could easily have lain empty for years. 25 years ago the Vennel was a busy wee spot, with the surgery, library, rent office, now it's got nothing, no wonder it needs development. Perhaps if WLC were better at supporting businesses it wouldn't have ended up the way it has.
74	A great architect to provide cutting edge and sympathetic architecture redevelop entire venal eyesore
78	Any community facilities clash with the current proposals for the Victoria Halls community buyout (proposed) and there is insufficient parking for any of these things without causing more gridlock through the High Street. The two developments need careful consideration so as to complement not duplicate
80	Crucial that appropriate "Urban Design" input is obtained. NO more town centre parking. Essential to coordinate the various elements of Linlithgow Town centre. Cross may be historic but it's not very useful.
82	The flats next to the Cross and along the High Street are an eye sore and should be demolished and replaced with housing which compliments the existing housing at the Cross & surrounding area. Linlithgow also needs decent town parking to bring tourists & shoppers into the town.

	The council has made mistakes in Linlithgow in the past and this is an opportunity to rectify these mistakes
87	The Vennel area is very ugly. Any improvements in redevelopment should consider the character of the Royal Burgh.
92	Residents need to be considered most importantly, parking for residents needs to be reviewed as it is insufficient given the average cars per household in this day and age. An outdoor residents garden would be amazing. An affordable alternative venue for wedding and parties would also be great.
97	The Vennel is a blot on the landscape in Linlithgow. It would be fantastic to see something more in keeping with our beautiful, historic town in this space, whether it be gardens or more sympathetic buildings. Anything would be an improvement on the buildings as they are now.
99	Mixed-use retail and residential. Get rid of the car park. One space for each home only.
101	I live directly opposite the development site. As a resident I make use of the small public car park by the library - a valuable perk. I'd like to see some sort of residents parking made available to the wider High Street, perhaps a permit holders multi-story car park
102	It's ok for me to give my opinion but must be hard for the people living there its nice to look out onto nice gardens and or seating areas as long as they don't become a new gathering spot for this town's growing methadone zombies
103	What is going to happen to the office spaces in the Vennel during the development? And if the flats are demolished and rebuilt where are the residents going to be housed for the duration?
104	More parking for Vennel residents. Private garden area for Vennel families
107	Needs considered in a town wide context. i.e. asking for more X or Y but also planning to re-develop Victoria Hall at the same time. Seems pointless having 2x of something. New flats over car park to hide that, redevelop Cross Flats and replace Vennel flats at Cross with something more in keeping with Cross and heritage look and relocate existing residents into new warm flats above car park looking out on loch. Create public space to get away from road noise/fumes and better access to loch. Should be an open public design NOT comments on a prescribed plan.
109	Knocking down the flats would displace all the residents. Where could they be rehome within the town. Redevelopment by private developers would lead only to even more expensive private housing. The town needs more social housing, not less. It needs more smaller properties for older people which would free up larger houses.
112	Include a 'Changing Places' disabled toilet
113	the High Street really needs to encourage more visitors if it's to survive / thrive. The development area is so so important to this given its prominent location and it really needs to focus on the needs of these visitors. New money flowing into town will naturally benefit the rest of the high street.
116	Remember the Vennel contains people's homes. Some of these questions may offend them.
117	On holiday in Italy I note that many small towns feature public well maintained gardens in their centres
119	I absolutely do mind how the new development looks, but I'm not an expert. I would like an architect to work closely with the community to come up with some designs for consideration. In terms of the Vennel flats it is important to involve residents in any decisions about their homes. Personally I feel the flats need improved, but not necessarily demolished. Overall I feel strongly that any development ought to be part of a broader future vision for Linlithgow town centre, including any improvements to improve air quality and town centre vibrancy. I would like to see an exercise engaging with the community to create a clear vision for the town centre that can be used to inform the Vennel development and any other investments in the town centre over the next decade. (For example the Scotland's Towns Partnership Town Centre Toolkit http://www.scotlandstowns.org/town_centre_toolkit). To progress individual development opportunities and improvements separately is piecemeal and short-sighted. At

	best this lacks ambition for the town and at worst could result in poor short-term decisions being taken that have longer term detrimental effects.
121	Maximise practical use of town centre space, maybe contradicts some of my choices
122	I would not like to see additional car parking. It will just encourage more cars. A couple of electric charging points might be an idea
195	We should develop the area to look traditional like most of the High Street is already
197	The land by the loch which serves as a green space in a scenic location in my opinion should not be built on or sold off to developers. The space should be protected.
198	New buildings need to look nice. The buildings are awful at the moment. Housing should most definitely NOT be more retirement homes otherwise we are going to have a bias to older population (increased drain on medical centre, less spending power etc).
202	The local community, visitors and tourists cannot manage without the car parking facilities or equivalent new car parking facilities. I don't mind some new development but I think the area should be kept as green as possible.
203	Very biased article in the Black Bitch magazine on this topic with leading questions. You undermine your credibility as a Community Council with this kind of approach. I also think you don't understand how the planning system works - it's largely reactive not proactive and to change that, you need to lobby the Scottish Government.
206	We don't need more housing in the town as the amenities already struggle, however if we were to demolish the eyesore of the Vennel flats, they should be replaced with a similar number of apartments which are more fitting to the town's historic nature. To develop the Vennel and not demolish those flats would be a missed opportunity to make a real difference to the appeal the town. A bus park is a great idea, but ideally not slap bang in the middle of the high street. Arts & crafts shops/gift shops are what tourists expect when they visit a town, not another massive High Street name. We should do all we can to enable shops like that to thrive here.
208	This is a prime area and should be used to enhance long term prosperity and quality of life of Linlithgow
210	Demolish existing, create gardens with open views from High Street to loch and create underground car park below gardens with ramp access from new roundabout on High Street. Use out of town centre tourist bus parking with shuttle for those who need it.
212	The green space to the lochside should be preserved as it is, as a valuable local amenity. No more retail units please - the existing ones on the High St aren't all in use. There are plenty of places to eat, drink and stay at in the town. This should instead be seen as an opportunity to improve and somehow mitigate the sheer ugliness of the buildings at the Vennel site. It might also be worth making adding a northbound access road to the M9 at the Eastern end of the town a precondition for any developer getting the contract.
213	Don't lose any of the green space - visitors like it ,as do residents -keep it open by the loch it enhances the town centre
215	Use architecture which is both traditional and innovative. Keep a mix with plenty of green open space and views to St Michael's and the Palace. We don't want a blot on the landscape
216	The lead agency/owner should be a new social enterprise led by local residents, micro business leaders and other charity trustees of our community. It would work in partnership with statutory and non-statutory agencies and deliver community benefit from the surplus made. It would have charitable status too. Under the Community Empowerment Act, the entire asset and housing should be transferred over to the new community entity or partnership between LCDT, TL, Burgh Beautiful/Trust and key agencies, including WLC and HistES. There should be far more focus on innovation, energy and environmental sustainability, social enterprise, increasing visitors and tourism and most importantly facilities and services for young people. The new buildings, green and urbanscape need high level, top quality design input, with fresh and highly innovative ideas and much wider and deeper community engagement activities. We

	ought to be as bold as we possibly can in our joint plans to make the people of Linlithgow proud..
217	I live in the Vennel and would like them to look at all Vennel areas as where I am the balcony for 57 to 99 is a disgrace with drains blocked and weeds growing. Is it a case of out of sight?
218	Reference question 7 'no rendering' , stone or brick. Reference question 5, the existing range of shops to be retained. Reference car parking due to confined space build in underground and under building parking.
221	The demolition of the Victoria Halls should be included to develop a cohesive plan for the whole of the centre of the town. This once in a life time opportunity should be used to rectify the mistakes of the 1960's and build a town centre worthy of a Royal Burgh
222	Primarily the unsightliness of the buildings needs to go. They are an eye sore for such a beautiful town centre
224	The blue flats need redevelopment or better still rebuilt. As a WLC resident overlooking these flats I find them unsightly and stand badly out from the rest of the town especially in the centre at the cross. I think it would be a great idea to change this and provide better accommodation the residents currently residing in the flats for the future.
226	May be a good idea to create a Facebook page to keep everyone up to date. Make sure that it is what the people of Linlithgow/Linlithgow Bridge want, it involves the community and supports the existing business within the town as much as possible.
228	We should not lose public greenspace as part of this redevelopment. It should incorporate an equal amount of public greenspace as we currently have. it should include a tourist information office.
229	Having gone through the trauma of being removed from my flat at 1 St.Ninian's way when West Lothian sold the land to a Private Developer to build luxury flats, I have no desire to see The Vennel area turned into some giant car park or some monstrosity of a hotel blocking my views to the Lochside , Palace etc. Why does West Lothian not invest any monies into the existing Vennel Flats and not allow them to fall into further disrepair.
236	Flats at the Cross how do we provide temporary accommodation for small businesses and householders. Another problem is some of the residents of the Vennel might have purchased their property. Whilst the development is long overdue we need to think of the short term financial impact of businesses occupying the current site such as M&Co, Wilsons, Paul Rolfe, Truly Scrumptious and So Strawberry. Also we need to redevelop the area with traditional stonework probably along the lines of the new retirement flats on the site of the old bus station. In my opinion the old buildings should never have been knocked down in the first place. We need to make sure there is retail/businesses space in any future development to maintain a vibrant and busy High Street which will generate income for the town. Last idea on this redevelopment if the area at the Cross was not demolished would it be feasible to reface the existing flats with traditional materials?
237	The current concrete buildings and areas are out of place in a historic town like Linlithgow. Development should be high quality and sympathetic to the other buildings. There is a lot of wasted space in the current layout of the flats and buildings. I would support the demolition of the flats but residents should be offered places in any new development. Parking space is at a premium in Linlithgow but I don't want to see acres of car parks either.
238	A community garden in this space would be great for people living in town centre with no garden
239	There are too many empty shops on the high street. Until these are all occupied no more retail units should be built.
240	Open the space
130	We need a good general store in the town centre eg M&S food/co-op/margiotta type shop. Thanks
131	Linlithgow does not need more small shops, there are some empty premises on the High

	Street. We do need a community space (concert hall/cinema?). We need lots of green space, especially for the residents in flats who do not have gardens. Also a pleasant, well kept green environment is good for people's health and keeps down crime and vandalism. It's such a shame Linlithgow's traditional look was spoiled in the 1960's, now is the chance to bring it back, with traditional architectural style and rebuild of the Vennel flats in that style. Public toilets are important, both for tourists and residents, especially children and elderly..
133/57	people live in the Vennel, it's their home - don't ride roughshod over them
135	Any building needs today enhance the views to the loch and not block or distract from the views. A car park with at least the same number of spaces as the existing Vennel carpark, although the drainage issues need to be addressed
139	The visual, social and environmental aspects (benefits) of such a redevelopment should take precedence over the amount of money it makes for the council
141	Let's not make same mistakes as before leaving town with hideous development
148	I think rentable affordable studio space for crafts people and artist would make the area more interesting, not just for tourists but for locals too. It would give an opportunity for people to share skills and open the door the night classes etc for adults which I feel Linlithgow really lacks.
156	Vennel flats and units are an eyesore. Must be demolished. Critical to town to build new sympathetic development in keeping with historic town and increase shops and local businesses.
160	Any building should be in-keeping with the historic buildings in that part of town, style of the nearby McCarthy and Stone is nice and may lend itself. Should not encourage more buses/ traffic into centre of town. Additional trees in centre would be beneficial for health and wellbeing, also wildlife
161	Thank you very much for giving the community the opportunity to express their thoughts and ideas.
168	The flats opposite the Vennel car park are a disgrace the outside needs to be cleaned up and refurbished. People using the Vennel car look up at them and must say to themselves what an eyesore I live in these flats and i am afraid to tell anyone
170	Designated parking for residents
174	As a resident I think we should have a lot more say. There should be more for residents as a lot of families live here and we don't have our own private outdoor space
85	I believe that the development options should be properly costed with cost benefit analysis. Do we have to actually demolish everything and start from scratch? Too often developments are squeezed down to a cheap and non-enduring form of construction when profit motivation and unforeseen costs kick in. There is also a real danger that this becomes just another development which reflects what is fashionable within the architectural profession in the current decade, and in 10-15 years' time it has no admirers either amongst the public who by and large simply want the development to fit-in with the appearance of the historic fabric of the town or amongst the architectural profession who have at that point moved onto the next fashion and are sneering at the last one which they imposed on the world 15 years earlier. In short the development should not become a victim of people with vested interests who, whilst they are intelligent are presenting a limited series of options and informing the recipients that these are the only options, when in actual fact this is not the case.
83	If traditional stone building isn't possible, then please at least make its appearance fit in with the traditional local buildings better than the existing brutalist eyesore. It is possible to harmoniously blend modern and traditional architecture and would be preferable
15	Throughout the Continent, especially in historic towns, car parks are placed underground, often under the main square. We should do that here and use the free space at ground level for housing. The heart of a royal burgh should look urban, with high density housing, not suburban.

242	Structure needs to compliment the character of Linlithgow ideally the concept will be composed of a mixture of stone, wood, glass and steel a contemporary modern look. Facilities should consider "underground" parking with overhead facilities for a mixture of small boutique shops and mainstream shops (which complement the existing business) and restaurants/cafes. The facilities should appeal to a younger to middle age generation primarily to encourage a new generation of families in Linlithgow
243	The Vennel flats are dated, an eyesore and do not blend in with the traditional feel of the high street
244	One does solemnly believe that the Vennel Flats should be demolished in their entirety and a continuation of the original high street should be restored and in this restoration the Victoria Halls should be bought through community rights and included as part of this development from the Cortolesa family.
251	The whole Vennel area including all the white-finished blocks of flats etc should be thoroughly re-thought. The blocks to the west of the current health centre were very tastefully re-finished a couple of decades back. Combine this with complete demolition of the current Vennel avenue, and introduction of "in-keeping" period style facades for a fresh new look.
232	<p>General - demolish as much as possible and have a mixed development. Lateral thinking required. Use private developer with suitable architect. If flats to the west side of The Cross can be incorporated, that would make a great difference.</p> <p>Other areas - consider relationship with Palace, Church, Peace Garden, Victoria Halls, Cross House, The Cross, Partnership Building, Templars Court etc</p> <p>Housing - mixed but there is a conflict of social housing and making money! Not a suitable area for families.</p> <p>Tourist Buses parking/setting down -long overdue. Should not be at The Cross. Use lower level to help screening. Provide toilets and shelter adjacent.</p> <p>Youth Centre - good to have town centre location.</p> <p>Car Parking - no mention of public transport instead. Too much parking in the town. Some parking may be required for church, Cross House, housing and tourists.</p> <p>Traffic - is excessive in the town, so not to be encouraged by the development. Remove as much as possible from The Cross area. No traffic in front of the Burgh Halls and if possible no exit from the development ie in front of Cross House. Consider mini-roundabout at Bryerton House to help access and traffic using High Street.</p> <p>Views of the Loch - improve. Can be enhanced by trees. At the moment there are several walls across possible views.</p> <p>Trees - keep as many as possible but do not let them hinder development and replant as required.</p> <p>High Street - do not reduce or undermine the role of the High Street.</p> <p>Grass - have green areas along Loch for public use. Picnic tables useful. Discourage dogs and swans etc fouling paths and grass etc</p> <p>The Loch - enhance as much as possible and do not build, eg cafe, beside it.</p> <p>Litter - always bad after a fine evening: improve the bins and their collection.</p>
231	I would like to suggest an architectural competition in order to get a broad spectrum of options and particularly to include development of West side of Cross to complement buildings on the north and east sides. I do not wish to encourage more tourists but there should be discreet and unobtrusive provision made for the tourist buses which will inevitably come.
230	<p>I have noted the following details for the Vennel redevelopment</p> <ul style="list-style-type: none"> • competition for redesign of precinct of the Vennel given to final year architecture students • retain the flats. We need social and less expensive housing. Design includes improvements to the outside of flats.

	<ul style="list-style-type: none"> • No shops. New unit for youth project in design. • Attractive unit for young craft entrepreneurs and artistic people (lowrise) • single-storey studios and one bedroom units for old people -- social housing. • Courtyard garden with seating.
184	An architectural award does not guarantee any useful longevity, or "value". Too easily influenced by current trends. The 1960 approach was in many ways a disaster
193	This development in the heart of Linlithgow is vital to the future of the town. It is essential to get it right!! The Civic Trust have the town's interest at heart and their opinions should be listened to, especially as this is a designated conservation area.
123	I am very pleased that this ugly unattractive area is to be redeveloped. Linlithgow is a lovely town but the Palace and Loch are its main unique attractions so this should be the prime consideration in future developments. The 1970s flats should be demolished they are totally out of place in the town. More car parking could be provided by demolishing the old building in the High Street. Flats could be incorporated in this building on all the empty premises on the High Street. Good luck.
7	The current housing situation is unfair on residents. I don't see private developers rehousing them. Tenants who have bought would not get equivalent accommodation on the open market.
245	Perhaps a drop-off point for tourist buses, with out-of-town parking for them.
247	Maximise open space, minimise building, housing requires more parking -- the High Street is already a nightmare on many occasions.
250	A loch-side cafe would be welcome but not a hotel or restaurant. It needs to provide a focal point for the space and to encourage people to sit there.
30	In my opinion there should be NO investment in this scheme unless the Vennel flats are included
252	I would like the area at the Cross in front of the McCarthy and Stone apartments to be considered at the same time as the Vennel development. I feel strongly that it should be an open space to complement the Cross with perhaps spaces to park a small number of tourist buses. Perhaps this would also be the right area for a tourist information bureau. The finished development on this area should be in the style of a town square roughly double the present area of the Cross.
256	The flats at the Cross are an embarrassment! And an eyesore! But they are people's homes and they will have to be satisfactorily rehoused, along with the shops all of which do appear to be thriving. I would HATE to see the loch-side green area included but the lower area of the car park is also a mess and unfortunately the area to the left of the steps going up to the car park appears to be a supplementary bin for various containers of carryout food.

The following comments are from the residents of the Vennel Flats and relate to the current garden area which is included in the planned re-development area.

1	Please do NOT sell off the garden! Please redevelop the garden for residents use. We need flowers and seats in a new garden.
2	Regarding the Gyancourt Vennel and car park : no more flats! No more shops (there are enough empty shops in the town). An Arts and Crafts Hub would be brilliant...maybe a Community hub accessible to prams, push chairs and wheelchairs.
3	Save the garden! It is OUR garden for Vennel residents. A bit more car parking would be good but for residents only. I don't want the garden to be replaced by a car park.

4	Keep the garden! Develop it for residents only. It would be nice to have a Community Gardening project. A few more residents parking spaces would help. No more flats or houses.
5	My Title Deed says the garden belongs to the flats
6	VERY concerned about the garden becoming a car park. We live on the lower ground floor of the North block and our living room window looks south onto the garden.
7	It is worrying that the plans suggest the garden is an ideal area for a car park for the town if the top car park was redeveloped for buildings (which is quite likely)
8	I would like to see the garden redeveloped.
9	Keep the garden for residents. Put a border or railings around it to make it private/residents only with a play area and benches. Make it a low maintenance garden. A volunteer gardening group could maintain it and there could be lazy beds for people to grow veg and flowers. Parking should be for residents only. If more parking spaces were provided make sure they don't become public usage. Some craft shops in the Guyancourt Vennel would be nice and a meeting place for community groups.
11	Keep the garden for residents and make it a private garden with keys. A play area for residents' children. No more houses. Do not allow the garden to become a car park!

Comments recorded at the
Exhibition for the Redevelopment of the Vennel
29th August 2017 at Low Port Centre Linlithgow

Resident Number	Comment
1	There is no other central location for LYPP to move to in the town. Young people from Linlithgow, Winchburgh, Bridgend and Springfield attend and need access to bus routes etc. LYPP has been a key service provider in the town for 27 years. I would be keen to see the plans for re-housing the current youth space.
2	A redevelopment on this scale is not required for a town the size of Linlithgow, parking is the main issue for the town.
3	There is a need for youth facilities, no other areas are affordable and fit for purpose for LYPP. It needs to be central and near schools for access by young people. There seems to be some suggestion that youth facilities be shared space however this would not be ideal. The LYPP currently has a kitchen space for training sessions as well as other specialised areas which would be missed in a shared space.
4	The High Street suffers from severe congestion at times. If a new car park is introduced, no parking must be instigated on the High Street with pavement parking for residents only. I really feel that the flats at the Cross require to be replaced with sympathy for the present incumbents.
5	It makes sense to extend the redevelopment boundary to include the flats and premises between the library and the Cross. Do it now rather than at a later stage.
6	Focus on increasing open space between Vennel park and Cross. Would be better if a few scenes/illustrations of what the finished Vennel area would be like.

8	This is already a very complex site. Maybe need to phase the future phases to include extending the boundary at flats and premises. Should be based on housing needs as per plans and demand. All traffic and parking must be considered within broader vision of Linlithgow traffic and parking goals particularly air quality. The urban design framework criteria must include a requirement to involve the community in developing a design proposal. Needs to recognise the importance of the site as a town centre and identify for the community.
9	There is a need for coach parking rather than just a drop off.
10	There should be a variety of types of housing because it is important to have a mix of people in the community. It is important that the form and frontage of the proposed buildings reflects the local style and will suit the area in coming years. I think you should involve local people.
11	The development needs to be seen as one lot, a mix and match. While flats for the elderly are very necessary in Linlithgow they do not necessarily need to be sheltered housing or care home types. Increased off-street parking is desirable that current policy would need to be replaced it may not be possible to include the whole wish list of provision. Care should be taken not to overdo shops -- small businesses are desirable. I believe most fervently that traditional materials should be used in a new way to reflect our age. We should have confidence in our own times. Old and new work together exceedingly well in the hands of good designers. This is the key site in Linlithgow and redeveloping this area is a unique opportunity. It must be done with conviction, a fantastic sense of design and be a mixture of residential and commercial. Space for tourist buses is a high priority.
12	I do not think any flats or housing should be included. Any proposed facilities for start-up businesses or a business centre is a great idea but not on this site. I strongly oppose the inclusion of youth facilities. Space should be developed as an entertainment space with seating in place where the library is at present. Visual impression can create a false impression especially in blocking sunlight. The town needs entertainment space preferably covered with seating and nothing on the west side to give a more open townscape.
13	The existing flats are unattractive and I believe have structural problems so it is an opportunity to improve the area. The extra parking required is a "no-brainer". I do not think exuberant youths would attract either locals or visitors. Low Port would be ideal to provide facilities to youth activities. Cafes and adequate seating areas are an attractive feature in any town and Linlithgow has the ideal environment to provide this. Perhaps a covered area would be an idea considering the inclement weather we experience.
14	Any new housing should only be in replacement for those demolished. We need to provide as much open space as possible.
16	The flats west of the Cross should be replaced. They are a shabby disgrace. Landscape/townscape quality must be a priority over commercial/private/Council profit. The design of the new development must be sympathetic to Linlithgow's traditional built form, we need to restore that destroyed by past development. We need no more flat roofs, be wildlife friendly therefore no lower buildings at the north end of car park. Buildings must not be prominent in views of Palace, St Michael's from the west/northwest of the Loch. I believe we need a community centre which can be used by voluntary organisations.
17	I live in the at the Vennel and there isn't enough parking as it is. Don't take away from residents to make room for buses to park!!
18	Including between the library and the Cross will result in a more coherent development area. There is existing scope to provide business start-up space within the town. Any development should be mixed use, residential to suit local needs for young people. There needs to be clear support for tourism development.
19	I live in the flats facing the loch; views would be restricted. There isn't enough parking in front of these flats without adding buses to park as well -- crazy. Disagree with this development because great views would be restricted; as a tenant I don't like the fact of changing things.
20	I strongly support a social enterprise approach with community ownership. There should be a

	special focus on services and amenities for young people. We need a flexible and adaptable community space for local people, groups and young people to enjoy. The asset should be transferred to community ownership. We need a new entity that can work in partnership with statutory and non-statutory agencies. Consider the lead agency partnership from LCDT, TL, Burgh Trust, etc. Create modern social and affordable housing -- total redevelopment of whole site including the flats. Use innovative "passive house" design to create low energy/sustainable buildings with renewable energy (including heat from the loch), rainwater harvesting and sustainable urban drainage system. Enhance aesthetic look to attract more visitors and tourists. Firmly incorporate educational/historical learning elements. Consider major local fundraising and shares initiative driven by local community and in leaders. Employ high-calibre design consultants and include in-depth community engagement and design scoping activities including 3-D modelling. We need flexible workspace rather than offices and facilities that encourage interactive cultural and musical activities, especially for the younger folk .
21	Rebuilding the flats adjacent to the Cross is attractive if there was sufficient finance available -- of course but less urgent than existing project. We need no more sheltered housing there are two centres already and two expensive care homes. There are lots of empty shop units already; turnover of shop owners very frequent therefore unsustainable to keep trading? Concerned about youth venue in a pedestrian area surrounded by housing -- asking for trouble. Residents need considered first -- then tourists. I like the idea of access to the loch viable and wide avenue but pedestrian precincts in Grangemouth and the likes make me shudder.
22	A multi-storey car park with an increase in the number of off street parking spaces is essential to any redevelopment. However access needs to be improved -- getting onto the High Street can be difficult. Better provision for a visiting tour buses is also important. Do we really need more retail/office units there are already a number of vacant premises in the High Street? Offering more modern/suitable units might reduce High street occupancy further.
23	Presently there are lots of social problems with social rented housing -- this should be a showcase development. Coach parking should be out of town with dropping off passengers only. We must ensure public toilets are included.
24	My worry is that if the flats adjacent to the Cross have to be demolished in the next 5 to 15 years where will the tenants be decanted to -- all the new flats will be occupied by then. Tourist buses need to drop off -- parking can go elsewhere.
25	The present flats are an eyesore, also do not fit with surrounding area. Any development must be sympathetic to existing old buildings.
26	Not to include the flats next to the Cross would be a missed opportunity. Just pushing an ugly problem down the road. Retail needs are declining -- internet etc - to supply new shops will simply empty the existing retail units.
27	Refurbishment of the Cross flats building should be completed by the developer as part of the planning approval. We have enough housing to meet the needs of the elderly in the town -- affordable and social housing only please -- there is a severe lack of this locally. The Cross building block should be refurbished and not included. It is vital that any development must be low rise affordable housing. Need electric car charging points in the car park and need community space for young people - fenced off garden for Vennel residents.
28	The people living in the Cross flats would no doubt be concerned if development went ahead, but in my opinion, if the flats cannot be readily renovated to a decent standard to eradicate dampness and deterioration of the buildings, they could be considered, albeit if it was mine I'd rather have help to save the home. In my opinion, the green field site that is currently front and back of the Vennel is a treasured area and is already a spot that townsfolk and tourist view as a picnic/meeting area. Top loading the area as an unsightly car park to me is ludicrous -- it would add to the congestion of the town and detract from its splendour and homely feel. Developing certain aspects does in fact make sense but overdoing the development is not in my opinion beneficial to the town. A more in-depth consultation should be available to the

	townsfolk, especially to those of us who reside there and are very happy and proud to be there.
29	The west side of the Cross should be redeveloped in character with the Cross and Burgh halls to improve tourist potential of the town -- much more attractive. Buildings should definitely be sympathetic to traditional style using appropriate materials -- traditional style and appearance are important. Open space along a pedestrian boulevard is important for cafe/street culture -- this should be cobbled or similar. Maximise grass/trees/flowerbeds. Avoid chain retail types and promote independent retail. Please build on Linlithgow's culture and heritage perhaps including symbols/statues etc of tanneries/leather/glue, canal pathway, royal connection. Development would be an ideal opportunity to redevelop the west side of the Cross -- please do not miss the opportunity!
30	The community orchard in the grass area by the Loch should be preserved.
31	A bus drop-off area should be included.
32	I think that in the landscape outside there should be a bit caged off for kids to play with slides, swing etc -- the Vennel flats area should have a kids' area outside because they have no garden. The other side of the car park should be resident only because most residents have nowhere to park, also more parking spaces. The library should stay as well as the public toilets. I don't think there should be a hotel because it will block views and ruin the Vennel/loch. The hotel will also take up space for picnics and for kids to play. (Primary school student -- resident of Vennel flats)
33	A multi-storey car park and spaces for coaches are not only great ideas but absolutely necessary. However access via the Cross already leads to a bottleneck so the road layout around the Cross needs to be included in planning/redevelopment.
34	The redevelopment must include buildings to west of Cross (currently an abomination). I would like as much open space to be preserved as possible and retention of most of trees. Any new build must be in a sympathetic design. Needs to be mindful of visitors' requirements and look to be accommodating new businesses and providing artistic space. Essential attractive planting spaces be included.
35	Optimise and value the heritage opportunities this could give, while incorporating attractive appropriate social housing, car parking and leisure facilities.
36	The planning should make the loch visible and accessible from the High Street e.g. new Guyancourt Way. The development should have more open feel to it and should include cafes drinking/catering.
37	I have reservations regarding the proposal to include a fairly substantial hotel so close to the loch.
38	Youth facilities is a proven help in reducing vandalism etc. Toilets are of prime importance.
39	I think the green area in front of the stilted flats should remain -- these flats benefit from the open aspect, front and back. The rooms in the stilted flats are very generous with amazing views.
40	One concern is a fully pedestrianised High Street (I have seen my town in Essex "killed" by doing this) however my question was answered positively in that it would just be developed area which would be very nice. It would be nice to have a few more "dog friendly" cafes (as in Dunblane -- the Riverside") since the loch area is a prime area for dog walkers.
41	The Cross flats are very ugly. Youth facilities are very important in LYPP and should be accommodated. I would like to see the redevelopment to include as many trees as possible. I would like pitched roofs on any new building -- the current flats are extremely ugly. The tourist information needs better signage if it is staying where it is. I am not even sure if it is a tourist information.
43	This seems like a once in several lifetimes chance to redress some of the errors made in the 1960s/70s. Ambitious towns and councils seize their opportunity to transform civic life for the benefit of quality of life of residents, businesses, and visitors alike. -- let's be ambitious!

44	Priority to give homes to the young (with or without families) and the elderly close to the town centre. No need for a hotel – plenty nearby at reasonable cost. Identifying need first before working provision. Disagree with more retail – we already have too many empty shops. We don't need more! We have seen what can be done with innovative thought -- not something that WLC is strong on! We need a modern attractive development in keeping with the heritage of the town. The community must be involved and agree the final plans.
45	This is a good opportunity to demolish existing flats and shops which are not an attractive addition to the town. Tourist buses would need some parking arrangement, perhaps park-and-ride type facility. I strongly support the design of any new development be sympathetic to Linlithgow's existing traditional buildings. Important to retain character in new development and be in keeping with traditional buildings nearby. Differing roof levels etc (not just the plain block of flats/shops) perhaps along the lines of McCarthy and Stone developments in the town.
48	I particularly dislike the square edged stilts Of the existing Vennel. Building heights and frontage depth should be varied – we do not want a prison block. What is the potential for a new health centre here?
52	It is important to consider the move for LYPP. It is important for the redevelopment to fit in aesthetically with the rest of the town.
56	Residents must be informed regarding any future development and must, if decanted, be given the choice of where! Timeframe?
57	Total agreement with the fabulous plans laid here this morning!!
58	It is essential to use this opportunity to redevelop the flats and shops opposite Cross in order to recreate the square as it was. Oh that modern design could be used for the rest of development.
59	Deeply concerned about the impact on our business should buildings between the library and Cross go ahead. Also I think the Council will find it difficult to attract interest from developers for relatively small and complicated site. Developer will need experience of residential, retail and commercial.
60	Where I live at the moment I can't see Burgh Halls or St Michael's Church because of high trees. It would be a big difference to the area but I am not very sure about a bus or coach Park in the Vennel area.
61	The Vennel flats should be included in the development.
62	In the Lake District, school playgrounds are car and coach parks at weekends and on school holidays with money going partly to the schools. Linlithgow Academy would be ideal for coach parking and raise some revenue for the school. This would avoid the need for coach parking elsewhere.
64	The current Vennel is a disgrace. Relative to the needs of existing tenants, it should be flattened as soon as possible. It currently severely damages the image of the town. Ensure trees are planted and protected, the current High street is almost a desert, trees make High-Streets -- well essential anyway.
66	Bus parking could be part of a park-and-ride scheme to help reduce the amount of traffic on the High Street.
67	It is crucial to enhance tourism to the Palace by creating a positive space around the Cross. Also important to maintain integrity with the development around the library as this is a once in a generation opportunity. We are about to enter an era of driverless cars and we should discourage any increase in cars to the town centre so I think we should not increase parking spaces. Any parking should be underground. There should be space for buses to drop off tourists but not park. It is not appropriate for the buses to access the Vennel car park from the Cross. The Vennel car park should be accessed from a ramp from the West descending into the carpark not the Cross.
68	The 1970s development is awful and an eyesore much in need of development. There are plenty of facilities in town for older people and a plethora of care homes. We need to support

	young people. No more car parking facilities -- more trees please.
69	The whole area should be turned into a park area to extend as far as possible, including flats and premises next to the Cross. The area should be opened up to provide views of the Loch. There is no requirement for further housing. The population of Linlithgow is large enough. Less housing will ease congestion on the High street and ease pressure on schools etc. We must reduce congestion. There are plenty of facilities/opportunities for facilities in other parts of the town and surrounding areas. This is a once in a century opportunity to improve the town for the good of those who live here. The financial benefits to West Lothian Council should be totally disregarded. The council is trying to operate as an institution in its own right not as a vehicle for the good of those it serves.
70	The whole area is an eyesore and spoils the centre of the town. Any housing content should centre on those who cannot be catered for elsewhere in the town. Development should concentrate types that take advantage of the historical strength of Linlithgow. The historical significance of the town centre is not exploited to the advantage of the town and residents. Anything will be an improvement. The residents have a once in a lifetime to not only correct previous planning mistakes but to take a forward-looking chance to make the town centre attractive. Should or will Historic Scotland be a supporter of the redevelopment?
71	We need some housing for single able over 65's rather than care home/sheltered housing. We need 50% social rented housing.
73	The 1970s development is an eyesore. We need sensitive redevelopment of low density and consistency with the 1700s and 1800s High Street would be very good. Take care of LYPP – it saves a lot of issues and is great value for money. This is the sensitive heart of the town; Council and planners got this badly wrong in the 1970s – don't repeat your mistakes. Focus on quality -- don't go for the best price to sell and poorest quality development. Make sure planning conditions are enforced.
74	This is an opportunity to improve the important Cross area which now looks outdated, shabby and out of place. Pastiche might be suitable in this area to restore the historic area. A good hotel could be an asset but strict control required at the planning stage to preserve the public space bordering the loch
78	The percentage of social rented housing is immaterial as long as current residents/owners are relocated within the development. Keeping development 1/2 beds would appeal to young and old and might mean fewer cars. There are currently eight empty shops and four long-term empty premises to cater for increased shopping. There should be community plans/buyouts of these e.g. Victoria Hall/Clydesdale Bank. As a business owner, I would prefer to see money spent on consolidating the current resident's rights and on keeping more tourists on the High Street to spend their money i.e. parking parking parking, less time trotting off to the Peel and more spending! The space should be taken up with housing, a few shops and parking, perhaps a hotel but no no no to the Boulevard wasting space. The only routes from the Cross/High Street to the Loch were at Cross House and the original Vennel. I see no need to waste space by introducing an alien Boulevard.
79	It would make sense to include the Cross flats however it obviously raises questions about where people would be housed while the process takes place. What happens to the likes of LYPP in the meantime -- what happens to car parking while this is happening - this affects local businesses. The consultation process over the summer has been poor. I saw bits on Facebook (Linlithgow page) and read the Gazette. Dates too short to respond due to holidays and other family commitments.
80	Must consult with 100% of Vennel residents and businesses. What are their needs? Some property owners may not want to change. Solution must be sustainable in design using appropriate materials, support renewable energy with minimum heating and cooling needs.
81	A mix of private rented and social housing is essential. Innovative landscape design would open up the area and encourage visitors/residents to use the area. A community arts space available

	for rent/hire. The tourist information centre properly staffed and with opening hours to seek tourists (i.e. at weekends!)
82	Demolish the existing ugly Vennel flats.
83	This is a great opportunity to restore/rebuild the properties on west of Cross (Nuremberg and elsewhere have done it!) Any social rented housing should be managed by a housing association. The percentage of social housing should be based on need. Only non-car owners should be allowed to buy or rent. Car share/car club could be part of the equation. Flats could have a range of spaces from large open plan to smaller and cosier. Heights should not spoil views of Palace etc from across the Loch. Buses could be an eyesore on top level of car park – could there be a park-and-ride to the east and west of the town with a free bus going back and forth to reduce parking spaces. I don't think there should be private space which would require upkeep – we need an area to enjoy. Also views from across the Loch to be considered, especially from west corner to Palace. A multilevel car park is needed but how about all residents in future to be non- car owners to reduce car parking in centre?
84	There is a traffic bottleneck of vehicles turning right to cross the west to east traffic at the Cross to enter the existing Vennel car park. There is sufficient space in the existing pavement for it to be narrowed thus allowing the creation of a central filter lane for right turning traffic and thus allowing the east to west traffic to continue to flow freely. I would strongly suggest this to help the traffic situation at the Cross especially if the capacity of the car park is to be increased.
86	I am not indifferent to youth facilities I think they should be located in other public buildings in the town e.g. Low Port Centre.
87	Traffic management will need to be seen in the wider context of the town. Any hotel proposal should only be considered if a suitable occupant/developer can be identified at the outset. Recreating the original building line in the High Street is most important and having some regard to the gentle curve in the street.
88	We need a turning area for buses and pick up and drop off area. A hotel could generate 40+ cars. Youth facilities should be brought to the local centre. Discussion to date has not gone far enough. I am concerned that there are constantly shops empty on the High street -- does this mean even more empty properties -- the Victoria Hall is still sitting as an eyesore.
90	If possible, the existing Cross flats should be re-roofed, clad, etc in an eco-refit. 15% of Danish developments are cohousing. This is a great candidate for intergenerational cohousing. Residential space should be stepped as in the Scandinavian model. Definitely not three-storey blocks. We need a public space at high level.
91	Use the empty shops to have more diversity such as sportswear and equipment, music sheet, recorded and instrument equipment. Too many eateries and hairdressers. Keep things low and widen the High Street. Construct a multi-storey car park in Edinburgh Road.
92	The 1960s buildings are an eyesore. I would be happy for all the housing to be rented -- at affordable rents to help ease homelessness and avoid property developers buying them to rent out for profit. I feel there are too many charity shops in the town which could be indicative of too few businesses wanting to come -- feeling it is viable therefore creating further retail space doesn't seem sensible. It would be sad if the design lacked local reference and repeated so many other town centre developments e.g. Inverness. I am concerned that the development should be to the good of the community not primarily to generate revenue although I appreciate funding is an issue. It would be very good to incorporate as many eco-friendly aspects re-building materials, energy sources etc.
93	While the design should be sympathetic to the traditional buildings in the vicinity, it must be carefully undertaken so as not to look like a mock or a new version of older buildings as this is not often successful. The form of the development framework should not be too restrictive so as not to attract developer interest in the scheme.
94	There should be no building by the Loch. Reduce traffic on the High street. Limit parking to the

	essential. Parking of tourist bosses is urgently required. Remove as much traffic as possible from around the Cross – no traffic in front of Burgh Halls.
95	The facings design of the current Vennel is dated and unpleasing to the eye; it detracts from the lovely historic feel of the town. Lifetime home designs do enable easy modification to ensure accessibility, inclusion of lifts. Finishing should be stone and mortar not harling! We need a multi-user property in support of historic significance of the town. Needs to be fully accessible as per the legislation to include both disabled but especially changing places toilets - this convenience will support inclusivity and bring people with those types of necessities and their families to Linlithgow.
96	It is important to reclaim parts of this area as aesthetically pleasing to walk through. Especially the area below the car park beside the toilets is a disgrace and a loss to the town. Tourist buses can drop off and then park outside the main town area. Public toilets should be included if not available elsewhere in nearby -- Burgh Halls is acceptable. Communal use is important to me with pleasing appearance sympathetic with the older properties in and around the Cross. Car parking is important but preferably discrete, lower-level, landscaped etc .
97	I agree that the Cross flats should be redeveloped with the caveat that the residents maintain the right to be rehoused in the new Vennel development. I do not support privately rented flats. I think there should be a housing association set up to provide social housing for Linlithgow residents. The present residents of the Vennel have been hoping for a long while that our garden would be renovated and replanted. Current residents are worried that we could lose our garden. I think there is an opportunity to place a structure/building above/on top of the Vennel car park with a cafe or restaurant with views of the loch. I wish to see the garden space between the flats developed for the use of residents (priority) – an architectural plan already exists (see Stewart Ness) which could be adapted. Also full capacity residents parking please.
100	Any development has to be aware of the history and environs of Linlithgow. There are not enough public toilets – this would add to the value of the development. Traffic flow is an issue in the High Street but a bus park does not appeal. We need to see more open spaces and not too much building just for the value of buildings!
105	A great opportunity for improvements which should be seen as an opportunity to improve the area (which is currently an eyesore which makes very poor use of the space) and improve the lives of local people and businesses. And amenities must be included as well as commercial considerations. The council's role is to look after the needs of inhabitants – maximising short-term profit is short-sighted and will result in poorer value and amenities in the medium and longer term.
106	The previous Vennel development was rushed or ill-conceived. This is a prime opportunity to put the town in a brilliant tasteful position. Both the Council and developer(s) must be tightly managed and controlled to the limit. Control the capital/profit motive and prevent abuse of the critical area in an already pressured town. The views of the iconic assets of the town are sacrosanct.
107	I strongly agree that the buildings facing the Cross should look like those which existed prior to the 1960s redevelopment.
108	I am concerned about the style of new buildings being too modern. Pitched roofs are absolutely essential. Stone finish is ideal, failing that, the style of McCarthy retirement flats opposite is desirable. Quality materials throughout -- building, paving, landscaping. Lots of trees and green spaces
109	Linlithgow has become a very expensive place to buy/rent is too expensive for residents in various groups. We want to give opportunities to potentially excluded groups and retain social diversity of the Linlithgow community.
110	I think the Vennel car park does need renewed. It looks terrible. I think the wasteland is a mess at the side of the car park wall and have said for years there should be a cafe or snack area

	especially in the summer for tourists. The Vennel car park is a nightmare as it is. We can't get parked and it's a mess. It should be the residents only. If there was more flats then there is even less spaces. We have kids who use front garden so I don't think it's ideal to have more traffic coming in and out. Also I think the front garden should be for residents only. It needs upgraded. My daughter was in the Gala day and everyone said we couldn't do an Arch because of what it looked like. Well, we've done it and she won first prize. I left most of it up and it was so nice to see people having picnics at it in the street so it can be done. The public toilets are well used and should stay. There is no need for more flats to be built. The schools are full as it is without more flats being built.
111	We need to see plans, drawings how it will look and need much more information. Just want it to look good, bring in more people into the town to live and visit.
112	No more sheltered housing, the town will soon be full of old people. We need affordable housing to buy.
113	I do not like the idea of the bus park and a new hotel, also I am concerned about the conservation of the trees and green areas. Do not cut any trees.
114	Any development should make provision in future for maintenance.
115	The Cross flats should be included to make a cohesive beautiful development. The northern edge of the site should be extended for use as a larger scale hotel of 4 to 5 star rather than say a lodge type hotel/motel. This would provide enhanced value to the site to offset the cost of constructing the car park. The fundamental question is should the site focus on a wraparound vehicle car park.
116	I would not want any of the present householders and shop owners to lose their premises. Hopefully they would all be housed in the new development. Very expensive though to rehouse and compensate shopowners for the duration of the redevelopment.
117	The whole area should be sympathetically redeveloped in keeping with an historic town. The High Street from the library to the Cross could be restored in keeping with the Courthouse ,l County Buildings and Cross well. No more flat roofed flats!!
118	Given precedent of social-rented housing on the site, there clearly needs to be a provision of this on site. Ideally, there should be a full mix of tenures. Scale and High Street frontage should be consistent and in keeping with surroundings. I believe area east of this, up to and including the west side of the Cross, should be included in the development area and that this should directly replicate original buildings on site – ideally a replication of pre-60s buildings on west elevation of the Cross, utilising stone pediment from existing building. Similar reconstructions have been undertaken in a number of German and Polish cities after World War II. Excluding this area would be a missed opportunity and it is perhaps most important part of the present Vennel needing redeveloped.
120	The area is tired and in need of development. The current design is not in keeping with the rest of the town centre. Current residential purpose should not be disregarded if current area supports social housing then so should the new. Room sizes bigger to avoid developer exploitation. The town is lacking in new facilities, and I believe it is important to support some youth facilities. I would like to see the central open space kept i.e. no building development on that section. Happy for this to be private for residents -- just not built upon to add housing. I would want the development to be in keeping with the traditional buildings in the town and have been more of a feature to attract locals/tourists. Some shelter or awnings to protect from the usual weather. Perhaps a centrepiece or sculpture from a local artist. Seating and/or picnic area on green near the loch.

END OF COMMENTS

PAPER C

Initial queries raised on 28th June 2017 addressed as part of our response to the consultation

The Community Council meeting on 25th April 2017 and subsequent Linlithgow Planning Forum meetings generated a number of queries which were sent to Craig McCorriston whose reply is below.

From: McCorriston, Craig [mailto:[REDACTED]]
Sent: 03 July 2017 16:52
[REDACTED]
Subject: RE: Proposed Vennel Development - queries - [OFFICIAL]

DATA LABEL: OFFICIAL

John

Thank you for your further email on this and I not the questions which you are seeking clarification on.

At this stage the council is simply seeking comments on the terms of a draft development brief. Most of your questions are at a level of detail which wouldn't ordinarily be covered at the development brief e.g the condition of the neighbouring flats or the council's expectation on land values. Much of the detail of the questions is about a project to develop the Vennel, but we are not at that stage yet.

The consultation seeks views on the potential land uses set out in the draft brief together with views on other matters such as access arrangements. Consequently, I can't provide any meaningful answers to your detailed questions at this stage. You are, however, welcome to address the matters which are set out in your questions as part of your response to the consultation.

I hope my response is helpful in setting out the purpose of the current consultation.

Regards.

Craig.

Craig McCorriston
Head of Planning, Economic Development & Regeneration

West Lothian Council
Howden South Road
Livingston
EH54 6FF

Tel: [REDACTED]

Email: [REDACTED]

1. Initial Queries arising from the Planning Guidance

	Query	Community Council response
1.	Is it proposed that ownership of the land will transfer to a developer?	For only those apartments sold should ownership transfer. All other property should remain in public ownership. A factor should be engaged to look after common property with appropriate burdens included in the sale.
2.	The report by the head of planning, economic development & regeneration states “it is anticipated that the Council will benefit from a capital receipt or alternatively a new revenue stream through the implementation of any redevelopment proposals for the site”. The planning guidance appears to be aimed at developers and seeks their proposals for a development solution which would maximise financial receipt. It would seem that the development value is unknown. How important is income to West Lothian Council i.e. what weight will be given to income (capital and revenue) in relation to the other success criteria indicated in the planning guidance?	The focus of the project should be aimed at improving the Vennel area and if the development budget permits other areas in the centre of Linlithgow. The exercise should not be seen as an opportunity for a capital receipt for West Lothian Council; income must be balanced with community gain. Similarly, a whole life costing approach should be taken with regard to any new revenue stream balanced against investment for the community.
3.	The development driven approach may not be what the Linlithgow community want. What it is anticipated by West Lothian Council?	The Community Council and representatives from other organisations in the town wish to be involved in the development decision making process.
4.	Could the Vennel flats [adjacent to the Cross] be included in the development proposal?	We wish the property between the library and the Cross to be included in the development for the reasons stated in the letter.
5.	What are the checks and balances will West Lothian Council put into place to ensure the development matches the expectations of the community?	The Community Council and representatives from other organisations in the town wish to be involved in the development decision making process.
6.	What are the current plans for the replacement of defective fabric in the existing Vennel flats?	Our position on this question is described in the letter.
7.	What benchmarking has West Lothian Council carried out? It was stated at a Community Council meeting that other Councils had undertaken similar schemes	In the comments a number of people have cited examples of other projects of this nature. There must be many more in Scotland and the UK.
8.	The planning guidance mentions a forthcoming master plan for proposed redevelopment of the Vennel and former Watergate area of central Linlithgow. Who is preparing the master plan and when will it become available? Is there likely to be a consultation on the master plan?	The Community Council and representatives from other organisations in the town wish to be involved in any future Charrette or master-planning exercise.
9.	Policy HOU 6 identifies the need for any deficiency in local community facilities and	The letter and resident’s comments outline our view of the deficiencies.

	amenities which arise from proposed housing development to be addressed. What, in West Lothian Council's opinion are the deficiencies in local community facilities and amenities which would be relevant to the development?	
10.	Policy HER 18 states that "character appraisals will be undertaken for each conservation area in order to bring forward appropriate policies, development briefs, design guides, controls and proposals to preserve and enhance their special architectural character. This will be progressed on a priority basis and will be subject to consultation with local communities.... The Council will work with communities on the formulation and promotion of community led enhancement schemes where appropriate to the character of the area". Other than the public realm paper, has the character appraisal been undertaken for the Linlithgow Vennel and the Cross area?	We are aware of no such exercise but would be pleased to be involved.
11.	Policy TC 7 appears only to apply to Bathgate. Can you confirm that this is not relevant?	We assume that the inclusion of TC 7 was a mistake.
12.	LDP 2009 clause 9.42 states "in recognition of the outstanding issues [in Linlithgow town centre], the Council will prepare an Action Plan for the town centre to include issues of retailing, traffic congestion/parking and community needs and full community consultation will be undertaken". Has this Action Plan been completed?	We assume the action plan has not been carried out but would confirm that such an action plan is important before proceeding with the Vennel development. The Community Council and representatives from other organisations in the town would wish to be involved in any such action planning exercise.
13.	Policy ENV 23 conservation areas states "the council will work with communities on the formulation and promotion of community led enhancement schemes where appropriate to the character of the area". How soon is this work likely to be completed?	We are not aware that it has begun. The Community Council and representatives from other organisations in the town would wish to be involved in any such community led enhancement scheme.
14.	Policy ENV 28 listed buildings. Could the council confirm that there are no listed buildings within the proposed Vennel redevelopment site?	The Vennel is within the conservation area but contains no listed building.
15.	Massing. The design guidance states "new development will require to be stepped, of one and two storeys in height to protect important views of the palace church and loch and their settings".	The surrounding buildings are generally 4 storey. Enhancement in views and amenity can be gained through careful planning rather than a restriction of height. This point is addressed in the letter.
16.	With reference to Housing/Education - it does	This point is addressed in the letter - point 3m.

	not appear sensible to restrict accommodation to retirement accommodation or one-bedroom flats on the basis of a temporary constraint which will be resolved once Winchburgh Academy is completed.	
--	--	--

2. Queries arising from the absence of a design and construction management statement.

1.	Who is the client for the project?	We assume this will be West Lothian Council
2.	Who is the client's representative - the organisation who will take technical responsibility?	We do not know who this will be but the name of the client's representative/project sponsor would be useful.
3.	What is the project's mission (high level statement of functional requirement which answers the question - why are we doing this project)?	We have assumed that there is no mission statement as such for this project but would like to see community benefit in the mission rather than capital receipt or new revenue stream.
4.	Is the project a single project or a series of interlinked projects each of which has a definable mission?	This would be interesting to know.
5.	What factors will be used to determine the success of the project? The design guidance quotes: Distinctive Safe and Pleasant Welcoming Adaptable Resource efficient Easy to move around and beyond	These factors and their method of measurement will be required for the OJEU statement on how the tender will be judged and are required to be explicit by the Public Contracts (Scotland) Regulations 2006 clause 30(3). The Community Council and representatives from other organisations in the town would wish to be involved in the development of the factors used to judge the success of the project.
6.	Method - There appears to be no project plan It would be helpful to see a project plan which would be expected to follow established principles e.g. BS 8536-1: 2015 or the methodology laid out in the Scottish Construction Policy and referred to by the Accounts Commission in its publication Major Capital Investment in Councils see particularly Part 3 page 25 - business cases	At the appropriate time it would be helpful to see and contribute towards the project plan.
7.	Option Appraisal: Will options be sought? How will options be judged? What methodology will be used to generate options?	We would expect to see a proper auditable option appraisal. The Community Council and representatives from other organisations in the town would wish to be involved in the development of the factors used to undertake an option appraisal.
8.	Will exemplar designs be consulted upon and used in the tender process?	Exemplar designs are a useful vehicle in consulting with the public. They do not need to be detailed.

3. Civic Trust Comments to Craig McCorriston 6th April 2017

1.	The guidance is very vague on how exactly the site should be redeveloped. It is generally lacking in requirements relating to important aspects such as positioning/massing of structures, building materials and townscape character. Views or routes across the site and car parking/servicing locations are not defined and there appears to have been no consideration of the possible need to accommodate tourist buses. There are no details of the preferred landscape treatment in different parts of the site. It is essential that a proper <i>detailed</i> Development Brief, setting out all necessary requirements and parameters, is prepared before prospective developers are invited to bid for the site, let alone apply for planning permission.	These issues are those reflected in the survey and questionnaire. They are addressed in the letter and also in the comments received from residents.
2.	We consider that any mention of restricting housing to suit the current capacity at Linlithgow Academy is very short-sighted when it is so important to achieve the right outcome on this important site. The provision of sufficient capacity in local schools to serve this development should be guaranteed by the education authority through expediting school building (for example Winchburgh Academy) or adjusting school catchment areas.	These issues are those reflected in the survey and questionnaire. They are addressed in the letter.
3.	The opportunity has been missed to include the 1960s buildings on the west side of The Cross – although only renovated about 20 years ago, they are already in poor condition, both visually and because of severe water penetration problems, making them ripe for redevelopment. It is understood that the Council is contemplating buying back flats in this area. A sensitive redevelopment of this site, restoring past townscape as appropriate, would be very popular locally. Not to include this area just now would cause problems in the future and miss a once-in-a-lifetime opportunity to maximise the development opportunity for the town's benefit.	These issues are those reflected in the survey and questionnaire. They are addressed in the letter.




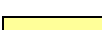

End of Paper C

Map 3 – Possible Townscape and Landscape Framework

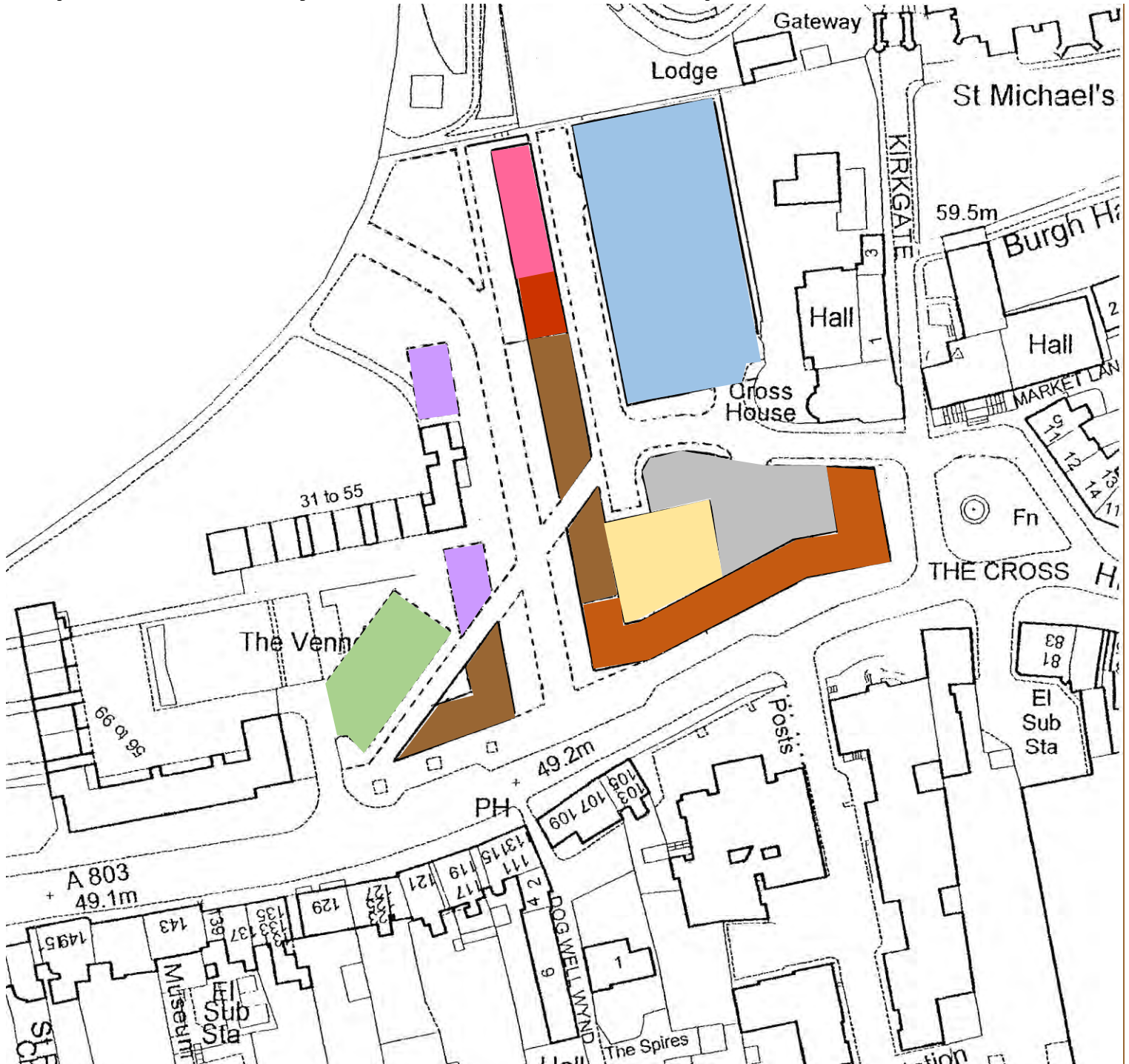


Scale: 1:1250 at A4

LEGEND

-  Restoration of historic building frontages
-  Other main frontages
-  High-quality 'public realm' (paving, etc)
-  Street and avenue trees
-  Upgraded open space

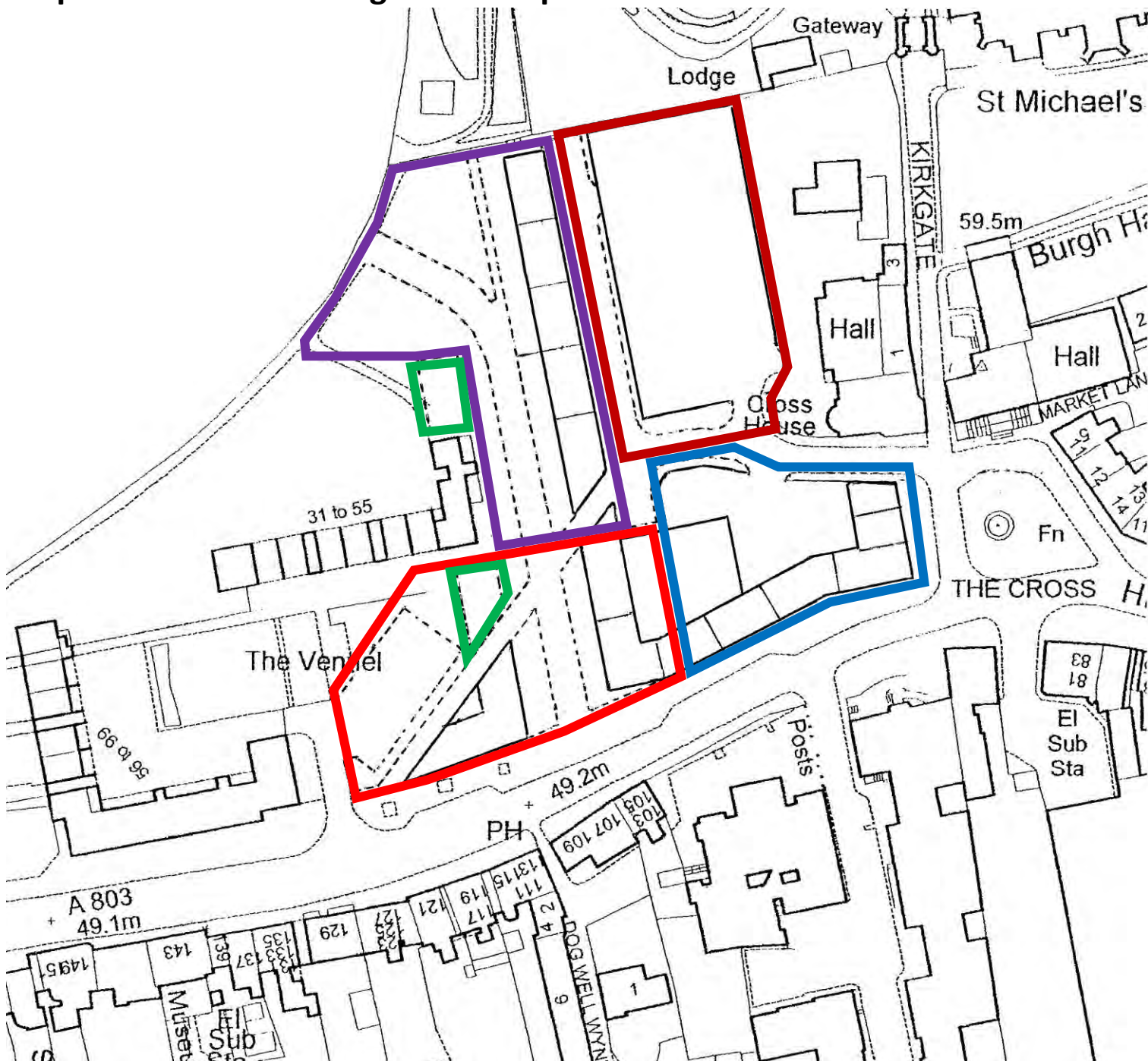
Map 4 – Possible Layout and Content of Development



LEGEND

- | | | | |
|--|--|---|--|
|  | Flats with retail/commercial below |  | Potential additional flats (16) |
|  | Retail extending behind flats above |  | Three-deck multi-storey car park, top level same as existing, potentially 280 spaces |
|  | Flats with specialised retail, workshops or youth facilities below |  | Ground-level car park |
|  | Flats (whole height of building) |  | Service area for shops etc. |
|  | Flats (16) or hotel (40 rooms?)
Total of above flats – potentially 84 | | |

Map 5 – Possible Phasing of Development



Scale: 1:1250 at A4

LEGEND

- Phase 1A – 9 flats/ground floor shop(s), landscape work and temporary car park at 'Guyancourt Vennel'
- Phase 1B – Multi-storey car park
- Phase 2 – Housing, possible hotel and public realm works west of multi-storey car park
- Phase 3 – Demolition and redevelopment of site west from The Cross
- Phase 4 – Possible additional flats next to remaining Vennel flats

Appendix 4

Further Comments From Linlithgow & Linlithgow Bridge Community Council

Thanks for the heads up regarding the PDSP meeting on Friday 4th September. Ron and I have looked again at the (Draft) Planning Guidance, on which our consultation and our subsequent comments were based, and the final Planning Guidance and the section of the Consultation Summary which considers our response. Our comments are as follows:

1. Despite the clear support demonstrated by the consultation process, we are unhappy that the option of extending the development area to include the flats facing The Cross has been rejected as 'inappropriate' without clear justification. This is particularly disappointing as eventual redevelopment of that block on its own would make it much more difficult to retain residents and businesses through the regeneration process and much more difficult to achieve high building quality without 'subsidy' from the rest of the site. We note that currently a significant proportion of the retail floorspace in the block is now vacant.
2. Similarly, we are disappointed that there is no explanation as to why the development area has been reduced from 1.10ha to 0.60ha, particularly as there is no indication or justification for this through the results of the consultation process.
3. Our meeting of 26 March 2019 was informed that " West Lothian Council have identified eight development parcels on the area of the Vennel which are essentially potential pieces of land that could be developed. What could be achieved is a programme that is based on any combination of these parcels. The complexity of the programme increases depending on how many parcels are included. WLC are going through process of costing out these options on an opportunity basis (not a financial basis) Finance are looking at the likely return on all of these options. Once all of these considerations have been made, a proposal will go to Council Executive, outlining the planning factors that need to be considered." It would be useful at the PDSP to know whether the eight parcels are constituents of the original 1.10ha and which parcels have been dropped and for what reason.
4. Errors should be corrected such as reference to views of the Palace from the High St of which there are none in the area of the Vennel. Only the spire of St Michaels church is visible from one point across the existing Vennel (see photo) and this could be preserved and enhanced through architectural solution. There is no reason to restrict the development height below that of the surrounding buildings.
5. It was confirmed and recorded at our meeting of 26th March 2019 that the Planning Guidance was an introduction to an opportunity and not a development brief. The Planning Guidance states that the redevelopment will be subject to the normal requirements of the statutory planning system but does not make reference to the Scottish public sector procurement process which we assume will be followed. We would expect to be involved as stakeholders in the subsequent development brief process.

Thanks again for the opportunity to comment.

Regards





Appendix 5

DATA LABEL: PUBLIC



SCREENING REPORT

PLANNING GUIDANCE

THE VENNEL, LINLITHGOW

Appendix 5

STEP 1 – DETAILS OF THE PLAN

Responsible Authority:

West Lothian Council.

Title of the plan:

Planning Guidance – The Vennel, Linlithgow.

What prompted the plan:

(e.g. a legislative, regulatory or administrative provision)

The West Lothian Local Development Plan gives an undertaking to produce guidance in relation to a variety of planning policy topics including the protection of the built and natural environment from inappropriate development.

The guidance sets out detailed criteria to assist the preparation and assessment of planning applications allied to the redevelopment of a prominent and sensitive site in the centre of Linlithgow and which is also located within the Linlithgow Palace and High Street Conservation Area.

Plan subject:

(e.g. transport)

Town and Country Planning

Screening is required by the Environmental Assessment (Scotland) Act 2005.

Based on Boxes 3 and 4, our view is that:

☐

An SEA is required, as the environmental effects are likely to be significant: Please indicate below what Section of the 2005 Act this plan falls within

☐

Section 5(3)

☐

Section 5(4)

☒

An SEA is NOT required, as the environmental effects are unlikely to be significant: Please indicate below what Section of the 2005 Act this plan falls within

☒

Section 5(3)

☐

Section 5(4)

Contact details:

Fiona McBrierty
Development Planning & Environment Manager,
West Lothian Council Civic Centre
Howden South Road,
Livingston, EH54 6FF.

01506 - 282418 / fiona.mcbrierty@westlothian.gov.uk

Date:

4 September 2020

Appendix 5

STEP 2 – CONTEXT AND DESCRIPTION OF THE PLAN

Context of the Plan:

The West Lothian Local Development Plan (LDP) was adopted on 4 September 2018.

A Strategic Environmental Assessment - Environmental Report was published in August 2014, which set out the likely significant environmental effects of implementing the strategy for the development contained within the LDP and is the primary means by which development sites are allocated. Each site allocated for development within the LDP has been subject to an individual site assessment.

The principal Report of Examination was issued on 11 December 2017 (augmented with an additional Report of Examination dealing with a single site issue issued on 8 January 2018).

The West Lothian Council Executive on 22 March 2018, resolved to accept all of the modifications recommended in the Report of Examination, and agreed to adopt the Local Development Plan (as modified). This was notified to Scottish Ministers on 5 April 2018. At the same time, the council made a determination under Section 8(1) of the Environmental Assessment (Scotland) Act 2005 that the modifications proposed by the DPEA to the West Lothian Local Development Plan were unlikely, overall, to have any major significant negative environmental effects and that a further SEA was not required.

This Planning Guidance – The Vennel, Linlithgow, identifies key design, environmental and infrastructural requirements allied to the redevelopment of a visually prominent and environmentally sensitive site in the centre of Linlithgow.

It provides location specific guidance and supports consistent interpretation and application of a number of planning policies related to an important built heritage area of Linlithgow through the development management process including DES 1 *Design Principles*, TCR 1 *Town Centres*, ENV 23 *Conservation Areas*, ENV 25 *Linlithgow Palace and Peel High Street Rigs*, ENV 28 *Listed Buildings*, ENV 33 *Scheduled Monuments* and HOU 3 *Infill/Windfall Housing Within Settlements*. The guidance is also intended to assist with future marketing of the site.

The guidance identifies good practice in-line with the policies and other similar guidance provided by other Scottish local planning authorities.

Appendix 5

<p>Description of the Plan:</p>	<p>The proposed Planning Guidance expands on the principles set out in the policies listed in the section above and provides additional detailed guidance to help achieve the outcomes expected from proposals to redevelop this particular site.</p> <p>The guidance is intended for use by:</p> <ul style="list-style-type: none"> • Applicants and their architects and agents working for their clients on re-development proposals; • Officers assessing planning proposals; • Elected Members representing constituents and making decisions on related planning applications; and • Community Councils and other civic organisations and members of the public with an interest in development proposals within their local community. <p>The guidance may be reviewed and revised over time in order to keep it relevant to changing circumstances.</p>
<p>What are the key components of the plan?</p>	<p>The Planning Guidance will support the application of the planning policies detailed in the section above, under 'Context'.</p> <p>This guidance is intended to inform the re-development of land/buildings which have been declared surplus to the council's requirements. Its purpose is to identify key design, environmental and infrastructural requirements. The council is committed to creating high quality environments by raising design standards across all forms of development and retaining/safeguarding any specific items of special merit.</p> <p>The guidance details potential uses for The Vennel site and sets out a number of matters which require to be addressed in any future redevelopment including direction on matters such as scale and massing of buildings on the site. Whilst the guidance allows for a range of potential uses and development options, the status of the site in the conservation area and its constrained nature create some design challenges but also some opportunities. For example, the guidance supports re-creating a frontage to the High Street. Potential uses include residential, retail and/or uses such as hotels and restaurants. An element of business uses, such as office space may also be acceptable as would other service uses including facilities for health care.</p>
<p>Have any of the components of the plan been considered in previous SEA work?</p>	<p>Yes. The document is produced to support a number of policies in the West Lothian Local Development Plan (LDP) which was adopted on 4 September 2018. An Environmental Assessment has previously been undertaken in respect of policies and proposed land allocations in the West Lothian LDP. The Environmental Assessment undertaken in respect of these policies concluded that they would have no significant environmental implications. Any impacts of the policies were considered to be largely positive.</p>

Appendix 5

In terms of your response to Boxes 7 and 8 above, set out those components of the plan that are likely to require screening:

The proposed Planning Guidance will expand on the principles set out in the aforementioned policies and provide detailed guidance to help achieve the outcomes expected from proposals for the re-development of The Vennel site.

The guidance will support consistent interpretation and application of planning policy through the development management process. The guidance will at the same time encourage good practice in-line with planning policies and other similar guidance in other Scottish local planning authorities. The potential environmental effects of any proposed development considered under the terms of these policies can however only be fully assessed at the planning application stage when the specific site and development details are known.

Appendix 5

Plan Components	Environmental Topic Areas										Explanation of Potential Environmental Effects	Explanation of Significance
	Biodiversity, flora and fauna	Population and human health	Soil	Water	Air	Climatic factors	Material assets	Cultural heritage	Landscape	Inter-relationship issues		
Planning Guidance – The Vennel, Linlithgow	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	<p>The PG brings together all of the elements that help contribute towards minimising environmental impact and achieving sustainable development.</p> <p>It provides a clear set of guidance and standards to explain what the council will expect from re-development proposals and identifies what information is required as part of a planning application for this sensitive site which is located within the Linlithgow Palace and High Street Conservation Area.</p> <p>It also provides contact details for various council officers and other organisations.</p>	<p>The SEA for the LDP considered any potential overall effects of all the planning policies contained within the LDP.</p> <p>The PG for The Vennel, Linlithgow is not considered to have any additional significant environmental effects.</p>

Appendix 5

											<p>The PG shares the strategic objectives of the LDP which include promoting development where its environmental impact can be ameliorated and having regard to climate change by minimising the carbon footprint of development and supporting mitigation and adaption measures in relation to materials.</p> <p>Any impact on the Environmental Topic Areas will be positive and beneficial.</p>	
--	--	--	--	--	--	--	--	--	--	--	--	--

STEP 4 – STATEMENT OF THE FINDINGS OF THE SCREENING REPORT**Summary of interactions with the environment and statement of the findings of the Screening:**

(Including an outline of the likely significance of any interactions, positive or negative, and explanation of conclusion of the screening exercise.)

West Lothian Council has prepared this Planning Guidance to proactively inform and encourage prospective developers to adopt a more considered approach when preparing proposals for the redevelopment of The Vennel, Linlithgow.

The guidance has been conceived to identify key design, environmental and infrastructural requirements, to raise the quality design standards and to mitigate any adverse effects on the conservation areas and the surrounding environment.

With careful thought and sensitive execution, particularly in terms of design and the use of materials, re-development proposals can be made to be in much better harmony with their neighbours and the wider built environment.

Appendix 5

In common with other guidance prepared by West Lothian Council, it has been subject to internal and external consultation, in this case with community councils, civic organisations, architects and planning consultants and regard has been had to the responses and feedback which has been received and presented to elected members to consider.

In conclusion, the Planning Guidance will result in no, or minimal, environmental effects and therefore it is concluded a SEA is **NOT** required.

The guidance sets out detailed criteria to assist progression and assessment of proposals re-developing The Vennel site in Linlithgow and supports a raft of LDP policies but principally DES 1 *Design Principles*, TCR 1 *Town Centres*, ENV 23 *Conservation Areas*, ENV 25 *Linlithgow Palace and Peel High Street Rigs*, ENV 28 *Listed Buildings*, ENV 33 *Scheduled Monuments* and HOU 3 *Infill/Windfall Housing Within Settlements*.

When completed send to: SEA.gateway@scot.gov or to the SEA Gateway, Scottish Government, Area 2H (South), Victoria Quay, Edinburgh, EH6 6QQ.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

SCOTTISH GOVERNMENT CONSULTATION: SCOTTISH PLANNING POLICY AND HOUSING

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise the Council Executive of a Scottish Government consultation on Scottish Planning Policy (SPP) and Housing and to seek approval of the council's response to the consultation.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. notes the terms of the consultation from the Scottish Government and the reasons for it;
2. approves the proposed response to the consultation as set out in Appendix Three to this report; and
3. agrees to submit the report and the Appendix Three to Scottish Government as the council's response to the consultation.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; and working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>Scottish Planning Policy (SPP) was published by Scottish Government in 2014. SPP sets out the Scottish Government's policy on how nationally important land use planning matters should be addressed and is used to inform preparation of the West Lothian development plan and Development Management decisions. The content of SPP is a material consideration in planning matters.</p> <p>As part of the Planning (Scotland) Act 2019 the Scottish Government is in the process of reviewing SPP which is to be incorporated into a new National Planning Framework for Scotland (NPF4). NPF4 is anticipated to be laid before the Scottish Parliament in autumn 2020.</p> <p>There are no equality, health or risk assessment issues, or SEA issues at this stage.</p>

III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	None.
VII	Consideration at PDSP	The proposed response to the consultation was considered by the D&T PDSP on 4 September 2020. The panel was supportive of the proposed response.
VIII	Other consultations	None.

D. TERMS OF REPORT

D1 Background

Scottish Planning Policy (SPP) is a Scottish Government policy statement on how nationally important land use planning matters should be addressed across the country. Development Plans are required to be consistent with the terms of SPP.

The development plan sets out the housing land requirement for the area and housing supply targets which the council is required to meet over the plan period 2019-2024. Where it is found that the housing supply target will not be met then SPP, as currently worded, provides for a presumption in favour of sustainable development and other sites not allocated for development in the development plan can come forward for development i.e. if a proposed development would help deliver a housing target that would otherwise not be met then it could be considered to be sustainable development and planning permission granted unless it could be demonstrated that the impacts would significantly and demonstrably outweigh the benefits of the development. The need for impacts to significantly and demonstrably outweigh the benefits has recently been interpreted by the Courts as a 'tilted balance' approach although that wording does not appear in any Scottish Government policy or guidance and the Scottish Ministers are of the view that the wording of SPP was never intended to be interpreted in that way.

D2 The Consultation

The Scottish Ministers are consulting on proposed interim changes to SPP in order to clarify specific parts of SPP which relate to planning for housing. In setting out the need for interim changes the Scottish Government advise that the context for planning for housing in Scotland has changed significantly in recent months with the coronavirus pandemic having an impact on the ability of planning authorities to maintain the review cycle of local development plans within the timeframes they intended, affecting LDP delivery programmes and the rate of housing completions.

In addition, the Scottish Government has informed its thinking following consideration of a recent decision by the Court of Session on appeal by Gladman Developments Ltd which raised a number of issues relating to the policy wording used in SPP and which Scottish Government believe to require clarification. In summary, the current situation has implications for the plan-led approach to development.

The Scottish Ministers set out that they want the planning system to support the delivery of good quality homes in the right locations. This is considered to be of even greater importance now, as it has become even clearer that the quality of homes can contribute significantly to health and wellbeing, and that housing delivery will play a key role in our future economic recovery.

- Supporting a plan-led approach to decision-making and maintaining the legal status of the development plan as a basis for decisions in all cases.
- Removing the presumption in favour of development that contributes to sustainable development from the SPP ('the presumption') given that it is considered to have potential for conflict with a plan-led approach and has given rise to significant number of issues it has generated for decision-makers in its application.
- Providing a clearer basis for decisions on applications for housing on sites that have not been allocated in the local development plan where there is a shortfall in the effective housing land supply.
- Clarifying what is meant by a 5-year effective housing land supply and in particular preventing sites that are capable of becoming effective being excluded solely on the basis of programming assumptions.

To address these matters the consultation sets out a series of questions on proposed changes to paragraphs 28, 29, 30, 32, 33, 123 and 125 and the Glossary of SPP. The proposed response to the consultation is set out in Appendix Three.

Key points to note in the proposed consultation response are as follows:

- a plan-led approach is welcomed and supported as is the flexibility to be introduced where development plans are more than 5 years old. The plan led system should allow all parties with an interest in land to have some certainty about future developments where they have engaged in the process. In the West Lothian Local Development Plan, communities and residents, together with those with an interest in developing the land, had the right to make their case through the call for sites, engagement on the proposed plan and by making representation to the examination of the plan by an independent reporter. Having engaged in that way there should be some certainty about what sites will be developed and which areas will be protecting over the next 10 years or so. However, unfortunately, this has proven not to be the case in a number of areas because of the lack of clarity on land supply issues from the Scottish Government which allowed reporters to set aside the terms of the development even although it has fairly recently adopted by the council and remains up to date.

- an agreed methodology for the calculating the 5-year effective land supply is to be welcomed in that it will provide clarity for all involved in the planning process when determining whether or not a 5-year land supply is being met and maintained. The lack of an agreed methodology to date has resulted in this matter being continually open to challenge and debate at planning appeals and hearing with the result that it is left to Reporters at Appeal to choose which methodology they favour from the options put before them. The proposed methodology set out in the consultation is broadly consistent with the council's methodology for calculating the land supply.
- the removal of the presumption in favour of sustainable development is to be welcomed and provides for a greater focus on the creation and delivery of quality places and the promotion and delivery of allocated development sites which in themselves will already have undergone scrutiny through the development plan Examination process. In effect, the primacy of the development plan is strengthened, consistent with the Scottish Government premise.

The consultation commenced in mid-July and ends on 9 October 2020. The changes to SPP, once finalised, are to be applied over the interim period ahead of the adoption of National Planning Framework 4 (NPF4). Publication of the draft NPF4 is expected in September 2021 and following consultation and consideration by the Scottish Parliament, SPP will be fully replaced when the final version of NPF4 is published in 2022. The consultation document can be viewed at <https://www.transformingplanning.scot/media/1296/national-planning-framework-4-housing-land-targets-technical-discussion-paper-2-march-2020.pdf> and is attached as Appendix One.

On 4 September 2020 the Scottish Government's Chief Planner issued a letter to clarify that no final decisions have been made on a change to existing policy and that any such change will be informed by the consultation. Until then the existing policy remains in place. The Scottish Government has also informed interested parties that none of the changes proposed in the consultation aim to undermine or contradict Ministers' stated commitments to delivering good quality development, including housing and renewable energy projects. A copy of the letter is attached as Appendix Two.

D3 The Council's Position

A report was presented to Development & Transport PDSP in February 2020 setting out details of the land supply position in West Lothian. In that report officers set out significant concerns about the operation of the housing parts of SPP and, in particular, detailed concerns about the lack of a definitive methodology for calculating the effective five-year land supply.

The report set out that officers had written in detail to the Chief Planner at the Scottish Government expressing a number of concerns, particularly that the lack of clarity was undermining the plan led system and leading to planning applications being approved on appeal. The correspondence also highlighted that it was, in the council's view, unacceptable not to have concluded an earlier proposal to introduce a methodology for calculating the effective 5 year land supply. The withdrawal of that earlier proposed advice, without any alternatives being put in place, had left it open to reporters to set aside the terms of the development plan if appellants challenged the land supply position. The report also set out that the approach was undermining the plan led system as communities could have no certainty about the planning status of development plan policies and land allocations.

PDSP agreed that the Executive Councillor should seek a meeting with the Minister to discuss these important issues. However, before that could be arranged COVID-19 restrictions were implemented so the request for a meeting was put on hold. However, it is heartening to see that the concerns that have been expressed by the council in relation to land supply issues, and the solutions to them, are addressed in the consultation and as such, the proposed changes should be welcomed.

E. CONCLUSION

The proposals set out in the consultation document are to be welcomed and will assist in establishing the primacy of the development plan. Further the proposals recognise that the economic climate has a significant bearing on the delivery of housing land and the allocation of more land does not in itself lead to the delivery of more housing.

F. BACKGROUND REFERENCES

Scottish Planning Policy 2014

Appendices/Attachments: two

Appendix 1: Scottish Planning Policy and Housing: Technical Consultation on Proposed Policy Amendments

Appendix 2: Letter from the Scottish Government's Chief Planner dated 4 September 2020

Appendix 3: Proposed Response to the Consultation

Contact Person: Fiona McBrierty, Development Planning and Environment Manager, 01506-282418.

Email: fiona.mcbrierty@westlothian.gov.uk

Craig McCorriston

Head of Planning, Economic Development & Regeneration

6 October 2020

The Scottish Planning Policy and Housing

Technical Consultation On Proposed Policy Amendments

Responding to this Consultation

We are inviting responses to this consultation by 23:59 on 9 October 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access the consultation online at <https://consult.gov.scot/planning-architecture/proposed-policy-amendments>. You can save and return to your responses while the consultation is still open. Please ensure that responses are submitted before the closing date of 9 October 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form and send it with your response by email to spphousingconsultation@gov.scot or by post to:

Planning and Architecture
Scottish Government
Area 2F South
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



Title: The Scottish Planning Policy and Housing - Technical Consultation On Proposed Policy Amendments

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- ☐ Individual
☐ Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☐ Publish response with name
- ☐ Publish response only (without name)
- ☐ Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- ☐ Yes
- ☐ No

The Scottish Planning Policy and Housing

Technical Consultation On Proposed Policy Amendments

Overview

1. The Scottish Ministers are consulting on proposed interim changes to the Scottish Planning Policy (SPP) (2014) to clarify specific parts of the Scottish Planning Policy that relate to planning for housing.
2. The changes, once finalised, will apply over the interim period ahead of the adoption of National Planning Framework 4 (NPF4). Publication of the draft NPF4 is expected in September 2021. Following consultation and consideration by the Scottish Parliament, SPP will be fully replaced when the final version of NPF4 is published in 2022.

Why We are Consulting

3. The Scottish Government is committed to a plan-led planning system. This was comprehensively supported by a wide range of stakeholders through the review of the planning system. Development plans form the basis of planning decision-making to enable the right developments in the right locations.
4. The context for planning for housing in Scotland has changed significantly in recent months. The pandemic is having an impact on the ability of planning authorities to maintain the review cycle of local development plans within the timeframes they intended. We expect that more development plans will extend beyond five years in the coming months and are keen to support authorities in adapting to the current circumstances. The pandemic is also affecting delivery programmes and the rate of housing completions. This, coupled with revised plan timescales, has implications for the plan-led approach to development.
5. Furthermore, a recent decision by the Court of Session on an appeal by Gladman Developments Ltd raises a number of issues about the current wording of the policy that we now believe require clarification.

Introduction

6. The Scottish Ministers want the planning system to support the delivery of good quality homes in the right locations. This is of even greater importance now, as it has become even clearer that the quality of our homes can contribute a great deal to our health and wellbeing, and that housing delivery will play a key role in our future economic recovery. However, to achieve housing development in a sustainable way that works with, rather than against, the needs of communities, we need to overcome current conflict in the system, and actively address the lengthy technical debates we are seeing about the numbers of homes that we will need in

the future. This will allow us to focus more on how we can strengthen delivery and enable good quality development on the ground.

7. Taking this into account, and to ensure that our policy is clear and can be more easily and consistently applied in practice, the Scottish Ministers wish to update and clarify specific parts of the SPP to achieve the following policy objectives:

- Supporting a plan-led approach to decision-making and maintaining the legal status of the development plan as a basis for decisions in all cases.
- Removing the presumption in favour of development that contributes to sustainable development from the SPP ('the presumption') given that it is considered to have potential for conflict with a plan-led approach and has given rise to significant number of issues it has generated for decision-makers in its application.
- Providing a clearer basis for decisions on applications for housing on sites that have not been allocated in the local development plan where there is a shortfall in the effective housing land supply.
- Clarifying what is meant by a 5 year effective housing land supply and in particular preventing sites that are capable of becoming effective being excluded solely on the basis of programming assumptions.

8. This consultation paper sets out proposed policy amendments to achieve these objectives and invites views on them. The relevant policies are set out in paragraphs 28, 29, 30, 32, 33 and 123-125 of the Scottish Planning Policy.

Proposed changes

Paragraphs 28, 29, 30, 32, 33

9. The Scottish Ministers propose to remove the sentence on page 9 of the SPP that introduces the presumption.

10. The policy principles in paragraphs 28 and 29 will be maintained as they have an important role to play in ensuring the planning system enables the right development in the right place, rather than allowing development at any cost. They provide a range of factors that decision-makers should take into account as material considerations that are part of a balanced planning judgement.

11. The Scottish Ministers are minded to remove the reference to the presumption in paragraph 30, as well as paragraphs 32 and 33 in their entirety. Paragraph 30 of the SPP sets out that development plans should be consistent with the SPP policies – this part of the sentence will be maintained but the remainder of the first bullet will be removed. Paragraph 32 sets out that the presumption will be a material consideration for proposals that do not accord with up-to-date development plans. Paragraph 33 of the SPP sets out that where relevant policies in a development plan are out-of-date, the presumption will be a significant material consideration.

Current text:

Policy Principles

This SPP introduces a presumption in favour of development that contributes to sustainable development.

28. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

29. This means that policies and decisions should be guided by the following principles:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;
- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery; and
- avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

Delivery

Development Planning

30. Development plans should:

- be consistent with the policies set out in this SPP, including the presumption in favour of development that contributes to sustainable development;

- positively seek opportunities to meet the development needs of the plan area in a way which is flexible enough to adapt to changing circumstances over time;
- support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area;
- be up-to-date, place-based and enabling with a spatial strategy that is implemented through policies and proposals; and
- set out a spatial strategy which is both sustainable and deliverable, providing confidence to stakeholders that the outcomes can be achieved.

Development Management

32. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising. For proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and this SPP and the presumption in favour of development that contributes to sustainable development will be material considerations.

33. Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a development plan is more than five years old.

Proposed text

Policy Principles

28. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

29. This means that policies and decisions should be guided by the following principles:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;

- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery; and
- avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

Delivery

Development Planning

30. Development plans should:

- be consistent with the policies set out in this SPP;
- positively seek opportunities to meet the development needs of the plan area in a way which is flexible enough to adapt to changing circumstances over time;
- support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area;
- be up-to-date, place-based and enabling with a spatial strategy that is implemented through policies and proposals; and
- set out a spatial strategy which is both sustainable and deliverable, providing confidence to stakeholders that the outcomes can be achieved.

Reasons for the proposed change:

- This aspect of the SPP has caused considerable confusion and undermines the transparency of the system.
- We do not consider the Court's interpretation of the current wording of the presumption to be consistent with our policy intention.
- We do not wish to undermine the primacy of the statutory development plan in decision-making.

- The ‘tilted balance’ is not intended to be a feature of the Scottish planning system that overrides normal planning judgement based on the development plan and other material considerations.
- The reference to relevant policies of plans being ‘out-of-date’ has a range of interpretations, with decision-makers and applicants taking a range of positions on this.
- As a result of current restrictions and to ensure consultation can be properly undertaken, more development plans are likely to exceed five years in age in the coming months. We do not wish this to undermine a plan-led system.

Question 1: What is your view on our proposal to remove ‘the presumption’ from the SPP, through the changes set out?

Paragraph 123 and the Glossary

12. Paragraph 123 of the SPP refers to the 5 year effective housing land supply and broadly describes the type of sites that could form part of it. The Scottish Ministers are minded to amend paragraph 123 and the glossary to provide more flexibility within the description of the effective land supply at this time.

Current text:

Maintaining a 5 year effective housing land supply

123. Planning authorities should actively manage the housing land supply. They should work with housing and infrastructure providers to prepare an annual housing land audit as a tool to critically review and monitor the availability of effective housing land, the progress of sites through the planning process, and housing completions, to ensure a generous supply of land for house building is maintained and there is always enough effective land for at least five years. A site is only considered effective where it can be demonstrated that within five years it will be free of constraints and can be developed for housing. In remoter rural areas and island communities, where the housing land requirement and market activity are of a more limited scale, the housing land audit process may be adapted to suit local circumstances.

Glossary: *Effective housing land supply*: The part of the established housing land supply which is free or expected to be free of development constraints in the period under consideration and will therefore be available for the construction of housing.

Proposed text:

Maintaining a 5 year effective housing land supply

123. Planning authorities should actively manage the housing land supply. They should work with housing and infrastructure providers to prepare an annual housing land audit as a tool to critically review and monitor the availability of effective housing land, the progress of sites through the planning process, and housing completions to ensure a generous supply of land for house building is maintained and there is always enough effective land for at least 5 years. The definition of the effective housing land supply is set out in the glossary to this SPP (as amended). **Housing sites should not be excluded from the effective housing land supply solely due to programming assumptions included in the Housing Land Audit.** In remoter rural areas and island communities, where the housing land requirement and market activity are of a more limited scale, the housing land audit process may be adapted to suit local circumstances.

Glossary: Effective housing land supply: The part of the established housing land supply **comprising sites that are, or it can be demonstrated that they are capable of being, free of technical constraints including: ownership (i.e. a willing seller), physical constraints, contamination, deficit funding, infrastructure or land use within the period under consideration in normal economic circumstances.**

***Established housing land supply:* The total housing land supply, consisting of sites in the adopted development plan, sites with planning permission for housing development and other sites with potential for housing development.**

Reasons for the proposed change:

- A clear definition of the effective housing land supply is required that takes into account current circumstances.
- In practice the inclusion or exclusion of sites in the effective land supply is a matter of contention.
- Programming reported in Housing Land Audits can vary for a wide range of reasons beyond site availability. Programming assumptions (i.e. the number of units intended to be built-out on a site each year) are frequently subject to change.
- It is currently argued by some that sites that are technically capable of development should not be included in the effective land supply as a result of programming decisions unrelated to the planning status of a site.
- We are currently experiencing exceptional market circumstances and expect this to continue for some time. As a result, we do not wish to see the

availability of land conflated with the relevant, but separate, matter of site programming and build-out rates. The latter is based on business decisions related to changes in the market and wider economic circumstances.

- This approach would be broadly consistent with changes we proposed within the draft Housing Delivery Advice that was previously published and widely debated and consulted on but subsequently withdrawn as a result of continuing disagreement between stakeholders.

Question 2: What is your view on the proposed changes set out and our aim of clarifying the definition of the 5 year effective housing land supply to reflect the currently exceptional market circumstances?

Paragraph 125

13. Paragraph 125 of the SPP states that where a shortfall in the 5 year effective housing land supply emerges, development plan policies for the supply of housing land will not be considered up-to-date and paragraphs 32-35 will be relevant.

14. The Scottish Ministers propose to revise paragraph 125 to provide a clearer approach for decision-makers in establishing the extent of the 5 year effective housing land supply and taking this into account in decision making.

Current text:

125. Planning authorities, developers, service providers and other partners in housing provision should work together to ensure a continuing supply of effective land and to deliver housing, taking a flexible and realistic approach. Where a shortfall in the 5-year effective housing land supply emerges, development plan policies for the supply of housing land will not be considered up-to-date, and paragraphs 32-35 will be relevant.

Proposed text:

125. Planning authorities, developers, service providers and other partners in housing provision should work together to ensure a continuing supply of effective land and to deliver housing, taking a flexible and realistic approach.

The extent of the forward 5 year effective land supply should be calculated by dividing the housing supply target set out in the adopted local development plan by the plan period (to identify an annual figure) and multiplying that figure by 5. That should be compared to the 5 year effective land supply, based on information collected as part of the housing land audit process.

Where a shortfall in the forward 5 year effective housing land supply has been identified, this will be a relevant material consideration to be taken into account alongside other considerations as part of a balanced planning judgement. Whilst the weight to be afforded to it is a matter for decision-makers to determine, recognising the facts and circumstances of each case, the contribution of the proposal to addressing the shortfall (in both scale and kind) should be taken into account to inform this judgement.

Reasons for the proposed change:

- There are widely varying interpretations of this paragraph and its application in practice, generating confusion and undermining the transparency and operation of the system.
- Ministers are of the view that there is now a need to set out a standard calculation to determine the extent of the 5 year effective land supply.
- Based on previous consultation, we are aware that views on methodologies for calculating the 5 year effective housing land supply vary, and that the two main alternatives include an approach that accounts for previous completions (the residual or compound method), or a calculation based on an averaged rate of delivery over the life of the plan.
- Ministers are of the view that, despite current unprecedented circumstances, authorities should still be implementing the provisions of the development plan for new housing and working with stakeholders to make sure there is an adequate forward supply of effective land to help deliver new housing.
- Taking into account current circumstances and the impact of Covid-19, Ministers are not convinced that the residual approach will produce accurate outputs, particularly at this time where delivery rates are affected by the current pandemic. A calculation based on a more steady, average rate of build-out of the land contained within the development plan is considered more appropriate at this time.
- Ministers consider that the housing supply target (the total number of homes that will be delivered) is the appropriate basis for establishing the scale of the forward 5 year effective housing supply.
- The housing land requirement is a tool that is applied at the development planning stage. Its purpose is to help ensure that the housing supply target is achieved by including in the plan an additional allowance for generosity. It is essentially the Housing Supply Target with the addition of an agreed percentage added. The housing land requirement can be met from a range of sources, including the established land supply, sites which are already allocated, sites with planning permission and windfall sites (subject to evidence). The effective land supply is a subset of this wider land requirement. In many cases the housing land requirement relates to a different period – it may look ahead to the longer term or extend from plan base date, rather than adoption date. As a result, the housing land requirement is not directly applicable when assessing the 5 year effective housing land supply.

- The disputed matter of plans becoming 'out-of-date' should be removed for the reasons related to changes in plan timescales, as stated above.
- A shortfall in the housing land supply is relevant, but is not determinative, as part of a wider planning judgement, and Ministers believe this should be expressed more clearly in revised text.
- A shortfall in the supply of effective housing land may be addressed by exceptional releases of unallocated land but only if such proposals are appropriate and will meaningfully address any identified shortfall. The proposed text makes it clear that a shortfall will be a relevant material consideration. Scottish Ministers are of the view that this should now be explicitly referenced in relevant decisions.
- This provides a clearer policy to address cases where there is a shortfall in the land supply.
- Aspects of the existing guidance on this as set out in Planning Advice Note 2/2010 are out-of-date. We therefore propose that Section 2 – Housing Land Audits should be withdrawn.

Question 3: What is your view on the proposed changes to paragraph 125, including (a) the proposed calculation to establish the scale of the 5 year effective land supply in relation to alternatives and (b) the proposed approach to assessing proposals where a shortfall emerges?

Impacts of the proposed amendments

15. These proposals have been designed to address issues associated with planning for housing. We recognise that paragraphs 28, 29, 30, 32 and 33 have wider application but we do not expect that the proposed amendments will directly affect decisions relating to other types of development to the same extent as housing proposals.

Question 4: Do you agree that the proposed amendments will not directly impact on other (non-housing) types of development? If not, please provide evidence to support your view.

16. We have considered the requirements for statutory impact assessments, including by screening the proposals in relation to the criteria for Strategic Environmental Assessment, Equalities Impact Assessment, and Children's Rights and Wellbeing Impact Assessment. Our view at this stage is that a fuller assessment is not required, given the procedural and technical nature of the proposals.

Question 5: Do you agree that fuller impact assessments are not required? If not, please provide evidence to support your view.

What happens next

17. Respondents are asked to state their view on the proposed policy revisions by answering the questions set out in this paper, and to provide reasons for their view, supported by evidence where possible. Following the consultation, we will take all responses into account, finalise the policy, and adopt and publish it as an updated version of the Scottish Planning Policy.

18. When the policy is finalised, it is proposed that Section 2, Housing Land Audits, in PAN 2/2010 will be withdrawn. This advice was prepared before SPP (2014) and certain terms have changed in meaning as practice has continued to evolve.



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2020



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83960-911-4 (web only)

Published by The Scottish Government, July 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS749126 (07/20)

Local Government and Communities Directorate
Planning and Architecture Division



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0131-244-0237
E: chief.planner@gov.scot

To Heads of Scottish Planning
Authorities

4 September 2020

Dear Colleagues,

Current Consultation on Housing and the Scottish Planning Policy

It has been drawn to my attention that some authorities may be viewing the current consultation on proposed changes to the Scottish Planning Policy as a direction from Ministers which may be given significant weight in current planning decisions.

Based on this feedback, I feel that it is important to clarify that no final decisions have been made on a change to existing policy. Any such change will be informed by the consultation and we encourage all stakeholders to respond. Until then the existing policy remains in place.

I would also like to make it clear to all authorities that none of the changes proposed in the consultation aim to undermine or contradict Ministers' stated commitments to delivering good quality development, including housing and renewable energy projects.

We have now adjusted the introductory wording introducing the consultation paper online to bring clarity to this position. The consultation closes on 9 October and we expect to reach a final policy position as soon as practicable thereafter.

I trust this clarifies our position in the meantime.

Yours faithfully

John McNairney
Chief Planner

Victoria Quay, Edinburgh EH6 6QQ
www.gov.scot



DATA LABEL: PUBLIC

APPENDIX 3: The Scottish Planning Policy and Housing: Technical Consultation on Proposed Policy Amendments – Proposed Response

SPP Paragraphs 28, 29, 30, 32, 33

Question 1: What is your view on our proposal to remove ‘the presumption’ from the SPP, through the changes set out?

Proposed Response:

The council fully supports the proposed changes detailed in Q1.

The issue of sustainability assumed much significance on account of the Court’s determination that *a housing development* in a location with a recognised housing shortfall *which will remedy, to some extent, the housing shortage, is something which will almost inevitably* contribute to sustainable development.

This judgement addressed a long-running debate over exactly if, how and when the concept of ‘tilted balance’ is applied in the context of the SPP’s presumption in favour of development that contributes to sustainable development, but unfortunately in a way more favourable to parties promoting poorly justified housing development.

The ‘tilted balance’ is not and should not be a feature of the Scottish planning system which could be used to override normal planning judgement based on the primacy of the development plan and other material considerations.

The statement on presumption in favour of development that contributes to sustainable development should be removed. There should be a plan-led approach to decision making as proposed. The development plan should take precedence to ensure that communities and infrastructure providers are provided with the certainty they are entitled to expect from the planning system.

It is important that the policy principles are retained as they set the framework for high quality and sustainable housing development.

SPP Paragraph 123 and the Glossary

Question 2: What is your view on the proposed changes set out and our aim of clarifying the definition of the 5-year effective housing land supply to reflect the currently exceptional market circumstances?

Proposed Response:

The council fully supports the proposed changes detailed in Q2 but suggests a change in relation to some of the terminology.

The allocation of further land for housing development and approved contrary to the development plan does little to support a plan-led system and indeed undermines the process. The allocation of more land does little to boost completion figures. Significant housing land allocations exist across the West Lothian Council area, these sites having undergone scrutiny through the LDP examination process. By including such sites in the LDP, there is an expectation that these will come forward over the development plan period.

Progress on site delivery is monitored on an annual basis through the Housing Land Audit process, the 2018 and 2019 Audits for West Lothian having been agreed with Homes for Scotland and demonstrate that a five-year effective supply exists. It is encouraging to note the proposed inclusion of text in paragraph 123 of SPP to confirm the link between the development plan and housing land audits.

A feature of some of the alternative methodologies for the calculation of the five-year land supply preferred by developers is the addition of 'accumulated shortfalls' onto the five-year effective housing supply calculation (sometimes referred to as the residual or compound method) and essentially a mechanism that accounts for previous completions. In reality these shortfalls are for the most part due to the house building industry having been unable to deliver previously allocated market housing sites for economic reasons rather than a lack of unconstrained land and it is therefore not considered an appropriate mechanism. Approving development on unallocated sites to make-up any perceived shortfall is misguided and detrimental to a sustainable spatial strategy. It also denies communities and infrastructure providers the certainty they are entitled to expect from the planning system.

From the council's perspective, the proposed methodology is to be welcomed and represents a significant step forward in bringing clarity to the matter and establishing a definitive position which will avoid differing approaches being taken by reporters when consider appeals.

The definitive approach to effective housing land supply and established housing land supply are helpful in providing clarity. However, the term "normal economic circumstances" should be removed. The housing market is cyclical in nature and is characterised by periods of growth in output and periods of decline and the principles proposed in the changes set out in Question 2 should apply at all times.

Programming is a significant consideration. The aim should be to ensure sites that are included in the HLA and designated as effective can be developed and the assessment of their contribution to the effective land supply should be based on the capability of the site being developed and not just the assessment of developers about how many houses will be developed over the period in question. The council has long argued that if the site is capable of being developed and there is market demand for housing then the output from individual sites will be increased.

Actions to overcome constraints should be identified and resources allocated. This would help to ensure that sites have a realistic prospect of development with timescales and resources defined. This would require additional resources from Scottish Government to local authorities to assist in overcoming constraints including infrastructure.

SPP Paragraph 125

Question 3: What is your view on the proposed changes to paragraph 125, including (a) the proposed calculation to establish the scale of the 5-year effective land supply in relation to alternatives and (b) the proposed approach to assessing proposals where a shortfall emerges?

Proposed Response:

The council fully supports the proposed changes detailed in Q3 but considers in addition that the requirements for the five-year land requirement should be broken down by tenure.

The lack of a recognised or definitive methodology for calculating the five-year effective housing land supply has given rise to repetitive disputes between opposing parties in the housing and planning sectors. The council is therefore keen that the issue of methodology is settled once and for all as will remove a major contention and allow for resources to be deployed more constructively.

The methodology adopted by the council to date (based on an average rate of delivery over the life of the plan) has been frequently challenged by developers seeking to develop land not allocated in the development plan for housing, and when successful opens the way for LDP housing policy to be set aside, undermining the primacy of the development plan and the development plan process.

An agreed defined methodology will remove inconsistency in the way in which all parties calculate the housing land supply and has the potential to avoid defend decisions at Appeal and allowing for planning decisions to remain with the local authority rather than by the DPEA.

A feature of some of the alternative methodologies preferred by developers is the addition of 'accumulated shortfalls' onto the five-year effective housing supply calculation (sometimes referred to as the residual or compound method) and essentially a mechanism that accounts for previous completions. In reality these shortfalls are for the most part due to the house building industry having been unable to deliver previously allocated market housing sites for economic reasons rather than a lack of un-constrained land and it is therefore not considered an appropriate mechanism. Approving development on unallocated sites to make-up any perceived shortfall is misguided and detrimental to a sustainable spatial strategy. It also denies communities and infrastructure providers the certainty they are entitled to expect from the planning system.

The proposed methodology addresses these issues, is similar to that promoted by the council in previous correspondence with the Scottish Government and set out in appeal statements. However, in addition the council has promoted that the tenure split deriving from the most up to date assessment of housing need should be reflected in the 5-year land requirement i.e. the requirement should be sub divided by tenure.

Question 4: Do you agree that the proposed amendments will not directly impact on other (non-housing) types of development? If not, please provide evidence to support your view.

Proposed Response:

The council agrees that the proposed amendments re-affirm the plan-led system.

Question 5: Do you agree that fuller impact assessments are not required? If not, please provide evidence to support your view.

Proposed Response:

The council agrees that fuller impact assessments are not required.

Development plans, their associated Action Programmes and the annual Housing Land Audits are already the subject of intense scrutiny. Further scrutiny would only lead to delays in the plan preparation process and in development management decision-making on planning applications.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

SUPPLEMENTARY GUIDANCE: DEVELOPER OBLIGATIONS FOR GENERAL INFRASTRUCTURE FOR SITE DELIVERY (EXCLUDING TRANSPORT AND EDUCATION INFRASTRUCTURE, CEMETERY AND PUBLIC ART PROVISION)

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise Council Executive of the outcome of the SEA screening determination process relative to Supplementary Guidance (SG) on Developer Obligations for General Infrastructure for Site Delivery and subsequent adoption of the guidance.

B. RECOMMENDATION

It is recommended that Council Executive:

1. notes the comments received from the Strategic Environmental Assessment (SEA) Consultation Authorities on the Supplementary Guidance on Developer Obligations for General Infrastructure for Site Delivery and the overall view that the guidance would have no significant environmental effects (see Appendix 3);
2. notes that the Head of Planning, Economic Development and Regeneration has subsequently issued a "Screening Determination" which concluded that a separate SEA was not required and which confirmed that no separate SEA would be prepared to accompany the Supplementary Guidance (also Appendix 3);
3. notes that the Supplementary Guidance was submitted to the Scottish Ministers for consideration and was 'cleared' to be adopted as statutory Supplementary Guidance in support of the West Lothian Local Development Plan; and
4. notes the guidance was formally adopted on 21 September 2020 (see Appendix 1).

C. SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.

DATA LABEL: PUBLIC

- | | |
|--|--|
| <p>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</p> | <p>New statutory Supplementary Guidance and non-statutory Planning Guidance will replace Supplementary Planning Guidance (SPG) which had previously supported the superseded West Lothian Local Plan. Going forward, new guidance will support the Local Development Plan and the development management process.</p> <p>This guidance accords with Policy INF 1 (Infrastructure Provision and Developer Obligations) of the adopted LDP.</p> <p>It has previously been determined that this new guidance is in itself unlikely to have significant environmental effects and it was not anticipated that there would be a requirement to make it the subject of separate Strategic Environmental Assessment (SEA). The required 'screening' procedures have however been satisfactorily concluded.</p> <p>There are no equality, health or risk assessment issues associated with the guidance and there are no risk assessment issues.</p> |
| <p>III Implications for scheme of delegation</p> | <p>None.</p> |
| <p>IV Impact on performance and performance indicators</p> | <p>None.</p> |
| <p>V Relevance to Single Outcome Agreement</p> | <p>Outcome 3 - Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.</p> <p>Outcome 4 - We live in resilient, cohesive and safe communities.</p> <p>Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p> |
| <p>VI Resources - (Financial, Staffing and Property)</p> | <p>None.</p> |
| <p>VII Consultations at PDSP & Council Executive</p> | <p>The guidance was reported to the Development and Transport PDSP on 3 September 2019 and to Council Executive on 23 June 2020.</p> |
| <p>VIII Other consultations</p> | <p>None.</p> |

DATA LABEL: PUBLIC

D. TERMS OF REPORT

D1 Background

A report was made to a meeting of Council Executive on 23 June 2020 relative to the preparation of new Supplementary Guidance on Developer Obligations for General Infrastructure for Site Delivery.

The guidance identifies a range of developer contributions required to assist in the delivery of the development strategy set out in the adopted West Lothian LDP (and the process and mechanics of achieving this). The adopted guidance is attached as Appendix 1.

While Council Executive approved the guidance for adoption it also required the Head of Service to report the outcome of the subsequent SEA screening determination process to a future meeting of the Council Executive for information. This report fulfils that requirement.

D2 Screening Process

Local authorities have been undertaking SEA since July 2004. The process is regulated by the EU Directive 2001/42/EC, the Environmental Assessment of Plans and Programmes (Scotland) Regulation 2004 and the Environmental Assessment (Scotland) Act 2005.

Screening is the means to judge the likely impact on the environment of a public plan (in this case supplementary and planning guidance) and prior to being adopted, new guidance requires to be subjected to a screening process in order to determine whether there is a likelihood of it having any significant environmental effects.

Scottish Government has prescribed the process to be followed and it has oversight of this through the SEA Gateway, an agency responsible for coordinating the formal correspondence between the council and the three 'Consultation Authorities' i.e. SEPA, NatureScot (previously SNH) and Historic Environment Scotland (HES).

The council prepared a 'Screening Report', Appendix 2, which explains the purpose, scope and effect of the guidance and which concluded that no formal strategic environmental assessment was required to be prepared in this particular instance.

The council has consistently expressed the view that supplementary and planning guidance is simply to help interpret and provide further detail in respect of policies that are already set out in the adopted West Lothian Local Development Plan and which was itself the subject of a full Strategic Environmental Assessment. As a consequence, additional strategic environmental assessment is neither required nor justified.

The guidance and this Screening Report were submitted to the 'Consultation Authorities' for independent scrutiny and to allow them to bring their individual environmental expertise to the assessment process. In the event they concurred with the council's view that a SEA was not required.

DATA LABEL: PUBLIC

Subsequently, the council formalised and published its decision that the guidance should be exempted from a separate strategic environmental assessment and issued a 'Screening Determination' to this effect on 21 August. This incorporates the responses of the Consultation Authorities and is attached as Appendix 3.

E. CONCLUSION

The guidance has been produced with the intent of being adopted as statutory Supplementary Guidance in support of the West Lothian Local Development Plan.

Having confirmed that it did not require to be accompanied by a Strategic Environmental Assessment it was submitted to Scottish Ministers for scrutiny on 21 August 2020 and clearance was received on 11 September 2020, paving the way for the guidance to be adopted on 21 September 2020.

F. BACKGROUND REFERENCES

- Adopted West Lothian Local Development Plan (2018)
- [Report to Council Executive of 23 June, 2020](#)

Appendices/Attachments: Three

Appendix 1: Supplementary Guidance - Developer Obligations for General Infrastructure
for Site Delivery (Adopted version)

Appendix 2: Screening Report

Appendix 3: Screening Determination

Contact Person: Steve Lovell, Principal Planning Officer, Development Planning, 01506 282430

Email: steve.lovell@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development & Regeneration

6 October 2020

DATA LABEL: PUBLIC



Planning Services
Development Planning & Environment



SUPPLEMENTARY GUIDANCE (SG)
**Developer Obligations for General Infrastructure
for Site Delivery**

Approved by Council Executive 23 June 2020

DATA LABEL: PUBLIC

Contents

	<u>Page</u>
<u>one</u> <u>Introduction</u>	3
<u>two</u> <u>Justification</u>	4
<u>three</u> <u>Purpose and scope of the guidance</u>	5
<u>four</u> <u>Policy context and legal basis</u>	7
<u>five</u> <u>Implementation</u>	12
<u>six</u> <u>Securing the developer contributions</u>	17
<u>Annex A</u> <u>General infrastructure requirements</u>	20
<u>Annex B</u> <u>Specific infrastructure requirements</u>	26

DATA LABEL: PUBLIC

one

Introduction

- 1.1 This Supplementary Guidance is one of a series supporting policies in the West Lothian Local Development Plan 2018 (LDP). The LDP was adopted by the council on 4 September 2018 and is framed within the context of Scottish Planning Policy (2014); Circular 3/2012: Planning Obligations and Good Neighbour Agreements; and Circular 4/1998: The Use of Planning Conditions in Planning Permissions.
- 1.2 Supplementary Guidance forms part of the LDP and as such is a statutory document in the determination of planning applications. It elaborates on key policies contained in the adopted LDP and provides advice to developers and others on the issues to be taken into account when submitting proposals for planning permission. Supplementary Guidance is a material consideration in the determination of planning applications. It is particularly important in considering and helping to ensure the delivery of the Core Development Areas (CDA) across West Lothian and the strategic allocations of Heartlands, Whitburn and Bangour to create sustainable and well designed and integrated places for new residents and the existing community. This Supplementary Guidance is also relevant for all other development sites identified in the LDP (particularly housing) and is intended to be read alongside the relevant policies of the LDP together with other related and pertinent guidance.
- 1.3 For the avoidance of doubt, all previous Supplementary Planning Guidance (SPG's) with regards to general infrastructure provision contributions are superseded by this guidance from the date it is approved by the council and other Supplementary Guidance prepared in support of the LDP.

DATA LABEL: PUBLIC

two

Justification

- 2.1 The West Lothian Local Development Plan (LDP) outlines a development strategy that supports sustainable planned growth across West Lothian up to 2024 and beyond. In particular, it continues to support the previously established Core Development Area (CDA) allocations at three strategic locations: Armadale, East Broxburn/Winchburgh and Livingston and the Almond Valley (i.e. Calderwood, East Calder and Gavieside, West Livingston) together with the strategic development allocation at Heartlands, Whitburn and Bangour.
- 2.2 Although the development strategy will have many positive effects by providing new homes, jobs and economic development, it is recognised that new development also creates a requirement for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on existing communities, local amenity and the quality of the environment.
- 2.3 In order to deliver the planned growth set out in the LDP, improvements to infrastructure must be delivered alongside development. The planning system allows, and indeed expects developers to mitigate the impact of their development and to pay for, or contribute towards, improvements to infrastructure that arises as a direct consequence of the development, or from the cumulative impact of the development and which would not otherwise be needed.
- 2.4 This Supplementary Guidance has been prepared to explain how the council, through relevant policies of the LDP and with regard to the LDP Action Programme, will secure such improvements. Development will therefore only be supported if:
- (a) funding (including any contributions from developer obligations) for necessary infrastructure is fully committed and that infrastructure is capable of being delivered;
 - (b) phasing to manage demand on infrastructure has been agreed; or
 - (c) in advance of all necessary infrastructure requirements being fully addressed, sufficient infrastructure is available in the interim to accommodate the development.
- 2.5 Development proposals will be assessed with regard to their impact on the capacity of infrastructure, (either on an individual or cumulative basis) and such provision will ordinarily be secured through planning conditions or planning obligations / legal agreements.

three

Purpose and scope of the guidance

- 3.1 It is important to be aware that this Supplementary Guidance does not make, replace or amend existing Local Development Plan policy but is intended to provide further guidance to developers, their agents and communities on the application and interpretation of planning policy generally and policies **CDA 1** (*Development in the Previously Identified Core Development Areas*) and **INF 1** (*Infrastructure Provision and Developer Obligations*) of the LDP in particular.
- 3.2 In many instances development will have commenced, and in some, be at an advanced stage. In these situations it is very probable that developer contributions will have already been agreed through the related planning consent/legal agreement and these arrangements will therefore prevail. The provisions and requirements of this Supplementary Guidance will consequently only be pertinent to the development of sites where there is no approved planning consent in place on the date this guidance is approved by the council.
- 3.3 This Supplementary Guidance is an important material consideration in the determination of planning applications and will form the basis for discussions on individual planning applications and the drafting of planning conditions and / or planning obligations.
- 3.4 The main objectives of this Supplementary Guidance are:
 - to set out the council's policies and procedures in respect of the use of planning conditions and planning obligations;
 - to explain the circumstances under which the council will collect financial contributions to mitigate the impacts of a development;
 - to provide clear guidance on the council's approach so that it is applied in a fair, consistent and transparent manner; and
 - to provide certainty for developers and to help ensure the timely provision of environmentally sustainable forms of infrastructure to support growth.
- 3.5 This Supplementary Guidance outlines the national and local legislative and policy framework for planning obligations and provides additional detail on topic areas for which West Lothian Council will ordinarily seek planning obligations, these include community facilities required in support of the CDAs and open space provision.
- 3.6 For an appreciation of developer obligations in the wider context it is recommended that this Supplementary Guidance should be read in conjunction with separate guidance relating to Affordable Housing, Education infrastructure, Transport infrastructure, Developer contributions towards Cemetery Provision and Public Art and, in due course the Green Network. The full programme of proposed supplementary and planning guidance is set out in Appendix 4 of the LDP. All Supplementary Guidance which has been prepared to date can be viewed on the council's [website](#). Other Planning Guidance (PG) may also be prepared in support of the LDP where need arises.

DATA LABEL: PUBLIC

- 3.7 A key aim of this Supplementary Guidance is to provide a clear framework for developers to identify if a planning obligation is required as part of a planning application. It is important that the process of securing appropriate developer contributions does not result in undue delays in the determination of planning applications and the council is therefore keen to assist those considering the development of land to understand, at an early stage in the planning application process, the likely scope and scale of any developer contributions which the council will require.
- 3.8 Developers and landowners seeking to submit planning applications for residential development are encouraged to make use of the council's pre-application enquiry service in order that any site specific requirements are identified and discussed at an early stage. Details of this service can be accessed on the *council's website*. *Please note that this is a chargeable service.*

four

Policy context and legal basis

- 4.1 Section 75 of The Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 allows planning authorities to secure developer contributions, through the use of planning obligations, to overcome obstacles to the granting of planning permission.
- 4.2 Legal agreements can also be made under other legislation including the Local Government (Scotland) Act 1973, the Countryside (Scotland) Act 1967, Sewerage (Scotland) Act 1986 and the Roads (Scotland) Act 1984 and provide a possible alternative mechanism to secure developer contributions. They are useful where the nature of the contribution is relatively straightforward, involves a one-off payment and/or does not require to be secured through successors in title. For this reason they can help speed up the development process. The council has used, and will continue to use alternative agreements where appropriate and where they are considered to speed up the development process.
- 4.3 This Supplementary Guidance has been developed in the context of the following policy and Scottish Government advice:
- Scottish Planning Policy 2014
 - Circular 6/2013 - Development Planning
 - Circular 3/2012 - Planning Obligations and Good Neighbour Agreements
 - Strategic Development Plan for South East Scotland (SDP) (2013)
 - West Lothian Local Development Plan (LDP) (2018)

Scottish Planning Policy (SPP) 2014

- 4.4 Scottish Planning Policy requires guidance to indicate how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made.

Circular 6/2013 - Development Planning

- 4.5 The Circular states that Local Development Plans must identify the items for which financial or other contributions will be sought, and the circumstances where they will be sought. In this way site requirements may be reflected in land values agreed by landowners and developers prior to planning permission being granted. Provisions in the Planning etc. (Scotland) Act 2006 require that planning obligations are publicised by Planning Authorities and that there is greater transparency in negotiating developer contributions. This Supplementary Guidance assists with these objectives and has been prepared in the context of the aforementioned policy and Scottish Government advice.

Planning Conditions

- 4.6 Conditions applied to a grant of planning permission can enable many development proposals to proceed where it might otherwise be necessary to refuse planning permission and the council has wide-ranging powers under the Town and Country Planning (Scotland) Act 1997 (as amended) to impose them, and has done so extensively.

DATA LABEL: PUBLIC

- 4.7 Where there is a choice between applying planning conditions or entering into a planning obligation, the use of a condition is almost always preferable. Planning obligations, while entirely legitimate and often necessary, are by their nature time consuming and resource intensive and will almost inevitably delay the issuing of planning permission.
- 4.8 Conditions attached to any planning consent must comply with *Circular 4/1998: The Use of Planning Conditions in Planning Permissions* and should only be imposed where they are:
1. necessary
 2. relevant to planning
 3. relevant to the development to be permitted
 4. enforceable;
 5. precise; and
 6. reasonable in all other respects

Circular 4/1998 advocates the use of standard or model planning conditions and provides guidance on a range of the most frequently used. In granting conditional planning permission, the council is also obliged to give clear and precise reasons for the imposition of every condition.

- 4.9 Planning conditions are not however without their limitations. They can only be used to require works on land beyond the application site (as defined by the "red boundary line" on the application plan) where the land in question is under the control of the applicant. Furthermore, conditions cannot be used to secure a financial contribution.

Circular 3/2012 - Planning Obligations and Good Neighbour Agreements

- 4.10 The council will therefore seek to negotiate and enter into a Planning Obligation whenever a development, which is otherwise acceptable in planning terms, requires mitigation and which cannot be secured through planning conditions. In accordance with national policy and advice and the approach taken by the Planning and Environmental Appeals Division (DPEA) Reporters in appeal decisions, the council will only seek to use a planning obligation where the matter(s) cannot be adequately addressed by planning condition(s).
- 4.11 The legislative basis for planning obligations is set out in Section 75 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- 4.12 Contributions secured through a planning obligation (Section 75 agreement or other legal agreement as necessary) shall be consistent with the five tests set out in *Circular 3/2012*. These are as follows:
- Necessary to make a proposal acceptable in planning terms (overcome a barrier to the approval of planning permission);
 - Serve a planning purpose and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
 - Be related to the proposed development either as a direct consequence of it or arising from the cumulative impact of development in an area (there must be a clear direct link between development and the infrastructure to be provided);

DATA LABEL: PUBLIC

- Must fairly and reasonably relate in scale and kind to the proposed development (provide or contribute to the provision of infrastructure that would not be necessary were it not for the development, on a proportionate pro-rata basis as appropriate, but not to resolve existing deficiencies); and
 - Be reasonable in all other respects.
- 4.13 In seeking to enter into planning obligations with a developer, such arrangements must be operated in accordance with the fundamental principle that planning permission may not be bought or sold. In accordance with Circular 3/2012 planning obligations should only be used where they relate to the development being proposed.
- 4.14 Where a proposed development would either; create a direct need for particular facilities, place additional requirements on infrastructure (cumulative impact) or have a damaging impact on the environment or local amenity that cannot be resolved satisfactorily through the use of planning conditions or another form of legal agreement, a planning obligation could be used provided it would clearly overcome or mitigate those identified barriers to the grant of planning permission. There must however be a clear link between the development and any mitigation offered as part of the developer's contribution. In addition, when determining whether a planning obligation is required, the council will take account of the existence of any other agreements or conditions relating to infrastructure provision that already apply to the development.
- 4.15 A developer can apply to the council to modify or discharge an obligation within a Section 75 legal agreement and has a subsequent right of appeal to the Planning and Environmental Appeals Division (DPEA) if the authority refuses the application. Such applications are made under the terms of Section 75A of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- 4.16 Planning obligations can take various forms and the nature of the contribution that developers can make will depend on the specific circumstances of the location of the development site and the scale and type of development scheme that is being proposed.
- 4.17 'In Kind' or 'Direct Provision' is where the developer builds or directly provides the proposed subject of the planning obligation. Such provision is often made within the development site in question. The issue of whether the developer should provide the mitigation measures in kind or whether the council, or another organisation, would be in the best position to provide the necessary works will be determined on a case-by-case basis and will be addressed via the negotiation involving all interested parties.
- 4.18 Planning obligations bind successors in title i.e. future purchasers of any part of the land that is subject to the obligations, as they are placed on the title of the land. This means that a planning obligation can be enforced against both the original landowner (this is usually the development site owner) and against anyone who subsequently acquires an interest in the land. As such, it is expected that those parties with an interest in the land in question, at the point in time that the Section 75 agreement is signed, will be expected to enter into planning obligations with the council.

DATA LABEL: PUBLIC

Strategic Development Plan for South East Scotland (SDP)(2013)

- 4.19 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. The SDP and the LDP form part of the 'development plan' that planning applications in West Lothian are assessed against.

- 4.20 The SDP sets the strategic policy context for the securing of developer contributions towards infrastructure. Paragraph 123 states:

'Developer contributions are important and will be required to assist in delivery and to address any shortfalls in infrastructure that arise as a direct result of new developments. LDPs will set out the broad principles for planning obligations including the items for which contributions will be sought and the occasions on which they will be sought. Mechanisms for calculating levels of contributions should be included in supplementary guidance with standard charges and formulae set out in a way that assists landowners and developers.'

- 4.21 The SDP requires the West Lothian LDP to specify the items and identify the circumstances in which developer contributions would be sought, specifically **Policy 9 (Infrastructure)**, which states that:

'LDP's will:

- (a) safeguard land to accommodate the necessary infrastructure;*
- (b) provide policy guidance that will require sufficient infrastructure to be available, or its provision to be committed, before development can proceed; and*
- (c) pursue the delivery of infrastructure through developer contributions, funding from infrastructure providers or other appropriate means, including the promotion of alternative delivery mechanisms. Particular emphasis is to be placed on delivery of the strategic infrastructure requirements that are set out in Figure 2 and in the Action Programme'.*

West Lothian Local Development Plan (LDP)

- 4.22 The policy context for securing developer contributions and negotiating planning obligations is set out in Policies **INF 1 & CDA 1** of the West Lothian Local Development Plan.

- 4.23 Policy **INF 1 (Infrastructure Provision and Developer Contributions)** sets out the rationale for seeking developer contributions in appropriate circumstances and policy **CDA 1 (Development in the Previously Identified Core Development Areas)** complements this by explaining that planning conditions and legal agreements will be used to secure infrastructure. Policies **INF 1 & CDA 1** are reproduced below for information.

DATA LABEL: PUBLIC

Policy INF 1

The council will seek developer obligations in accordance with Scottish Government Circular 3/2012 ('Planning Obligations and Good Neighbour Agreements'), as interpreted by emerging case law and amended by subsequent amendments and legislation, to mitigate the development's individual or cumulative impacts upon infrastructure, including cross-boundary impacts. Any such obligations will be concluded prior to the issue of planning permission.

Where appropriate developer obligations have been secured, planning permission will normally be granted. In all cases, the council will consider the economic viability of proposals alongside options of phasing or staging payments from developers.

Development will not be permitted to commence unless:

- a. funding (including any contributions from developer obligations) for necessary infrastructure is fully committed and that infrastructure is capable of being delivered; or*
- b. phasing to manage demand on infrastructure has been agreed; or*
- c. in advance of all necessary infrastructure requirements being fully addressed, sufficient infrastructure is available in the interim to accommodate the development.*

Only where infrastructure constraints, identified by the council in conjunction with relevant authorities, cannot be overcome, will there be a presumption against development.

Infrastructure requirements are identified in Appendix Two and further details will be provided in subsequent supplementary guidance and the Action Programme. Any related planning obligations will require to meet the policy and legal tests set out above. Proposed sites for new infrastructure are listed in Chapter 6'.

Policy CDA 1

The council will continue to support housing and mixed used development within those parts of West Lothian previously designated Core Development Area (CDAs) in Armadale, East Broxburn/Winchburgh and Livingston & Almond Valley subject to the preparation of master plans to be approved by the council. Infrastructure requirements are identified in Appendix 2 and further details will be provided in subsequent supplementary guidance and the Action Programme. Any related planning obligations will require to meet the policy and legal tests set out in Policy INF 1.

Planning conditions and legal agreements will be used to secure infrastructure funding and proper phasing of development. Developer contributions will be sought in accordance with Scottish Government Circular 3/2013 'Planning Obligations and Good Neighbour Agreements', as interpreted by emerging case law and amended by subsequent amendments and legislation. Contributions will also be required to remedy deficiencies in local facilities and amenities which result from proposed developments.

A diversity of house types, tenures and densities must be provided within these areas. Within the mixed use areas net housing densities shall average at least 25 residential units per hectare. Affordable housing shall be provided within the previously identified CDAs in accordance with policy HOU 4 (Affordable Housing and relevant Supplementary Guidance).

- 4.24 When assessing planning applications, the council will determine whether planning conditions and/or planning obligations are suitable in order to make otherwise unacceptable development, acceptable.
- 4.25 Appendices 1 & 2 of the LDP provide details on the employment land and housing site allocations in West Lothian and includes commentary on the constraints already identified at site level which may necessitate a requirement for planning conditions or planning obligations in order to make the proposed development acceptable in planning terms. The LDP Action Programme sets out actions required to deliver the plan's policies and proposals and identifies the appropriate parties or organisations that are required to carry out the action(s), including where available anticipated costs of proposals.

five

Implementation

- 5.1 In preparing the West Lothian LDP an assessment was made of the likely pressures on services, infrastructure, facilities and amenities within specific settlements and the Core Development Areas as a result of the major housing allocations identified in the LDP and a number of specific projects have been identified. Appendix 2 of the LDP 'Schedule of Housing Sites/Site Delivery Requirements' (p.115) identifies the key infrastructure that is required in order to deliver in full the development strategy set out in the LDP.
- 5.2 When a planning application relating to residential development is submitted to the council for consideration, the council will assess the requirement for the prospective developer to make appropriate developer contribution(s) in accordance with the provisions of this Supplementary Guidance.
- 5.3 Each planning application will be considered in line with Policies **INF 1 & CDA 1** and the terms of this and other relevant guidance. However, this does not preclude the council seeking other contributions not specifically covered by this Supplementary Guidance where they meet the statutory tests (set out in Circulars 4/1998 and 3/2012 - see paragraph 4.8 and 4.12) and enable an otherwise unacceptable development proposal to be acceptable to the council.
- 5.4 Planning obligations should be recognised as a necessary cost of development. Developers should therefore make themselves aware of the likely planning obligation requirements associated with a proposed development and factor in the likely cost of obligations into land acquisition and development costs at an early stage.
- 5.5 Developers will be required to make contributions at the levels set for the particular project or settlement within which the development is proposed.
- 5.6 The requirement for a developer to make appropriate developer contributions will be treated as a material planning consideration in the assessment and determination of planning applications for development.
- 5.7 In exceptional circumstances, the council will consider alternative projects identified by the developer, to an equivalent value for that settlement. It should however be noted that whilst the council is not obliged to accept any alternative project, offer, or other scenario as may be suggested, or proposed by a developer any such proposal will be considered on merit against Local Development Plan requirements and local circumstances.
- 5.8 Where developers are of a view that fulfilling a planning obligation would make the economics of the development unviable and look to amend the levels of contribution, the prospective developer will be required to submit a development appraisal which the council, through the District Valuer, or another independent chartered valuation surveyor agreed by the council, will verify. This appraisal requires to be funded by the developer/applicant. The council will also require documentary evidence necessitating "open-book accounting" to show the viability of a proposal will be curtailed by the requirement for planning obligations. If a development appraisal shows that a site is not viable the council may elect to review developer obligations and consider a degree of 'prioritisation'.

DATA LABEL: PUBLIC

However, in the event of a development being assessed as unviable the council will consider all the options which will include refusal of the application due to its inability to fund the required levels of infrastructure.

Legal Agreements

5.9 Local authorities have powers to enter into agreements to regulate planning matters under various statutes. Where it is necessary to secure that future, owners and occupiers of the land are bound by a planning obligation (for example where phased financial contributions towards infrastructure are required), it is necessary to secure this by agreement or unilateral undertaking under Section 75 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006. All planning obligations involve developers entering into legally binding contracts with the council and planning permission will not be issued by the council until the relevant agreement has been formally concluded.

5.10 Whilst Section 75 agreements are bespoke and can be time consuming to negotiate and conclude, they typically contain the following elements:

- date of the agreement;
- identification of the parties involved;
- definition of any terms contained within the document;
- site and development proposal details;
- relevant conditions;
- details of any provisions or restrictions required under the agreement; and
- signatures of all the parties involved.

The Section 75 agreement will usually be drafted by the council's Legal Services. A template Section 75 agreement can be requested from the Development Management case officer in these circumstances.

Key items that will be required to be provided to the council's Legal Services include the following:-

Titles

In every case all title deeds to the land must be provided for examination. These should demonstrate that the landowner has the ability to enter into the planning obligation in respect of the affected property. Where there are other interests in the property further titles may be required and other parties might need to enter into the planning obligation.

Plans

Plans which clearly show the extent of the area of land which is to be subject to the planning obligation should be provided. These should correspond with the title deeds to the land.

Searches

Searches over the *General Register of Sasines* or *Land Register* brought down to a date as close as possible to the date when the planning obligation is to be sent for recording (or registration). The searches must show no competing interest to the land or matter restricting the ability to enter into the planning obligation. Searches should be provided to Legal Services by the applicant/landowner's solicitor.

Heritable Creditor Consents

Any heritable creditor (e.g. a mortgage lender or floating charge holder) will be required to consent to the granting of the planning obligation. The heritable creditor will need to sign the planning obligation and the landowner will meet any costs associated with procuring such consent. Applicants are encouraged to make contact with any heritable creditor as soon as the requirement for a planning obligation is identified as it can often take some time for the creditor to approve applications for consent. It is important to note that no progress can be made on the planning obligation until Legal Services has received the relevant title deeds or land certificate. It is therefore advisable to provide those documents as quickly as possible to avoid any delay in the proposed development.

- 5.11 Should a planning application be approved subject to the signing of a Section 75 agreement, the council requires the agreement to be negotiated and signed without undue delay. The council's aim is to issue decision notices within 6 months from the date of the council's 'resolution to approve'. Where evidence is provided by the applicant to the council's satisfaction that the agreement cannot be signed within this period, then a variation on the stipulated time limit will be considered on a case-by-case basis. Should this information not be forthcoming, the council may decide to refuse the planning application based on the non-completion of the Section 75 agreement.
- 5.12 A planning obligation must be registered against the title of the land in either the General Register of Sasines or Land Register of Scotland (as applicable). Once a planning obligation has been registered it becomes binding on all future owners of the land. It may affect tenants and other occupiers, depending on the specific terms. Any restrictions on future use of the land or property will affect all future transfers or sales.
- 5.13 Figure 1 explains the procedures which the council and applicant will typically take to establish a Section 75 agreement.

Figure 1: Step-by-Step Guide to establishing a Section 75 legal agreement

Pre-Application Discussions

Applicants are encouraged to enter into discussions at the earliest possible stage with the council's Development Management (DM) officers prior to submitting a planning application. Such discussions provide a valuable opportunity for all parties to consider the scope and impact of the development proposal. The council offers a service for [pre-planning application advice enquiries](#) (which is a chargeable service accessible through the council's website). This service is separate to any Pre-application Consultation that a developer may be required to undertake in respect of certain planning applications. The DM Case Officer and relevant service area(s) raise potential planning obligations on the proposal if applicable.

DATA LABEL: PUBLIC

**Planning Application Received**

The DM Case Officer makes an initial assessment of Section 75 implications related to the proposal and whether the issues raised at the pre-application stage have been addressed.

**Planning Application Consultation**

Following the submission of a planning application, the formal consultation process will commence with the involvement of all relevant bodies, statutory as well as non-statutory and council services. Their responses will help identify any additional requirements for further planning obligations not already addressed as part of the pre-application discussions.



Comments received. DM Case Office and Legal Services negotiate with developers to agree 'heads of terms' for planning obligations.

**Planning Application Recommendation**

Following the consultation process and subsequent discussion with the applicant, a report may be prepared outlining the DM case officer recommendation and the nature and details of the planning obligation. The council may resolve to grant planning permission, subject to the applicant entering into a Section 75 Agreement, or refuse the planning application.

**Section 75 Agreement - Drafting**

Following a '*resolution to grant planning permission*', the DM Case Officer will instruct Legal Services to draft the Section 75 Agreement. Legal Services in liaison with the DM Case Officer will undertake to co-ordinate any detailed discussions, including with other internal council services, regarding the precise terms of the Agreement should this be required.



The Council's Legal Services send draft agreement to all parties to check and agree.

DATA LABEL: PUBLIC

**Section 75 Agreement - Signing and Legal Completion**

The Section 75 Agreement is signed, legally completed and details are recorded onto monitoring systems and the Register of Sasines and/or Land Register. The planning decision notice, with the planning permission, is then issued.



Securing the developer contributions

- 6.1 To ensure the necessary infrastructure is in place to take account of the impacts of new developments this Supplementary Guidance applies to **all unconsented residential developments** in West Lothian including the Core Development Areas (CDAs), namely *Armada, East Broxburn and Winchburgh, Calderwood (East Calder) and Gavieside (West Livingston) and the strategic development allocation site at Heartlands (Whitburn) and Bangour (Dechmont)*. Developments outwith these areas may also be required to contribute to infrastructure requirements to enable development to proceed.
- 6.2 The specific projects to be implemented or funded by developers are set out in Table 1 and are consistent with Appendix 2 and policies **INF 1** and **CDA 1** of the West Lothian LDP. Reference should also be made to the LDP Proposals Map which defines the geographical extent of the areas listed in Table 1 and hence the areas within which developer contributions will be required towards infrastructure. Developer contribution rates have been informed (where known) by costs set out in the LDP Action Programme which has been prepared to support the LDP and by existing planning consents and associated Section 75 agreements.

It should be noted that developer contributions towards education, transport infrastructure, cemetery provision and public art are set out in separate guidance entitled:

- Supplementary Guidance: Planning and Education
- Supplementary Guidance on Developer Contributions towards Transport Infrastructure
- Supplementary Guidance on Cemetery Provision
- Supplementary Guidance on Developer Contributions Towards Public Art

Developers are required to have regard to these alongside this Supplementary Guidance on general infrastructure requirements.

- 6.3 Developer contributions will be calculated on the basis of whole sites identified in the LDP. Applications for parts of allocated sites will pay a proportion of the total site contributions. This Supplementary Guidance will not be applied retrospectively to sites which already have planning permission in principle or to applications for the approval of matters specified by condition without any requirement to contribute to general infrastructure, provided that the permission remains capable of being implemented. New planning applications, for similar developments on these sites (including applications for renewal of planning permissions), will however be required to comply with the terms of this guidance and to policies set out in the LDP.
- 6.4 The only exemptions will be small developments comprising four or less units, unless they are clearly part of a phased development of a larger site. In such cases the council will seek to agree appropriate sums with the applicant.

DATA LABEL: PUBLIC

- 6.5 Developer contributions shall be secured by means of agreements concluded between the applicant and the council under Section 75 of the Town and Country Planning (Scotland) Act 1997 or Section 69 of the Local Government (Scotland) Act 1973, prior to the issue of planning permission. In some cases, where a relatively small financial contribution is involved, it may be possible to avoid formal agreements and for the council to collect contributions on the basis of an exchange of letters prior to planning permission being granted or through a section 69 Agreement.
- 6.6 The council recognises that funds received through planning obligations process need to be clearly linked to the provision of specific pieces of infrastructure. To provide this clarity, the council has set up a financial tracker to monitor the source of funds, the purpose for which they are gathered, and how they are spent. All contributions received will be "ring fenced" and will be spent only on funding the projects identified in Table 1.
- 6.7 The costs identified within this guidance will be subject to review on an annual basis, through the LDP Action Programme. These costs will be index linked against the Building Cost Information Service (BCIS) All-in Tender Price Index or similar comparable industry standards and subject to independent verification where necessary. This guidance will be reviewed and updated periodically to ensure that the level of contribution being required of developers remains relevant and takes account of changing circumstances. This will include updating contributions to take account of the BCIS All-in Tender Price Index.
- 6.8 In general, Section 75 agreements contain a pay-back period. A section of the agreement indicates that if the council does not use the contributions within the specified timescales or monies are no longer required for the purpose for which they were collected they will be repaid, on a pro-rata basis, to those parties who made the contributions towards the project. The specified time periods will depend on the project involved.
- 6.9 In some instances, planning contributions will be in the form of infrastructure provided directly by a developer. Direct provision will be factored into the overall contributions that a site will make and where appropriate, this may be offset against total costs of the infrastructure project. Where direct provision of infrastructure is required, bonds or other legal security may also be agreed to safeguard the council from risk.
- 6.10 There may be instances where infrastructure is required in advance of all developer contributions having been received by the council. Where this is the case alternative funding options may be investigated. In these situations, contributions will continue to be sought from developers to meet the full cost of the infrastructure which has been provided. There may also be circumstances where the council has forward funded infrastructure projects to assist in development delivery. Where this is the case the council will seek to recoup monies from developers by way of developer contributions; this approach is consistent with paragraphs 23 of Circular 3/2012.
- 6.11 Over the lifetime of the LDP developers/landowners are likely to seek planning permission for sites not allocated in the West Lothian Local Development Plan - such sites are known as windfall sites. The impact of these sites will not have been considered in any capacity assessments which determine the need for improved or additional infrastructure. Non-exempt windfall sites will be required to provide developer contributions towards infrastructure as set out in this guidance.

DATA LABEL: PUBLIC

- 6.12 Section 76 (1) (b) of the Town and Country Planning Act (Scotland) 2006, as amended, allows developers to enter into unilateral agreements to make an appropriate contribution in relation to the impact of their proposals. Where a unilateral undertaking is in place, unless it makes provision for all the infrastructure impacts of the proposed development, the need for any additional contributions to meet the requirements set out in this Supplementary Guidance will be secured through a planning obligation.
- 6.13 Depending on the particular circumstances of a proposed residential development and to assist in development delivery, the council may, on application, agree for payments to be made at a later stage in the development process than would otherwise be considered appropriate, for example once houses have been sold, albeit subject to indexation as described above.

DATA LABEL: PUBLIC

Annex A

General infrastructure requirements

- 1.1 The LDP has identified specific infrastructure requirements for housing sites in the Winchburgh, East Broom, Armadale, Calderwood and Mossend/West Livingston CDAs and these are reproduced in Table 1 and should be read in conjunction with the relevant LDP Maps.
- 1.2 In many instances conditional planning permission has already been granted for the development of these allocated sites and any legal agreements which set out the required developer obligations have been concluded and are unchanged as a consequence of this guidance. In these circumstances the scope and cost of related infrastructure projects will already have been established and have not required to be set out here.
- 1.3 Where residential development on 'windfall' sites and as yet unconsented/undeveloped sites within the CDA (and the Heartland Strategic Development Area) are brought forward, they will be subject to the same range of infrastructure requirements with arrangements and costs being determined on a case by case basis through the respective planning applications.

Table 1: Requirements for infrastructure, local facilities and amenities for housing proposals to be implemented or funded by CDA developers

ALL CDAs		
Description of facilities and amenities	Details of planning permission where applicable	Notes
• Land for community facilities		
• Serviced employment land		
• Woodland planting to implement Green Network objectives		
• Management of existing trees and woodlands		
• Open space provision and indoor and outdoor sports facilities in accordance with approved strategies of the council		
• Recycling facilities		

DATA LABEL: PUBLIC

WINCHBURGH CDA*See LDP Map 2 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Public car park for new town centre; 	Condition 24 of permission 1012/P/05	Implementation required during first phase of Town Centre/by the completion of the 1001 st house.
<ul style="list-style-type: none"> Additional landscaping and improved recreational access and management plan for Claypit and surrounding area; 	Condition 19 of permission 1012/P/05	Implementation required prior to the completion of the 600 th house.
<ul style="list-style-type: none"> Joint preparation (with East Broxburn CDA developers) of a management plan for the scheduled Greendykes and Faucheldean Bings and for the "green corridor" between Winchburgh and East Broxburn and funds to allow implementation of the plan; 		The council owns part of Greendykes Bing and a study funded by Central Scotland Green Network (CSGN) in 2013/14 identified various options for the green network corridor. Supplementary guidance on the Green Network will specifically address this requirement.
<ul style="list-style-type: none"> Preparation of a strategy to restore Niddry Bing and funds to allow implementation of the plan; 	Conditions 5 & 34 of permission 0033/M/09	
<ul style="list-style-type: none"> Joint funding (with East Broxburn CDA developers) of works to rehabilitate the non-scheduled parts of Greendykes Bing; 		Obligation has been placed on the Broxburn CDA developers as being more relevant to that CDA.
<ul style="list-style-type: none"> Preparation of a strategy for the restoration of Auldcaithie landfill site and funds to allow implementation of the plan; 	Conditions 5 & 14 of permission 1012/P/05 & 1123/FUL/18	Planning permission (1123/FUL/18) for the formation of a District Park was granted on 28 March 2019 and the park is expected to be delivered in accordance with the planning conditions set out in the consent
<ul style="list-style-type: none"> Enhancement of existing river corridors within master plan area; 	Conditions 18 & 21 of permission 1012/P/05	These requirements are expected to be addressed by developers as part of the wider landscape strategy.
<ul style="list-style-type: none"> Land for canal related facilities having regard to the Edinburgh-West Lothian Union Canal moorings study previously prepared by British Waterways (now Scottish Canals); 	Condition 24 of permission 1012/P/05	Planning permission (0642/MSC/19) for the formation of a marina was granted on 11 September 2019 and, subject to securing Scheduled Monument Consent, the marina will be delivered in accordance with the planning conditions set out in that consent. Active discussion is ongoing between the developer and Scottish Canals on this matter and future phases of development along the Canal.
<ul style="list-style-type: none"> Contribution to library provision; 		Contribution defined in Clause 15 of the planning obligation between WLC/The Winchburgh Trust /Regenco (Winchburgh) Ltd.
<ul style="list-style-type: none"> The current supply of open space in the existing settlements is not of a sufficient size and types to cater for the potential demand from new housing. Winchburgh/East Broxburn should include appropriate levels of each part of the West Lothian open space typology, including district parks, neighbourhood parks, local parks, sports areas, play spaces, green path corridors and amenity greenspace; 	Conditions 17 21 of permission 1012/P/05	Phased implementation required prior to the completion of a specific number of houses, i.e. 501, 551, 1001, 1501, and 2501. See S75 for precise details. The West Lothian Open Space Strategy is currently under review and due to be considered by the council in 2020. This may outline further open space requirements for the Winchburgh area. The planning application for rehabilitation of the adjacent Auldcaithie Landfill site for playing pitches and associated open space will go a considerable way to addressing the current identified deficiency.
<ul style="list-style-type: none"> The proposed "Heritage Park" around the scheduled monuments of Greendykes & Faucheldean Bings is in the sensitive countryside gap between the expanded settlements. This concept could address the provision of a district and neighbourhood park acquired from the 2015 WL Open Space Strategy. 		Not a condition nor is it included as part of the planning obligation. Supplementary guidance on the Green Network will specifically address this requirement, as will conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA.

DATA LABEL: PUBLIC

EAST BROXBURN CDA*See LDP Map 2 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Joint preparation (with Winchburgh CDA developers) of a management plan for the scheduled Greendykes and Faucheldean Bings and for the "green corridor" between Winchburgh and East Broxburn and funds to allow implementation of the plan. 		The council owns part of Greendykes Bing and a study funded by Central Scotland Green Network (CSGN) in 2013/14 identified various options for the green network corridor. Supplementary guidance on the Green Network will specifically address this requirement.
<ul style="list-style-type: none"> Joint funding (with Winchburgh CDA developers) of works to rehabilitate the non-scheduled parts of Greendykes Bing; 		Obligation has been placed on the Broxburn CDA developers as being more relevant to that CDA. Will be subject to conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA.
<ul style="list-style-type: none"> Land for canal related facilities having regard to the Edinburgh – West Lothian Union Canal moorings study previously prepared by British Waterways (now Scottish Canals); 		Obligation likely to be placed on the Broxburn CDA developers as being more relevant to that CDA. Will be subject to conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA.
<ul style="list-style-type: none"> Contribution to improvements at Stewartfield Park; 		Works already implemented including off-site access and signposting.
<ul style="list-style-type: none"> Woodland planting to north of mixed use sites at Pyothall Road, Greendykes Road West and Greendykes Road East as extension of Broxburn Community woodland and green network corridor; 		Will be subject to conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA. .
<ul style="list-style-type: none"> The current supply of open space in the existing settlements is not of a sufficient size or type to cater for the potential demand from new housing. Winchburgh/East Broxburn should include appropriate levels of each part of the West Lothian open space typology, including district parks, neighbourhood parks, local parks, sports areas, play spaces, green path corridors and amenity greenspace. 		Will be subject to conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA. .
<ul style="list-style-type: none"> The proposed "Heritage Park" around the scheduled monuments of Greendykes & Faucheldean Bings is in the sensitive countryside gap between the expanded settlements. This concept could address the provision of a district and neighbourhood park acquired from the 2015 WL Open Space Strategy. 		Not a condition nor is it included as part of the planning obligation. Supplementary guidance on the Green Network will specifically address this requirement, as will conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA.

ARMADALE CDA*See LDP Map 4 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Enhancement of open space area at Black Moss between Avondale Drive and Upper Bathville and formation of community woodland on western edge of Armadale; 		
<ul style="list-style-type: none"> Woodland planting adjacent to A801, to north and east of mixed use allocation at Colinshiel and on the west edge of the allocations at Standhill; 		
<ul style="list-style-type: none"> Extension of Armadale Round Town Walk (re-named Davie Kerr Heritage Trail) into both the Colinshiel and Standhill areas; 		
<ul style="list-style-type: none"> Contribution to improved library facilities; 		See Annex B
<ul style="list-style-type: none"> Management plan for Colinshiel Wood; 		

DATA LABEL: PUBLIC

<ul style="list-style-type: none"> If facilities of a district level are not able to be provided within the new settlement boundary due to space constraints, then facilities in neighbouring district parks (e.g. Balbardie Park Bathgate and proposed district park in Whitburn), should be extended and upgraded to meet the increased demand. 		
--	--	--

CALDERWOOD CDA*See LDP Map 5 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Public car park at East Calder; 		Contribution of £50 (indexed to 1 st quarter 2012) per residential unit in the CDA is being taken so that the council can deliver the car park
<ul style="list-style-type: none"> Public car park for new local neighbourhood centre; 	Condition 12 of 0524/P/09	Parking to be provided as part of the neighbourhood centre. First phase of the neighbourhood centre required prior to occupation of the 1001 st residential unit.
<ul style="list-style-type: none"> Native woodland planting adjacent to A71 and to improve screening of Camps Industrial Estate; 	Condition 10 of 0524/P/09	
<ul style="list-style-type: none"> Contribution to improved library facilities; 		Library now provided in the partnership centre.
<ul style="list-style-type: none"> Land for the extension of the existing health centre or for the construction of a new health centre; 		NHS Lothian is considering options for the health centre.
<ul style="list-style-type: none"> Extension of "the Muddies"- Mansefield Park. 	0609/FUL/15	The land for the park extension will be provided by Persimmon as part of its development at Raw Holdings. Contribution of £500 (indexed to 1 st quarter 2012) per residential unit in the CDA is being taken so that the council can deliver the park extension.
<ul style="list-style-type: none"> Landscaping treatments at the eastern and southern boundaries to provide containment and prevent development creepage. 	Condition 10 of 0524/P/09	Landscaping required prior to occupation of the 980 th residential unit.

WEST LIVINGSTON / MOSSEND CDA*See LDP Map 3 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Public car park for new village centre at Gavieside 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> Management plan for remaining part of Briestonhill Moss and funds to implement plan; 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> The current level of open space provision in the northern part of the Polbeth area is poor. Therefore, the provision of the proposed structure planting should be of a high quality, with a network of connecting paths to Briestonhill Moss area and the existing woodland areas; 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> Safeguard land for extension of Almond Valley Heritage Centre light rail route on north side of River Almond; 		
<ul style="list-style-type: none"> Enhancement of river corridors within master plan area; 		
<ul style="list-style-type: none"> Extension of existing greenway associated with River Almond (between Kirkton and Easter Breich); 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> New greenways associated with West Calder Burn, Harwood Water and Breich Water; 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> Contribution to library provision. 		To be secured through any planning application for the Gavieside allocation.

DATA LABEL: PUBLIC

<ul style="list-style-type: none"> New distributor road network to the west of Livingston to serve the new community at Gavieside and bypass Polbeth 		<p>Study and survey work are underway to ascertain the best means of improving the road network at West Livingston that might now no longer require an expensive bridge crossing of the River Almond near the sensitive Almond Pools nature area and an accompanying two land carriageway, with a crawler lane on the north side, to reach Toll Roundabout.</p> <p>Options may include a signalised and expanded junction at Simpson Parkway and Macintosh Road.</p>
<p>Transport assessments will determine the final road network and junction improvements necessary to support the Livingston and Almond Valley CDA proposals.</p> <p>The potential for road closures at Mossend (West Calder), Polbeth Road will be considered and will be promoted if there is community support.</p>		(As above)
Improved access to West Calder railway stations.		<p>The access road to facilitate a new entrance and access to West Calder Station on its north side has been constructed as part of the A71 overbridge raising works related to the electrification of the Edinburgh-Shotts line. However additional work on the platform and related structures will be required with consultation with Network Rail and also a minimum 200 space car park for Park and ride (and land set aside for the extension of this facility) and public transport interchange.</p> <p>The existing access will need to be closed off for passenger use, albeit retained for the business and residential properties that currently use the south access at Limefield Road / A71.</p>
Key public transport requirements include the provision of park and ride facilities at Gavieside, West Calder railway station.		(As above)
The Gavieside "park and ride" facility will allow the Livingston "Fastlink" to be extended to serve the new housing and employment proposed in this part of the CDA. Land should be safeguarded in the masterplan for a possible future extension of this park and ride facility to serve Livingston Town Centre. The CDA Action Plan also envisages that developers will contribute to public transport initiatives.		Likely to be imposed as a planning condition solely on the West Livingston CDA developers when a planning permission is concluded related to the approving the masterplan for this part of the overall Almond Valley and Livingston CDA.
Local neighbourhood centres are envisaged at Gavieside to provide a focus for communities.		Likely to be imposed as a planning condition solely on the West Livingston CDA developers when a planning permission is concluded related to the approving the masterplan for this part of the overall Almond Valley and Livingston CDA.
<p>Land for community facilities will be required at Gavieside but, at this stage, the precise details are not yet known.</p> <p>Further consultation with West Lothian Healthcare NHS Trust will be required on health centre provision on the west side of Livingston.</p>		Likely to be imposed as a planning condition solely on the West Livingston CDA developers when a planning permission is concluded related to the approving the masterplan for this part of the overall Almond Valley and Livingston CDA.

DATA LABEL: PUBLIC

HEARTLANDS STRATEGIC DEVELOPMENT AREA*See LDP Map 4 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
Planning permission in principle (0493/P/02) was approved in May 2006 and identified a range of infrastructure requirements including:	0493/P/02	
<ul style="list-style-type: none"> South-western distributor road between the A706 and the B7066. 		Work ongoing on design and construction programme. A planning application, reference 0449/FUL/20 and embracing the first phase of the new road (from Longridge Road to connect with Polkemmet Road/Dickson Terrace) was submitted in June 2020.
<ul style="list-style-type: none"> A strategic public access network setting out footpaths and cycleways and the linkages between the development and surrounding land uses including the forests, Polkemmet Country Park and the settlements of Whitburn, Fauldhouse and Longridge. 		Included within the masterplan and being taken forward and implemented on individual phases.
<ul style="list-style-type: none"> Land for the development of a neighbourhood centre; 		Land safeguarded in approved masterplan.
<ul style="list-style-type: none"> A four way grade separated interchange on the M8; 		Completed
<ul style="list-style-type: none"> A new public transport interchange at Cowhill; 		Required by conditions and s75 agreement.
<ul style="list-style-type: none"> Public art, open space and play area provision. 		Strategy document required by condition, which will include timescales for implementation. While a public art strategy has been drafted it has still to be submitted for consideration and approval by the council.

Annex B

Specific infrastructure requirements

1.0 Developer Contributions for Town Centre and Village Improvements

- 1.1 The adopted West Lothian Local Development Plan (LDP) which was adopted on 4 September 2018 supports a sustained level of growth with more than 24,000 new houses being planned for over the plan period.
- 1.2 More than 12,000 of these new houses will be located in the previously established Core Development Areas (CDAs): Armadale, East Broxburn/Winchburgh and Livingston and the Almond Valley (i.e. Calderwood, East Calder and Gavieside, West Livingston) and in excess of 3,500 houses have been identified for development within the strategic development allocation at Heartlands (Whitburn) and Bangour (by Dechmont).
- 1.3 The scale of development planned for these CDAs and the strategic development areas will result in demand for additional facilities and improved town and village centres within the communities close to where the major housing growth is taking place and developers within these areas are therefore required to contribute towards town and village centre improvements. NB: This is essentially a continuation of arrangements established under the previous West Lothian Local Plan (WLLP) and supporting Supplementary Planning Guidance (SPG) in 2007.
- 1.4 There are 2 options by which developers can contribute towards town and village centre improvements: implementation of a package of proposals identified by the developer and agreed with the council; or a financial contribution by the developer to the established town and village centre improvement fund which is administered by the council.

(1) Implementation of a package of proposals by developers

- 1.5 It will be acceptable for developers to be pro-active and identify a package of proposals which they wish to implement themselves to improve town and village centres in adjacent/host communities. This option may be attractive to some developers because, depending on the nature of the works carried out, they may be able to obtain a return on their investment.
- 1.6 Where the developer wishes to be pro-active and implement a package of proposals, the approval process for the package of proposals will be as follows:
 - ▶ The developer will carry out local consultation to assist with identifying deficiencies and desired improvements.
 - ▶ The developer will present the council with a report which identifies the improvements which the developer wishes to carry out and sets out the timescale for the implementation of the works. Deliverability will be essential so the report should demonstrate that there are no known constraints which would prevent the works being implemented. The council will initiate local consultation on the developer's proposals.

DATA LABEL: PUBLIC

- ▶ If necessary, negotiation between the council and the developer will take place and the package of proposals will be adjusted if required. The council will carry out further consultation if the package of proposals has changed materially.
 - ▶ Once the council's Development Management Manager is satisfied that the package of proposals is acceptable, committee approval will be sought.
- 1.7 In many cases, planning permission will be necessary for the improvement works which are proposed. This will be a wholly separate undertaking to the process described above. Approval in principle of a package of town and village centre improvements will not oblige the council to grant planning permission for any specific proposal. In any event, all planning applications will be determined having regard to the development plan and to material considerations.
- 1.8 The following list identifies the type of works that could be considered for inclusion in a package of proposals for town and village centre improvements:
- redevelopment of gap sites for private housing, affordable housing or other appropriate town centre uses;
 - townscape enhancement;
 - refurbishment of derelict buildings and land (including CPO);
 - landscape improvements;
 - upgrading of footpaths; and
 - car park improvements;

This list is not exhaustive.

- 1.9 It is anticipated that works may be phased over a period of time and with the arrangements set out in a section 75 agreement.

(2) Financial contribution by developers to a town and village centre improvement fund

- 1.10 As an alternative to carrying out town and village centre improvements themselves, developers may instead choose to contribute to a town and village centre improvement fund which has been established by the council for this purpose. In such cases, a standard contribution of £350 per residential unit (see note below) would apply. It is recognised that town centres may be just one consideration for contribution that will have to be balanced against others in any case. Each proposal will have different impacts and will be considered on a case specific basis. Phasing of contributions will be acceptable with the arrangements being set out in section 75 agreements. There will also be a requirement in the section 75 agreements that any money not spend within an agreed timescale should be returned to the developer.
- 1.11 The following list identifies the type of improvement works that the council could consider carrying out using the funds received from developers:
- landscape works including the provision and maintenance of public space;
 - new or replacement street furniture and lighting;
 - a scheme of townscape enhancements;
 - litter management and recycling (excluding general street cleaning activities);
 - crime prevention measures e.g. CCTV;

DATA LABEL: PUBLIC

- improved public transport facilities;
- new or replacement signage and information;
- a promotion and marketing campaign;
- car parking improvements and management; and
- town and village centre studies;
- site assembly/site servicing (including CPO); and
- traffic calming/traffic management.

This list is not exhaustive.

1.12 In this instance, a standard contribution of £350 per residential unit would apply and the council will secure developer contributions for town and village centre improvements through section 75 agreements.

1.13 To be clear about which developers will contribute to improvements in specific towns and villages, the following principles will apply:

- Armadale CDA developers will only contribute towards improvements in Armadale town centre;
- Winchburgh CDA developers will only contribute towards improvements in the existing village centre of Winchburgh;
- Broxburn CDA developers will only contribute towards improvements in Broxburn town centre;
- West Livingston/Mossend CDA developers will only contribute towards improvements in the village centres of West Calder and Polbeth;
- Calderwood CDA developers will only contribute towards improvements in the existing village centre in East Calder;
- Polkemmet, Heartlands (Whitburn) developers will only contribute towards improvements in Whitburn town centre; and
- Bangour Village Hospital developers will only contribute towards improvements in the existing village centres of Dechmont and Uphall.

1.14 The LDP aims to improve the physical environment of existing town centres, through the council integrating its own programmes of action with those of agencies, developers, traders and local communities with whom it works in partnership. The council will, therefore, explore opportunities to secure other funding and work in partnership with others to maximise new investment. It is the council's objective that improvements secured through this particular initiative will act as a catalyst for attracting further investment and help maximise benefits.

2.0 Developer Contributions for a Replacement Armadale Library

2.1 There is a specific requirement identified in Appendix 2 of the LDP, Schedule of Housing Sites/Site Delivery Requirements, to improve library facilities in Armadale in order to meet the needs of the new and growing population arising from the housing allocations in the Armadale Core Development Area (CDA). This initiative is essentially a continuation of arrangements established under the previous West Lothian Local Plan (WLLP) and supporting Supplementary Planning Guidance (SPG) in 2009.

DATA LABEL: PUBLIC

- 2.2 To be clear, contributions are only being sought to meet the additional cost of providing library facilities for the 2,000 plus new homes in the Armadale CDA and all contributions secured will be *ring fenced* and will only be used to recover expenditure incurred by the council on the forward funding of new and improved library facilities in Armadale.
- 2.3 It had been established that there was insufficient land to expand the original Armadale library on its site at West Main Street and this influenced the decision to replace the facility on the current site at North Street, a project which was financed by the council as part of a ten year capital investment plan approved in December 2007.
- 2.4 The total cost of the replacement library, designed to meet the requirements of the existing population and the anticipated growth in population arising from 2,070 houses allocated in the Armadale CDA was originally estimated at £775,000 (but since confirmed as substantially higher at £1,118,000).
- 2.5 The council assumed just under two thirds of the estimated cost to meet the library needs of the existing population with the remainder of £275,000 being the sum directly attributed to facilitating the demand of the new housing allocations and to be financed over time through developer contributions.
- 2.6 An original base tariff of £133 per house was established when the previous SPG was adopted in 2009 (2,070 house units multiplied by £133 = £275,000) and it was advised that this would be updated in successive years by being linked to the Building Tender Price Index (using fourth quarter 2009 as the base date).
- 2.7 In the event the actual total cost of the library was £343,000 greater than the estimate and approximately one third of this figure (£114,333) therefore requires to be added to the sum to be recovered from developers thus creating a revised outstanding balance of £389,333. As of 31 July 2019, the council had received no contributions towards the replacement library.
- 2.8 In addition to the 2,070 houses originally allocated as part of the Armadale CDA, the LDP made a new housing allocation of 320 units at Tarrareoch Farm (H-AM 19). When added together this establishes a pool of 2,390 houses liable to make contributions. When the outstanding balance of £389,333 is divided by 2,390 houses the 'per unit figure' which developers within the Armadale CDA are required to contribute towards the proportional cost of providing the replacement Armadale Library is £163.

(SG) Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision)

Approved by West Lothian Council Executive 23 June 2020
 Subsequently adopted as Supplementary Guidance (SG) **DATE TO BE INSERTED IN DUE COURSE**

West Lothian Council, Development Planning & Environment, Civic Centre, Howden South Road,
 Livingston, EH54 6FF Tel: 01506 28 00 00 Email: dpgeneral@westlothian.gov.uk



DATA LABEL: PUBLIC



West Lothian
Council

Planning Services
Development Planning & Environment



SUPPLEMENTARY GUIDANCE (SG)
**Developer Obligations for General Infrastructure
for Site Delivery**

Adopted 21 September 2020

DATA LABEL: PUBLIC

Contents

	<u>Page</u>
<u>one</u> <u>Introduction</u>	3
<u>two</u> <u>Justification</u>	4
<u>three</u> <u>Purpose and scope of the guidance</u>	5
<u>four</u> <u>Policy context and legal basis</u>	7
<u>five</u> <u>Implementation</u>	12
<u>six</u> <u>Securing the developer contributions</u>	17
<u>Annex A</u> <u>General infrastructure requirements</u>	20
<u>Annex B</u> <u>Specific infrastructure requirements</u>	26

DATA LABEL: PUBLIC

one

Introduction

- 1.1 This Supplementary Guidance is one of a series supporting policies in the West Lothian Local Development Plan 2018 (LDP). The LDP was adopted by the council on 4 September 2018 and is framed within the context of Scottish Planning Policy (2014); Circular 3/2012: Planning Obligations and Good Neighbour Agreements; and Circular 4/1998: The Use of Planning Conditions in Planning Permissions.
- 1.2 Supplementary Guidance forms part of the LDP and as such is a statutory document in the determination of planning applications. It elaborates on key policies contained in the adopted LDP and provides advice to developers and others on the issues to be taken into account when submitting proposals for planning permission. Supplementary Guidance is a material consideration in the determination of planning applications. It is particularly important in considering and helping to ensure the delivery of the Core Development Areas (CDA) across West Lothian and the strategic allocations of Heartlands, Whitburn and Bangour to create sustainable and well designed and integrated places for new residents and the existing community. This Supplementary Guidance is also relevant for all other development sites identified in the LDP (particularly housing) and is intended to be read alongside the relevant policies of the LDP together with other related and pertinent guidance.
- 1.3 For the avoidance of doubt, all previous Supplementary Planning Guidance (SPG's) with regards to general infrastructure provision contributions are superseded by this guidance from the date it is approved by the council and other Supplementary Guidance prepared in support of the LDP.

DATA LABEL: PUBLIC

two

Justification

- 2.1 The West Lothian Local Development Plan (LDP) outlines a development strategy that supports sustainable planned growth across West Lothian up to 2024 and beyond. In particular, it continues to support the previously established Core Development Area (CDA) allocations at three strategic locations: Armadale, East Broxburn/Winchburgh and Livingston and the Almond Valley (i.e. Calderwood, East Calder and Gavieside, West Livingston) together with the strategic development allocation at Heartlands, Whitburn and Bangour.
- 2.2 Although the development strategy will have many positive effects by providing new homes, jobs and economic development, it is recognised that new development also creates a requirement for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on existing communities, local amenity and the quality of the environment.
- 2.3 In order to deliver the planned growth set out in the LDP, improvements to infrastructure must be delivered alongside development. The planning system allows, and indeed expects developers to mitigate the impact of their development and to pay for, or contribute towards, improvements to infrastructure that arises as a direct consequence of the development, or from the cumulative impact of the development and which would not otherwise be needed.
- 2.4 This Supplementary Guidance has been prepared to explain how the council, through relevant policies of the LDP and with regard to the LDP Action Programme, will secure such improvements. Development will therefore only be supported if:
 - (a) funding (including any contributions from developer obligations) for necessary infrastructure is fully committed and that infrastructure is capable of being delivered;
 - (b) phasing to manage demand on infrastructure has been agreed; or
 - (c) in advance of all necessary infrastructure requirements being fully addressed, sufficient infrastructure is available in the interim to accommodate the development.
- 2.5 Development proposals will be assessed with regard to their impact on the capacity of infrastructure, (either on an individual or cumulative basis) and such provision will ordinarily be secured through planning conditions or planning obligations / legal agreements.

three

Purpose and scope of the guidance

- 3.1 It is important to be aware that this Supplementary Guidance does not make, replace or amend existing Local Development Plan policy but is intended to provide further guidance to developers, their agents and communities on the application and interpretation of planning policy generally and policies **CDA 1** (*Development in the Previously Identified Core Development Areas*) and **INF 1** (*Infrastructure Provision and Developer Obligations*) of the LDP in particular.
- 3.2 In many instances development will have commenced, and in some, be at an advanced stage. In these situations it is very probable that developer contributions will have already been agreed through the related planning consent/legal agreement and these arrangements will therefore prevail. The provisions and requirements of this Supplementary Guidance will consequently only be pertinent to the development of sites where there is no approved planning consent in place on the date this guidance is approved by the council.
- 3.3 This Supplementary Guidance is an important material consideration in the determination of planning applications and will form the basis for discussions on individual planning applications and the drafting of planning conditions and / or planning obligations.
- 3.4 The main objectives of this Supplementary Guidance are:
 - to set out the council's policies and procedures in respect of the use of planning conditions and planning obligations;
 - to explain the circumstances under which the council will collect financial contributions to mitigate the impacts of a development;
 - to provide clear guidance on the council's approach so that it is applied in a fair, consistent and transparent manner; and
 - to provide certainty for developers and to help ensure the timely provision of environmentally sustainable forms of infrastructure to support growth.
- 3.5 This Supplementary Guidance outlines the national and local legislative and policy framework for planning obligations and provides additional detail on topic areas for which West Lothian Council will ordinarily seek planning obligations, these include community facilities required in support of the CDAs and open space provision.
- 3.6 For an appreciation of developer obligations in the wider context it is recommended that this Supplementary Guidance should be read in conjunction with separate guidance relating to Affordable Housing, Education infrastructure, Transport infrastructure, Developer contributions towards Cemetery Provision and Public Art and, in due course the Green Network. The full programme of proposed supplementary and planning guidance is set out in Appendix 4 of the LDP. All Supplementary Guidance which has been prepared to date can be viewed on the council's [website](#). Other Planning Guidance (PG) may also be prepared in support of the LDP where need arises.

DATA LABEL: PUBLIC

- 3.7 A key aim of this Supplementary Guidance is to provide a clear framework for developers to identify if a planning obligation is required as part of a planning application. It is important that the process of securing appropriate developer contributions does not result in undue delays in the determination of planning applications and the council is therefore keen to assist those considering the development of land to understand, at an early stage in the planning application process, the likely scope and scale of any developer contributions which the council will require.
- 3.8 Developers and landowners seeking to submit planning applications for residential development are encouraged to make use of the council's pre-application enquiry service in order that any site specific requirements are identified and discussed at an early stage. Details of this service can be accessed on the *council's website*. *Please note that this is a chargeable service.*

four

Policy context and legal basis

- 4.1 Section 75 of The Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 allows planning authorities to secure developer contributions, through the use of planning obligations, to overcome obstacles to the granting of planning permission.
- 4.2 Legal agreements can also be made under other legislation including the Local Government (Scotland) Act 1973, the Countryside (Scotland) Act 1967, Sewerage (Scotland) Act 1986 and the Roads (Scotland) Act 1984 and provide a possible alternative mechanism to secure developer contributions. They are useful where the nature of the contribution is relatively straightforward, involves a one-off payment and/or does not require to be secured through successors in title. For this reason they can help speed up the development process. The council has used, and will continue to use alternative agreements where appropriate and where they are considered to speed up the development process.
- 4.3 This Supplementary Guidance has been developed in the context of the following policy and Scottish Government advice:
- Scottish Planning Policy 2014
 - Circular 6/2013 - Development Planning
 - Circular 3/2012 - Planning Obligations and Good Neighbour Agreements
 - Strategic Development Plan for South East Scotland (SDP) (2013)
 - West Lothian Local Development Plan (LDP) (2018)

Scottish Planning Policy (SPP) 2014

- 4.4 Scottish Planning Policy requires guidance to indicate how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made.

Circular 6/2013 - Development Planning

- 4.5 The Circular states that Local Development Plans must identify the items for which financial or other contributions will be sought, and the circumstances where they will be sought. In this way site requirements may be reflected in land values agreed by landowners and developers prior to planning permission being granted. Provisions in the Planning etc. (Scotland) Act 2006 require that planning obligations are publicised by Planning Authorities and that there is greater transparency in negotiating developer contributions. This Supplementary Guidance assists with these objectives and has been prepared in the context of the aforementioned policy and Scottish Government advice.

Planning Conditions

- 4.6 Conditions applied to a grant of planning permission can enable many development proposals to proceed where it might otherwise be necessary to refuse planning permission and the council has wide-ranging powers under the Town and Country Planning (Scotland) Act 1997 (as amended) to impose them, and has done so extensively.

DATA LABEL: PUBLIC

- 4.7 Where there is a choice between applying planning conditions or entering into a planning obligation, the use of a condition is almost always preferable. Planning obligations, while entirely legitimate and often necessary, are by their nature time consuming and resource intensive and will almost inevitably delay the issuing of planning permission.
- 4.8 Conditions attached to any planning consent must comply with *Circular 4/1998: The Use of Planning Conditions in Planning Permissions* and should only be imposed where they are:
1. necessary
 2. relevant to planning
 3. relevant to the development to be permitted
 4. enforceable;
 5. precise; and
 6. reasonable in all other respects

Circular 4/1998 advocates the use of standard or model planning conditions and provides guidance on a range of the most frequently used. In granting conditional planning permission, the council is also obliged to give clear and precise reasons for the imposition of every condition.

- 4.9 Planning conditions are not however without their limitations. They can only be used to require works on land beyond the application site (as defined by the "red boundary line" on the application plan) where the land in question is under the control of the applicant. Furthermore, conditions cannot be used to secure a financial contribution.

Circular 3/2012 - Planning Obligations and Good Neighbour Agreements

- 4.10 The council will therefore seek to negotiate and enter into a Planning Obligation whenever a development, which is otherwise acceptable in planning terms, requires mitigation and which cannot be secured through planning conditions. In accordance with national policy and advice and the approach taken by the Planning and Environmental Appeals Division (DPEA) Reporters in appeal decisions, the council will only seek to use a planning obligation where the matter(s) cannot be adequately addressed by planning condition(s).
- 4.11 The legislative basis for planning obligations is set out in Section 75 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- 4.12 Contributions secured through a planning obligation (Section 75 agreement or other legal agreement as necessary) shall be consistent with the five tests set out in *Circular 3/2012*. These are as follows:
- Necessary to make a proposal acceptable in planning terms (overcome a barrier to the approval of planning permission);
 - Serve a planning purpose and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
 - Be related to the proposed development either as a direct consequence of it or arising from the cumulative impact of development in an area (there must be a clear direct link between development and the infrastructure to be provided);

DATA LABEL: PUBLIC

- Must fairly and reasonably relate in scale and kind to the proposed development (provide or contribute to the provision of infrastructure that would not be necessary were it not for the development, on a proportionate pro-rata basis as appropriate, but not to resolve existing deficiencies); and
 - Be reasonable in all other respects.
- 4.13 In seeking to enter into planning obligations with a developer, such arrangements must be operated in accordance with the fundamental principle that planning permission may not be bought or sold. In accordance with Circular 3/2012 planning obligations should only be used where they relate to the development being proposed.
- 4.14 Where a proposed development would either; create a direct need for particular facilities, place additional requirements on infrastructure (cumulative impact) or have a damaging impact on the environment or local amenity that cannot be resolved satisfactorily through the use of planning conditions or another form of legal agreement, a planning obligation could be used provided it would clearly overcome or mitigate those identified barriers to the grant of planning permission. There must however be a clear link between the development and any mitigation offered as part of the developer's contribution. In addition, when determining whether a planning obligation is required, the council will take account of the existence of any other agreements or conditions relating to infrastructure provision that already apply to the development.
- 4.15 A developer can apply to the council to modify or discharge an obligation within a Section 75 legal agreement and has a subsequent right of appeal to the Planning and Environmental Appeals Division (DPEA) if the authority refuses the application. Such applications are made under the terms of Section 75A of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- 4.16 Planning obligations can take various forms and the nature of the contribution that developers can make will depend on the specific circumstances of the location of the development site and the scale and type of development scheme that is being proposed.
- 4.17 'In Kind' or 'Direct Provision' is where the developer builds or directly provides the proposed subject of the planning obligation. Such provision is often made within the development site in question. The issue of whether the developer should provide the mitigation measures in kind or whether the council, or another organisation, would be in the best position to provide the necessary works will be determined on a case-by-case basis and will be addressed via the negotiation involving all interested parties.
- 4.18 Planning obligations bind successors in title i.e. future purchasers of any part of the land that is subject to the obligations, as they are placed on the title of the land. This means that a planning obligation can be enforced against both the original landowner (this is usually the development site owner) and against anyone who subsequently acquires an interest in the land. As such, it is expected that those parties with an interest in the land in question, at the point in time that the Section 75 agreement is signed, will be expected to enter into planning obligations with the council.

DATA LABEL: PUBLIC

Strategic Development Plan for South East Scotland (SDP)(2013)

4.19 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. The SDP and the LDP form part of the 'development plan' that planning applications in West Lothian are assessed against.

4.20 The SDP sets the strategic policy context for the securing of developer contributions towards infrastructure. Paragraph 123 states:

'Developer contributions are important and will be required to assist in delivery and to address any shortfalls in infrastructure that arise as a direct result of new developments. LDPs will set out the broad principles for planning obligations including the items for which contributions will be sought and the occasions on which they will be sought. Mechanisms for calculating levels of contributions should be included in supplementary guidance with standard charges and formulae set out in a way that assists landowners and developers.'

4.21 The SDP requires the West Lothian LDP to specify the items and identify the circumstances in which developer contributions would be sought, specifically **Policy 9 (Infrastructure)**, which states that:

'LDP's will:

- (a) safeguard land to accommodate the necessary infrastructure;*
- (b) provide policy guidance that will require sufficient infrastructure to be available, or its provision to be committed, before development can proceed; and*
- (c) pursue the delivery of infrastructure through developer contributions, funding from infrastructure providers or other appropriate means, including the promotion of alternative delivery mechanisms. Particular emphasis is to be placed on delivery of the strategic infrastructure requirements that are set out in Figure 2 and in the Action Programme'.*

West Lothian Local Development Plan (LDP)

4.22 The policy context for securing developer contributions and negotiating planning obligations is set out in Policies **INF 1 & CDA 1** of the West Lothian Local Development Plan.

4.23 Policy **INF 1 (Infrastructure Provision and Developer Contributions)** sets out the rationale for seeking developer contributions in appropriate circumstances and policy **CDA 1 (Development in the Previously Identified Core Development Areas)** complements this by explaining that planning conditions and legal agreements will be used to secure infrastructure. Policies **INF 1 & CDA 1** are reproduced below for information.

DATA LABEL: PUBLIC

Policy INF 1

The council will seek developer obligations in accordance with Scottish Government Circular 3/2012 ('Planning Obligations and Good Neighbour Agreements'), as interpreted by emerging case law and amended by subsequent amendments and legislation, to mitigate the development's individual or cumulative impacts upon infrastructure, including cross-boundary impacts. Any such obligations will be concluded prior to the issue of planning permission.

Where appropriate developer obligations have been secured, planning permission will normally be granted. In all cases, the council will consider the economic viability of proposals alongside options of phasing or staging payments from developers.

Development will not be permitted to commence unless:

- a. funding (including any contributions from developer obligations) for necessary infrastructure is fully committed and that infrastructure is capable of being delivered; or*
- b. phasing to manage demand on infrastructure has been agreed; or*
- c. in advance of all necessary infrastructure requirements being fully addressed, sufficient infrastructure is available in the interim to accommodate the development.*

Only where infrastructure constraints, identified by the council in conjunction with relevant authorities, cannot be overcome, will there be a presumption against development.

Infrastructure requirements are identified in Appendix Two and further details will be provided in subsequent supplementary guidance and the Action Programme. Any related planning obligations will require to meet the policy and legal tests set out above. Proposed sites for new infrastructure are listed in Chapter 6'.

Policy CDA 1

The council will continue to support housing and mixed used development within those parts of West Lothian previously designated Core Development Area (CDAs) in Armadale, East Broxburn/Winchburgh and Livingston & Almond Valley subject to the preparation of master plans to be approved by the council. Infrastructure requirements are identified in Appendix 2 and further details will be provided in subsequent supplementary guidance and the Action Programme. Any related planning obligations will require to meet the policy and legal tests set out in Policy INF 1.

Planning conditions and legal agreements will be used to secure infrastructure funding and proper phasing of development. Developer contributions will be sought in accordance with Scottish Government Circular 3/2013 'Planning Obligations and Good Neighbour Agreements', as interpreted by emerging case law and amended by subsequent amendments and legislation. Contributions will also be required to remedy deficiencies in local facilities and amenities which result from proposed developments.

A diversity of house types, tenures and densities must be provided within these areas. Within the mixed use areas net housing densities shall average at least 25 residential units per hectare. Affordable housing shall be provided within the previously identified CDAs in accordance with policy HOU 4 (Affordable Housing and relevant Supplementary Guidance).

- 4.24 When assessing planning applications, the council will determine whether planning conditions and/or planning obligations are suitable in order to make otherwise unacceptable development, acceptable.
- 4.25 Appendices 1 & 2 of the LDP provide details on the employment land and housing site allocations in West Lothian and includes commentary on the constraints already identified at site level which may necessitate a requirement for planning conditions or planning obligations in order to make the proposed development acceptable in planning terms. The LDP Action Programme sets out actions required to deliver the plan's policies and proposals and identifies the appropriate parties or organisations that are required to carry out the action(s), including where available anticipated costs of proposals.

five

Implementation

- 5.1 In preparing the West Lothian LDP an assessment was made of the likely pressures on services, infrastructure, facilities and amenities within specific settlements and the Core Development Areas as a result of the major housing allocations identified in the LDP and a number of specific projects have been identified. Appendix 2 of the LDP 'Schedule of Housing Sites/Site Delivery Requirements' (p.115) identifies the key infrastructure that is required in order to deliver in full the development strategy set out in the LDP.
- 5.2 When a planning application relating to residential development is submitted to the council for consideration, the council will assess the requirement for the prospective developer to make appropriate developer contribution(s) in accordance with the provisions of this Supplementary Guidance.
- 5.3 Each planning application will be considered in line with Policies **INF 1 & CDA 1** and the terms of this and other relevant guidance. However, this does not preclude the council seeking other contributions not specifically covered by this Supplementary Guidance where they meet the statutory tests (set out in Circulars 4/1998 and 3/2012 - see paragraph 4.8 and 4.12) and enable an otherwise unacceptable development proposal to be acceptable to the council.
- 5.4 Planning obligations should be recognised as a necessary cost of development. Developers should therefore make themselves aware of the likely planning obligation requirements associated with a proposed development and factor in the likely cost of obligations into land acquisition and development costs at an early stage.
- 5.5 Developers will be required to make contributions at the levels set for the particular project or settlement within which the development is proposed.
- 5.6 The requirement for a developer to make appropriate developer contributions will be treated as a material planning consideration in the assessment and determination of planning applications for development.
- 5.7 In exceptional circumstances, the council will consider alternative projects identified by the developer, to an equivalent value for that settlement. It should however be noted that whilst the council is not obliged to accept any alternative project, offer, or other scenario as may be suggested, or proposed by a developer any such proposal will be considered on merit against Local Development Plan requirements and local circumstances.
- 5.8 Where developers are of a view that fulfilling a planning obligation would make the economics of the development unviable and look to amend the levels of contribution, the prospective developer will be required to submit a development appraisal which the council, through the District Valuer, or another independent chartered valuation surveyor agreed by the council, will verify. This appraisal requires to be funded by the developer/applicant. The council will also require documentary evidence necessitating "open-book accounting" to show the viability of a proposal will be curtailed by the requirement for planning obligations. If a development appraisal shows that a site is not viable the council may elect to review developer obligations and consider a degree of 'prioritisation'.

DATA LABEL: PUBLIC

However, in the event of a development being assessed as unviable the council will consider all the options which will include refusal of the application due to its inability to fund the required levels of infrastructure.

Legal Agreements

5.9 Local authorities have powers to enter into agreements to regulate planning matters under various statutes. Where it is necessary to secure that future, owners and occupiers of the land are bound by a planning obligation (for example where phased financial contributions towards infrastructure are required), it is necessary to secure this by agreement or unilateral undertaking under Section 75 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006. All planning obligations involve developers entering into legally binding contracts with the council and planning permission will not be issued by the council until the relevant agreement has been formally concluded.

5.10 Whilst Section 75 agreements are bespoke and can be time consuming to negotiate and conclude, they typically contain the following elements:

- date of the agreement;
- identification of the parties involved;
- definition of any terms contained within the document;
- site and development proposal details;
- relevant conditions;
- details of any provisions or restrictions required under the agreement; and
- signatures of all the parties involved.

The Section 75 agreement will usually be drafted by the council's Legal Services. A template Section 75 agreement can be requested from the Development Management case officer in these circumstances.

Key items that will be required to be provided to the council's Legal Services include the following:-

Titles

In every case all title deeds to the land must be provided for examination. These should demonstrate that the landowner has the ability to enter into the planning obligation in respect of the affected property. Where there are other interests in the property further titles may be required and other parties might need to enter into the planning obligation.

Plans

Plans which clearly show the extent of the area of land which is to be subject to the planning obligation should be provided. These should correspond with the title deeds to the land.

DATA LABEL: PUBLIC

Searches

Searches over the **General Register of Sasines** or **Land Register** brought down to a date as close as possible to the date when the planning obligation is to be sent for recording (or registration). The searches must show no competing interest to the land or matter restricting the ability to enter into the planning obligation. Searches should be provided to Legal Services by the applicant/landowner's solicitor.

Heritable Creditor Consents

Any heritable creditor (e.g. a mortgage lender or floating charge holder) will be required to consent to the granting of the planning obligation. The heritable creditor will need to sign the planning obligation and the landowner will meet any costs associated with procuring such consent. Applicants are encouraged to make contact with any heritable creditor as soon as the requirement for a planning obligation is identified as it can often take some time for the creditor to approve applications for consent. It is important to note that no progress can be made on the planning obligation until Legal Services has received the relevant title deeds or land certificate. It is therefore advisable to provide those documents as quickly as possible to avoid any delay in the proposed development.

- 5.11 Should a planning application be approved subject to the signing of a Section 75 agreement, the council requires the agreement to be negotiated and signed without undue delay. The council's aim is to issue decision notices within 6 months from the date of the council's '*resolution to approve*'. Where evidence is provided by the applicant to the council's satisfaction that the agreement cannot be signed within this period, then a variation on the stipulated time limit will be considered on a case-by-case basis. Should this information not be forthcoming, the council may decide to refuse the planning application based on the non-completion of the Section 75 agreement.
- 5.12 A planning obligation must be registered against the title of the land in either the General Register of Sasines or Land Register of Scotland (as applicable). Once a planning obligation has been registered it becomes binding on all future owners of the land. It may affect tenants and other occupiers, depending on the specific terms. Any restrictions on future use of the land or property will affect all future transfers or sales.
- 5.13 Figure 1 explains the procedures which the council and applicant will typically take to establish a Section 75 agreement.

Figure 1: Step-by-Step Guide to establishing a Section 75 legal agreement

Pre-Application Discussions

Applicants are encouraged to enter into discussions at the earliest possible stage with the council's Development Management (DM) officers prior to submitting a planning application. Such discussions provide a valuable opportunity for all parties to consider the scope and impact of the development proposal. The council offers a service for [pre-planning application advice enquiries](#) (which is a chargeable service accessible through the council's website). This service is separate to any Pre-application Consultation that a developer may be required to undertake in respect of certain planning applications. The DM Case Officer and relevant service area(s) raise potential planning obligations on the proposal if applicable.

DATA LABEL: PUBLIC

**Planning Application Received**

The DM Case Officer makes an initial assessment of Section 75 implications related to the proposal and whether the issues raised at the pre-application stage have been addressed.

**Planning Application Consultation**

Following the submission of a planning application, the formal consultation process will commence with the involvement of all relevant bodies, statutory as well as non-statutory and council services. Their responses will help identify any additional requirements for further planning obligations not already addressed as part of the pre-application discussions.



Comments received. DM Case Office and Legal Services negotiate with developers to agree 'heads of terms' for planning obligations.

**Planning Application Recommendation**

Following the consultation process and subsequent discussion with the applicant, a report may be prepared outlining the DM case officer recommendation and the nature and details of the planning obligation. The council may resolve to grant planning permission, subject to the applicant entering into a Section 75 Agreement, or refuse the planning application.

**Section 75 Agreement - Drafting**

Following a '*resolution to grant planning permission*', the DM Case Officer will instruct Legal Services to draft the Section 75 Agreement. Legal Services in liaison with the DM Case Officer will undertake to co-ordinate any detailed discussions, including with other internal council services, regarding the precise terms of the Agreement should this be required.



The Council's Legal Services send draft agreement to all parties to check and agree.

DATA LABEL: PUBLIC

**Section 75 Agreement - Signing and Legal Completion**

The Section 75 Agreement is signed, legally completed and details are recorded onto monitoring systems and the Register of Sasines and/or Land Register. The planning decision notice, with the planning permission, is then issued.

DATA LABEL: PUBLIC



Securing the developer contributions

- 6.1 To ensure the necessary infrastructure is in place to take account of the impacts of new developments this Supplementary Guidance applies to **all unconsented residential developments** in West Lothian including the Core Development Areas (CDAs), namely *Armadale, East Broxburn and Winchburgh, , Calderwood (East Calder) and Gavieside (West Livingston) and the strategic development allocation site at Heartlands (Whitburn) and Bangour (Dechmont)*. Developments outwith these areas may also be required to contribute to infrastructure requirements to enable development to proceed.
- 6.2 The specific projects to be implemented or funded by developers are set out in Table 1 and are consistent with Appendix 2 and policies **INF 1** and **CDA 1** of the West Lothian LDP. Reference should also be made to the LDP Proposals Map which defines the geographical extent of the areas listed in Table 1 and hence the areas within which developer contributions will be required towards infrastructure. Developer contribution rates have been informed (where known) by costs set out in the LDP Action Programme which has been prepared to support the LDP and by existing planning consents and associated Section 75 agreements.

It should be noted that developer contributions towards education, transport infrastructure, cemetery provision and public art are set out in separate guidance entitled:

- Supplementary Guidance: Planning and Education
- Supplementary Guidance on Developer Contributions towards Transport Infrastructure
- Supplementary Guidance on Cemetery Provision
- Supplementary Guidance on Developer Contributions Towards Public Art

Developers are required to have regard to these alongside this Supplementary Guidance on general infrastructure requirements.

- 6.3 Developer contributions will be calculated on the basis of whole sites identified in the LDP. Applications for parts of allocated sites will pay a proportion of the total site contributions. This Supplementary Guidance will not be applied retrospectively to sites which already have planning permission in principle or to applications for the approval of matters specified by condition without any requirement to contribute to general infrastructure, provided that the permission remains capable of being implemented. New planning applications, for similar developments on these sites (including applications for renewal of planning permissions), will however be required to comply with the terms of this guidance and to policies set out in the LDP.
- 6.4 The only exemptions will be small developments comprising four or less units, unless they are clearly part of a phased development of a larger site. In such cases the council will seek to agree appropriate sums with the applicant.

DATA LABEL: PUBLIC

- 6.5 Developer contributions shall be secured by means of agreements concluded between the applicant and the council under Section 75 of the Town and Country Planning (Scotland) Act 1997 or Section 69 of the Local Government (Scotland) Act 1973, prior to the issue of planning permission. In some cases, where a relatively small financial contribution is involved, it may be possible to avoid formal agreements and for the council to collect contributions on the basis of an exchange of letters prior to planning permission being granted or through a section 69 Agreement.
- 6.6 The council recognises that funds received through planning obligations process need to be clearly linked to the provision of specific pieces of infrastructure. To provide this clarity, the council has set up a financial tracker to monitor the source of funds, the purpose for which they are gathered, and how they are spent. All contributions received will be "ring fenced" and will be spent only on funding the projects identified in Table 1.
- 6.7 The costs identified within this guidance will be subject to review on an annual basis, through the LDP Action Programme. These costs will be index linked against the Building Cost Information Service (BCIS) All-in Tender Price Index or similar comparable industry standards and subject to independent verification where necessary. This guidance will be reviewed and updated periodically to ensure that the level of contribution being required of developers remains relevant and takes account of changing circumstances. This will include updating contributions to take account of the BCIS All-in Tender Price Index.
- 6.8 In general, Section 75 agreements contain a pay-back period. A section of the agreement indicates that if the council does not use the contributions within the specified timescales or monies are no longer required for the purpose for which they were collected they will be repaid, on a pro-rata basis, to those parties who made the contributions towards the project. The specified time periods will depend on the project involved.
- 6.9 In some instances, planning contributions will be in the form of infrastructure provided directly by a developer. Direct provision will be factored into the overall contributions that a site will make and where appropriate, this may be offset against total costs of the infrastructure project. Where direct provision of infrastructure is required, bonds or other legal security may also be agreed to safeguard the council from risk.
- 6.10 There may be instances where infrastructure is required in advance of all developer contributions having been received by the council. Where this is the case alternative funding options may be investigated. In these situations, contributions will continue to be sought from developers to meet the full cost of the infrastructure which has been provided. There may also be circumstances where the council has forward funded infrastructure projects to assist in development delivery. Where this is the case the council will seek to recoup monies from developers by way of developer contributions; this approach is consistent with paragraphs 23 of Circular 3/2012.
- 6.11 Over the lifetime of the LDP developers/landowners are likely to seek planning permission for sites not allocated in the West Lothian Local Development Plan - such sites are known as windfall sites. The impact of these sites will not have been considered in any capacity assessments which determine the need for improved or additional infrastructure. Non-exempt windfall sites will be required to provide developer contributions towards infrastructure as set out in this guidance.

DATA LABEL: PUBLIC

- 6.12 Section 76 (1) (b) of the Town and Country Planning Act (Scotland) 2006, as amended, allows developers to enter into unilateral agreements to make an appropriate contribution in relation to the impact of their proposals. Where a unilateral undertaking is in place, unless it makes provision for all the infrastructure impacts of the proposed development, the need for any additional contributions to meet the requirements set out in this Supplementary Guidance will be secured through a planning obligation.
- 6.13 Depending on the particular circumstances of a proposed residential development and to assist in development delivery, the council may, on application, agree for payments to be made at a later stage in the development process than would otherwise be considered appropriate, for example once houses have been sold, albeit subject to indexation as described above.

DATA LABEL: PUBLIC

Annex A

General infrastructure requirements

- 1.1 The LDP has identified specific infrastructure requirements for housing sites in the Winchburgh, East Broom, Armadale, Calderwood and Mossend/West Livingston CDAs and these are reproduced in Table 1 and should be read in conjunction with the relevant LDP Maps.
- 1.2 In many instances conditional planning permission has already been granted for the development of these allocated sites and any legal agreements which set out the required developer obligations have been concluded and are unchanged as a consequence of this guidance. In these circumstances the scope and cost of related infrastructure projects will already have been established and have not required to be set out here.
- 1.3 Where residential development on 'windfall' sites and as yet unconsented/undeveloped sites within the CDA (and the Heartland Strategic Development Area) are brought forward, they will be subject to the same range of infrastructure requirements with arrangements and costs being determined on a case by case basis through the respective planning applications.

Table 1: Requirements for infrastructure, local facilities and amenities for housing proposals to be implemented or funded by CDA developers

ALL CDAs		
Description of facilities and amenities	Details of planning permission where applicable	Notes
• Land for community facilities		
• Serviced employment land		
• Woodland planting to implement Green Network objectives		
• Management of existing trees and woodlands		
• Open space provision and indoor and outdoor sports facilities in accordance with approved strategies of the council		
• Recycling facilities		

DATA LABEL: PUBLIC

WINCHBURGH CDA*See LDP Map 2 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Public car park for new town centre; 	Condition 24 of permission 1012/P/05	Implementation required during first phase of Town Centre/by the completion of the 1001 st house.
<ul style="list-style-type: none"> Additional landscaping and improved recreational access and management plan for Claypit and surrounding area; 	Condition 19 of permission 1012/P/05	Implementation required prior to the completion of the 600 th house.
<ul style="list-style-type: none"> Joint preparation (with East Broxburn CDA developers) of a management plan for the scheduled Greendykes and Faucheldean Bings and for the "green corridor" between Winchburgh and East Broxburn and funds to allow implementation of the plan; 		The council owns part of Greendykes Bing and a study funded by Central Scotland Green Network (CSGN) in 2013/14 identified various options for the green network corridor. Supplementary guidance on the Green Network will specifically address this requirement.
<ul style="list-style-type: none"> Preparation of a strategy to restore Niddry Bing and funds to allow implementation of the plan; 	Conditions 5 & 34 of permission 0033/M/09	
<ul style="list-style-type: none"> Joint funding (with East Broxburn CDA developers) of works to rehabilitate the non-scheduled parts of Greendykes Bing; 		Obligation has been placed on the Broxburn CDA developers as being more relevant to that CDA.
<ul style="list-style-type: none"> Preparation of a strategy for the restoration of Auldcaithie landfill site and funds to allow implementation of the plan; 	Conditions 5 & 14 of permission 1012/P/05 & 1123/FUL/18	Planning permission (1123/FUL/18) for the formation of a District Park was granted on 28 March 2019 and the park is expected to be delivered in accordance with the planning conditions set out in the consent
<ul style="list-style-type: none"> Enhancement of existing river corridors within master plan area; 	Conditions 18 & 21 of permission 1012/P/05	These requirements are expected to be addressed by developers as part of the wider landscape strategy.
<ul style="list-style-type: none"> Land for canal related facilities having regard to the Edinburgh-West Lothian Union Canal moorings study previously prepared by British Waterways (now Scottish Canals); 	Condition 24 of permission 1012/P/05	Planning permission (0642/MSC/19) for the formation of a marina was granted on 11 September 2019 and, subject to securing Scheduled Monument Consent, the marina will be delivered in accordance with the planning conditions set out in that consent. Active discussion is ongoing between the developer and Scottish Canals on this matter and future phases of development along the Canal.
<ul style="list-style-type: none"> Contribution to library provision; 		Contribution defined in Clause 15 of the planning obligation between WLC/The Winchburgh Trust /Regenco (Winchburgh) Ltd.
<ul style="list-style-type: none"> The current supply of open space in the existing settlements is not of a sufficient size and types to cater for the potential demand from new housing. Winchburgh/East Broxburn should include appropriate levels of each part of the West Lothian open space typology, including district parks, neighbourhood parks, local parks, sports areas, play spaces, green path corridors and amenity greenspace; 	Conditions 17 21 of permission 1012/P/05	Phased implementation required prior to the completion of a specific number of houses, i.e. 501, 551, 1001, 1501, and 2501. See S75 for precise details. The West Lothian Open Space Strategy is currently under review and due to be considered by the council in 2020. This may outline further open space requirements for the Winchburgh area. The planning application for rehabilitation of the adjacent Auldcaithie Landfill site for playing pitches and associated open space will go a considerable way to addressing the current identified deficiency.
<ul style="list-style-type: none"> The proposed "Heritage Park" around the scheduled monuments of Greendykes & Faucheldean Bings is in the sensitive countryside gap between the expanded settlements. This concept could address the provision of a district and neighbourhood park acquired from the 2015 WL Open Space Strategy. 		Not a condition nor is it included as part of the planning obligation. Supplementary guidance on the Green Network will specifically address this requirement, as will conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA.

DATA LABEL: PUBLIC

EAST BROXBURN CDA*See LDP Map 2 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Joint preparation (with Winchburgh CDA developers) of a management plan for the scheduled Greendykes and Faucheldean Bings and for the "green corridor" between Winchburgh and East Broxburn and funds to allow implementation of the plan. 		The council owns part of Greendykes Bing and a study funded by Central Scotland Green Network (CSGN) in 2013/14 identified various options for the green network corridor. Supplementary guidance on the Green Network will specifically address this requirement.
<ul style="list-style-type: none"> Joint funding (with Winchburgh CDA developers) of works to rehabilitate the non-scheduled parts of Greendykes Bing; 		Obligation has been placed on the Broxburn CDA developers as being more relevant to that CDA. Will be subject to conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA.
<ul style="list-style-type: none"> Land for canal related facilities having regard to the Edinburgh – West Lothian Union Canal moorings study previously prepared by British Waterways (now Scottish Canals); 		Obligation likely to be placed on the Broxburn CDA developers as being more relevant to that CDA. Will be subject to conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA.
<ul style="list-style-type: none"> Contribution to improvements at Stewartfield Park; 		Works already implemented including off-site access and signposting.
<ul style="list-style-type: none"> Woodland planting to north of mixed use sites at Pyothall Road, Greendykes Road West and Greendykes Road East as extension of Broxburn Community woodland and green network corridor; 		Will be subject to conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA. .
<ul style="list-style-type: none"> The current supply of open space in the existing settlements is not of a sufficient size or type to cater for the potential demand from new housing. Winchburgh/East Broxburn should include appropriate levels of each part of the West Lothian open space typology, including district parks, neighbourhood parks, local parks, sports areas, play spaces, green path corridors and amenity greenspace. 		Will be subject to conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA. .
<ul style="list-style-type: none"> The proposed "Heritage Park" around the scheduled monuments of Greendykes & Faucheldean Bings is in the sensitive countryside gap between the expanded settlements. This concept could address the provision of a district and neighbourhood park acquired from the 2015 WL Open Space Strategy. 		Not a condition nor is it included as part of the planning obligation. Supplementary guidance on the Green Network will specifically address this requirement, as will conditions and planning obligations relative to future planning approvals for developments in the Broxburn CDA.

ARMADALE CDA*See LDP Map 4 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Enhancement of open space area at Black Moss between Avondale Drive and Upper Bathville and formation of community woodland on western edge of Armadale; 		
<ul style="list-style-type: none"> Woodland planting adjacent to A801, to north and east of mixed use allocation at Colinshiel and on the west edge of the allocations at Standhill; 		
<ul style="list-style-type: none"> Extension of Armadale Round Town Walk (re-named Davie Kerr Heritage Trail) into both the Colinshiel and Standhill areas; 		
<ul style="list-style-type: none"> Contribution to improved library facilities; 		See Annex B
<ul style="list-style-type: none"> Management plan for Colinshiel Wood; 		

DATA LABEL: PUBLIC

<ul style="list-style-type: none"> If facilities of a district level are not able to be provided within the new settlement boundary due to space constraints, then facilities in neighbouring district parks (e.g. Balbardie Park Bathgate and proposed district park in Whitburn), should be extended and upgraded to meet the increased demand. 		
--	--	--

CALDERWOOD CDA*See LDP Map 5 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Public car park at East Calder; 		Contribution of £50 (indexed to 1 st quarter 2012) per residential unit in the CDA is being taken so that the council can deliver the car park
<ul style="list-style-type: none"> Public car park for new local neighbourhood centre; 	Condition 12 of 0524/P/09	Parking to be provided as part of the neighbourhood centre. First phase of the neighbourhood centre required prior to occupation of the 1001 st residential unit.
<ul style="list-style-type: none"> Native woodland planting adjacent to A71 and to improve screening of Camps Industrial Estate; 	Condition 10 of 0524/P/09	
<ul style="list-style-type: none"> Contribution to improved library facilities; 		Library now provided in the partnership centre.
<ul style="list-style-type: none"> Land for the extension of the existing health centre or for the construction of a new health centre; 		NHS Lothian is considering options for the health centre.
<ul style="list-style-type: none"> Extension of "the Muddies"- Mansefield Park. 	0609/FUL/15	The land for the park extension will be provided by Persimmon as part of its development at Raw Holdings. Contribution of £500 (indexed to 1 st quarter 2012) per residential unit in the CDA is being taken so that the council can deliver the park extension.
<ul style="list-style-type: none"> Landscaping treatments at the eastern and southern boundaries to provide containment and prevent development creepage. 	Condition 10 of 0524/P/09	Landscaping required prior to occupation of the 980 th residential unit.

WEST LIVINGSTON / MOSSEND CDA*See LDP Map 3 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
<ul style="list-style-type: none"> Public car park for new village centre at Gavieside 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> Management plan for remaining part of Briestonhill Moss and funds to implement plan; 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> The current level of open space provision in the northern part of the Polbeth area is poor. Therefore, the provision of the proposed structure planting should be of a high quality, with a network of connecting paths to Briestonhill Moss area and the existing woodland areas; 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> Safeguard land for extension of Almond Valley Heritage Centre light rail route on north side of River Almond; 		
<ul style="list-style-type: none"> Enhancement of river corridors within master plan area; 		
<ul style="list-style-type: none"> Extension of existing greenway associated with River Almond (between Kirkton and Easter Breich); 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> New greenways associated with West Calder Burn, Harwood Water and Breich Water; 		To be secured through any planning application for the Gavieside allocation.
<ul style="list-style-type: none"> Contribution to library provision. 		To be secured through any planning application for the Gavieside allocation.

DATA LABEL: PUBLIC

<ul style="list-style-type: none"> • New distributor road network to the west of Livingston to serve the new community at Gavieside and bypass Polbeth 		<p>Study and survey work are underway to ascertain the best means of improving the road network at West Livingston that might now no longer require an expensive bridge crossing of the River Almond near the sensitive Almond Pools nature area and an accompanying two land carriageway, with a crawler lane on the north side, to reach Toll Roundabout.</p> <p>Options may include a signalised and expanded junction at Simpson Parkway and Macintosh Road.</p>
<p>Transport assessments will determine the final road network and junction improvements necessary to support the Livingston and Almond Valley CDA proposals.</p> <p>The potential for road closures at Mossend (West Calder), Polbeth Road will be considered and will be promoted if there is community support.</p>		(As above)
Improved access to West Calder railway stations.		<p>The access road to facilitate a new entrance and access to West Calder Station on its north side has been constructed as part of the A71 overbridge raising works related to the electrification of the Edinburgh- Shotts line. However additional work on the platform and related structures will be required with consultation with Network Rail and also a minimum 200 space car park for Park and ride (and land set aside for the extension of this facility) and public transport interchange.</p> <p>The existing access will need to be closed off for passenger use, albeit retained for the business and residential properties that currently use the south access at Limefield Road / A71.</p>
Key public transport requirements include the provision of park and ride facilities at Gavieside, West Calder railway station.		(As above)
The Gavieside "park and ride" facility will allow the Livingston "Fastlink" to be extended to serve the new housing and employment proposed in this part of the CDA. Land should be safeguarded in the masterplan for a possible future extension of this park and ride facility to serve Livingston Town Centre. The CDA Action Plan also envisages that developers will contribute to public transport initiatives.		Likely to be imposed as a planning condition solely on the West Livingston CDA developers when a planning permission is concluded related to the approving the masterplan for this part of the overall Almond Valley and Livingston CDA.
Local neighbourhood centres are envisaged at Gavieside to provide a focus for communities.		Likely to be imposed as a planning condition solely on the West Livingston CDA developers when a planning permission is concluded related to the approving the masterplan for this part of the overall Almond Valley and Livingston CDA.
<p>Land for community facilities will be required at Gavieside but, at this stage, the precise details are not yet known.</p> <p>Further consultation with West Lothian Healthcare NHS Trust will be required on health centre provision on the west side of Livingston.</p>		Likely to be imposed as a planning condition solely on the West Livingston CDA developers when a planning permission is concluded related to the approving the masterplan for this part of the overall Almond Valley and Livingston CDA.

DATA LABEL: PUBLIC

HEARTLANDS STRATEGIC DEVELOPMENT AREA*See LDP Map 4 for general location of requirements*

Description of facilities and amenities	Details of planning permission where applicable	Notes
Planning permission in principle (0493/P/02) was approved in May 2006 and identified a range of infrastructure requirements including:	0493/P/02	
<ul style="list-style-type: none"> South-western distributor road between the A706 and the B7066. 		Work ongoing on design and construction programme. A planning application, reference 0449/FUL/20 and embracing the first phase of the new road (from Longridge Road to connect with Polkemmet Road/Dickson Terrace) was submitted in June 2020.
<ul style="list-style-type: none"> A strategic public access network setting out footpaths and cycleways and the linkages between the development and surrounding land uses including the forests, Polkemmet Country Park and the settlements of Whitburn, Fauldhouse and Longridge. 		Included within the masterplan and being taken forward and implemented on individual phases.
<ul style="list-style-type: none"> Land for the development of a neighbourhood centre; 		Land safeguarded in approved masterplan.
<ul style="list-style-type: none"> A four way grade separated interchange on the M8; 		Completed
<ul style="list-style-type: none"> A new public transport interchange at Cowhill; 		Required by conditions and s75 agreement.
<ul style="list-style-type: none"> Public art, open space and play area provision. 		Strategy document required by condition, which will include timescales for implementation. While a public art strategy has been drafted it has still to be submitted for consideration and approval by the council.

Annex B

Specific infrastructure requirements

1.0 Developer Contributions for Town Centre and Village Improvements

- 1.1 The adopted West Lothian Local Development Plan (LDP) which was adopted on 4 September 2018 supports a sustained level of growth with more than 24,000 new houses being planned for over the plan period.
- 1.2 More than 12,000 of these new houses will be located in the previously established Core Development Areas (CDAs): Armadale, East Broxburn/Winchburgh and Livingston and the Almond Valley (i.e. Calderwood, East Calder and Gavieside, West Livingston) and in excess of 3,500 houses have been identified for development within the strategic development allocation at Heartlands (Whitburn) and Bangour (by Dechmont).
- 1.3 The scale of development planned for these CDAs and the strategic development areas will result in demand for additional facilities and improved town and village centres within the communities close to where the major housing growth is taking place and developers within these areas are therefore required to contribute towards town and village centre improvements. NB: This is essentially a continuation of arrangements established under the previous West Lothian Local Plan (WLLP) and supporting Supplementary Planning Guidance (SPG) in 2007.
- 1.4 There are 2 options by which developers can contribute towards town and village centre improvements: implementation of a package of proposals identified by the developer and agreed with the council; or a financial contribution by the developer to the established town and village centre improvement fund which is administered by the council.

(1) Implementation of a package of proposals by developers

- 1.5 It will be acceptable for developers to be pro-active and identify a package of proposals which they wish to implement themselves to improve town and village centres in adjacent/host communities. This option may be attractive to some developers because, depending on the nature of the works carried out, they may be able to obtain a return on their investment.
- 1.6 Where the developer wishes to be pro-active and implement a package of proposals, the approval process for the package of proposals will be as follows:
 - ▶ The developer will carry out local consultation to assist with identifying deficiencies and desired improvements.
 - ▶ The developer will present the council with a report which identifies the improvements which the developer wishes to carry out and sets out the timescale for the implementation of the works. Deliverability will be essential so the report should demonstrate that there are no known constraints which would prevent the works being implemented. The council will initiate local consultation on the developer's proposals.

DATA LABEL: PUBLIC

- ▶ If necessary, negotiation between the council and the developer will take place and the package of proposals will be adjusted if required. The council will carry out further consultation if the package of proposals has changed materially.
 - ▶ Once the council's Development Management Manager is satisfied that the package of proposals is acceptable, committee approval will be sought.
- 1.7 In many cases, planning permission will be necessary for the improvement works which are proposed. This will be a wholly separate undertaking to the process described above. Approval in principle of a package of town and village centre improvements will not oblige the council to grant planning permission for any specific proposal. In any event, all planning applications will be determined having regard to the development plan and to material considerations.
- 1.8 The following list identifies the type of works that could be considered for inclusion in a package of proposals for town and village centre improvements:
- redevelopment of gap sites for private housing, affordable housing or other appropriate town centre uses;
 - townscape enhancement;
 - refurbishment of derelict buildings and land (including CPO);
 - landscape improvements;
 - upgrading of footpaths; and
 - car park improvements;
- This list is not exhaustive.
- 1.9 It is anticipated that works may be phased over a period of time and with the arrangements set out in a section 75 agreement.

(2) Financial contribution by developers to a town and village centre improvement fund

- 1.10 As an alternative to carrying out town and village centre improvements themselves, developers may instead choose to contribute to a town and village centre improvement fund which has been established by the council for this purpose. In such cases, a standard contribution of £350 per residential unit (see note below) would apply. It is recognised that town centres may be just one consideration for contribution that will have to be balanced against others in any case. Each proposal will have different impacts and will be considered on a case specific basis. Phasing of contributions will be acceptable with the arrangements being set out in section 75 agreements. There will also be a requirement in the section 75 agreements that any money not spend within an agreed timescale should be returned to the developer.
- 1.11 The following list identifies the type of improvement works that the council could consider carrying out using the funds received from developers:
- landscape works including the provision and maintenance of public space;
 - new or replacement street furniture and lighting;
 - a scheme of townscape enhancements;
 - litter management and recycling (excluding general street cleaning activities);
 - crime prevention measures e.g. CCTV;

DATA LABEL: PUBLIC

- improved public transport facilities;
- new or replacement signage and information;
- a promotion and marketing campaign;
- car parking improvements and management; and
- town and village centre studies;
- site assembly/site servicing (including CPO); and
- traffic calming/traffic management.

This list is not exhaustive.

1.12 In this instance, a standard contribution of £350 per residential unit would apply and the council will secure developer contributions for town and village centre improvements through section 75 agreements.

1.13 To be clear about which developers will contribute to improvements in specific towns and villages, the following principles will apply:

- Armadale CDA developers will only contribute towards improvements in Armadale town centre;
- Winchburgh CDA developers will only contribute towards improvements in the existing village centre of Winchburgh;
- Broxburn CDA developers will only contribute towards improvements in Broxburn town centre;
- West Livingston/Mossend CDA developers will only contribute towards improvements in the village centres of West Calder and Polbeth;
- Calderwood CDA developers will only contribute towards improvements in the existing village centre in East Calder;
- Polkemmet, Heartlands (Whitburn) developers will only contribute towards improvements in Whitburn town centre; and
- Bangour Village Hospital developers will only contribute towards improvements in the existing village centres of Dechmont and Uphall.

1.14 The LDP aims to improve the physical environment of existing town centres, through the council integrating its own programmes of action with those of agencies, developers, traders and local communities with whom it works in partnership. The council will, therefore, explore opportunities to secure other funding and work in partnership with others to maximise new investment. It is the council's objective that improvements secured through this particular initiative will act as a catalyst for attracting further investment and help maximise benefits.

2.0 Developer Contributions for a Replacement Armadale Library

2.1 There is a specific requirement identified in Appendix 2 of the LDP, Schedule of Housing Sites/Site Delivery Requirements, to improve library facilities in Armadale in order to meet the needs of the new and growing population arising from the housing allocations in the Armadale Core Development Area (CDA). This initiative is essentially a continuation of arrangements established under the previous West Lothian Local Plan (WLLP) and supporting Supplementary Planning Guidance (SPG) in 2009.

DATA LABEL: PUBLIC

- 2.2 To be clear, contributions are only being sought to meet the additional cost of providing library facilities for the 2,000 plus new homes in the Armadale CDA and all contributions secured will be *ring fenced* and will only be used to recover expenditure incurred by the council on the forward funding of new and improved library facilities in Armadale.
- 2.3 It had been established that there was insufficient land to expand the original Armadale library on its site at West Main Street and this influenced the decision to replace the facility on the current site at North Street, a project which was financed by the council as part of a ten year capital investment plan approved in December 2007.
- 2.4 The total cost of the replacement library, designed to meet the requirements of the existing population and the anticipated growth in population arising from 2,070 houses allocated in the Armadale CDA was originally estimated at £775,000 (but since confirmed as substantially higher at £1,118,000).
- 2.5 The council assumed just under two thirds of the estimated cost to meet the library needs of the existing population with the remainder of £275,000 being the sum directly attributed to facilitating the demand of the new housing allocations and to be financed over time through developer contributions.
- 2.6 An original base tariff of £133 per house was established when the previous SPG was adopted in 2009 (2,070 house units multiplied by £133 = £275,000) and it was advised that this would be updated in successive years by being linked to the Building Tender Price Index (using fourth quarter 2009 as the base date).
- 2.7 In the event the actual total cost of the library was £343,000 greater than the estimate and approximately one third of this figure (£114,333) therefore requires to be added to the sum to be recovered from developers thus creating a revised outstanding balance of £389,333. As of 31 July 2019, the council had received no contributions towards the replacement library.
- 2.8 In addition to the 2,070 houses originally allocated as part of the Armadale CDA, the LDP made a new housing allocation of 320 units at Tarrareoch Farm (H-AM 19). When added together this establishes a pool of 2,390 houses liable to make contributions. When the outstanding balance of £389,333 is divided by 2,390 houses the 'per unit figure' which developers within the Armadale CDA are required to contribute towards the proportional cost of providing the replacement Armadale Library is £163.

(SG) Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision)

Approved by West Lothian Council Executive 23 June 2020
 Subsequently adopted as Supplementary Guidance (SG) 21 September 2020

West Lothian Council, Development Planning & Environment, Civic Centre, Howden South Road,
 Livingston, EH54 6FF Tel: 01506 28 00 00 Email: dpgeneral@westlothian.gov.uk





SEA SCREENING REPORT

**DEVELOPER OBLIGATIONS FOR GENERAL
INFRASTRUCTURE FOR SITE DELIVERY**
(excluding transport and education infrastructure,
cemetery and public art provision)

STEP 1 – DETAILS OF THE PLAN

Responsible Authority:

West Lothian Council

Title of the plan:

Supplementary Guidance : 'Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision)'.

What prompted the plan:

(e.g. a legislative, regulatory or administrative provision)

The adopted West Lothian Local Development Plan 2018 gives an undertaking to produce statutory Supplementary Planning Guidance (SG) in relation to a variety of policy topics including details of specific developer contributions for a range of infrastructure requirements.

The guidance explicitly supports LDP policies **CDA 1** (*Development in the Previously Identified Core Development Areas*) and **INF 1** (*Infrastructure Provision and Developer Obligations*).

The strategic policy context for the securing developer contributions towards its provision of infrastructure is provided for by Policy 9 of the Strategic Development Plan for South East Scotland (2013).

Plan subject:

(e.g. transport)

Town and Country Planning

Screening is required by the Environmental Assessment (Scotland) Act 2005.

Based on Boxes 3 and 4, our view is that:

☐

An SEA is required, as the environmental effects are likely to be significant: Please indicate below what Section of the 2005 Act this plan falls within

☐

Section 5(3)

☐

Section 5(4)

☒

An SEA is not required, as the environmental effects are unlikely to be significant: Please indicate below what Section of the 2005 Act this plan falls within

☒

Section 5(3)

☐

Section 5(4)

Contact details:

Steve Lovell
Principal Planning Officer
West Lothian Council Civic Centre
Howden South Road
Livingston, EH54 6FF

01506 282430 / steve.lovell@westlothian.gov.uk

Date:

29 June 2020

STEP 2 – CONTEXT AND DESCRIPTION OF THE PLAN

Context of the Plan:	<p>The West Lothian Local Development Plan (Adopted September 2018) sets out the Council's approach to developer contributions and the delivery of infrastructure linked closely with the Action Programme (Adopted February 2019).</p> <p>Policy INF 1 (<i>Infrastructure Provision and Developer Contributions</i>) sets out the rationale for seeking developer contributions in appropriate circumstances and policy CDA 1 (<i>Development in the Previously Identified Core Development Areas</i>) complements this by explaining that planning conditions and legal agreements will be used to secure infrastructure.</p> <p>Appendix 2 of the LDP identifies <u>all</u> of the infrastructure projects specific to housing developments that are required to support delivery of the Core Development Areas (CDAs). As such it includes requirements related to education infrastructure, transport infrastructure, cemetery provision and public art provision which are being addressed by separate bespoke guidance.</p>
Description of the Plan:	<p>This supplementary guidance has been prepared in connection with the adopted West Lothian Local Development Plan Policies INF 1 and CDA 1 in relation to Developer Obligations for General Infrastructure for Site Delivery.</p> <p>The guidance is intended to help implement the provisions of the adopted West Lothian Local Development Plan and specifically aims to ensure that the impact of new development set out in the Plan is mitigated. The guidance is intended to update, strengthen and streamline existing arrangements.</p> <p>The guidance was the subject of external consultation between September and October 2019 and was approved by West Lothian Council Executive on 23 June 2020.</p>
What are the key components of the plan?	<p>In order to deliver the planned growth set out in the LDP, improvements to infrastructure must be delivered alongside development. The planning system allows, and indeed expects developers to mitigate the impact of their development and to pay for, or contribute towards, improvements to infrastructure that arises as a direct consequence of the development, or from the cumulative impact of the development and which would not otherwise be needed and this guidance has been prepared to explain how the council, through relevant policies of the LDP and with regard to the LDP Action Programme, will secure such improvements and help achieve the outcomes expected from development proposals across West Lothian.</p> <p>This SG will be an important material consideration in the determination of planning applications and will form the basis for discussions on individual planning applications and the drafting of planning conditions and / or planning obligations.</p> <p>The guidance provides the justification for requiring developer contributions in respect of infrastructure provision and elaborates on its purpose and scope. It</p>

	<p>explains the policy and legal context in some detail before going on to address the practical mechanics of securing developer contributions and sets out detailed arrangements for the efficient conclusion of Section 75 legal agreements. It concludes by identifying a series of site-specific infrastructure project requirements.</p> <p>The SG seeks to ensure that developers make a fair and realistic contribution to the delivery of necessary infrastructure provision and improvement associated with their development.</p>
<p>Have any of the components of the plan been considered in previous SEA work?</p>	<p>Supplementary Guidance (SG) Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) has been prepared within the context of the West Lothian Local Development Plan which has been subject to a full SEA. The Plan's policies, including those on Developer Obligations for General Infrastructure have therefore previously been assessed and this SG implements these policies.</p> <p>The LDP itself sits within the context of the Strategic Development Plan for South East Scotland (2013), which was the subject of a separate SEA. The scale and location of growth which the infrastructure actions aim to accommodate has therefore been environmentally assessed separately.</p> <p>The SG relates primarily to the collection of financial contributions towards the cost of infrastructure actions needed to mitigate the impact of development. The actions themselves are all either identified in the LDP and/or its Action Programme. All lie within the areas identified for development in the Plan itself.</p> <p>They therefore are considered to fall within the scope of the LDP's spatial strategy, and do not require further strategic environmental assessment as references in this SG.</p>
<p>In terms of your response to Boxes 7 and 8 above, set out those components of the plan that are likely to require screening:</p>	<p>None</p>

**STEP 3 – IDENTIFYING INTERACTIONS OF THE PLAN WITH THE ENVIRONMENT AND
CONSIDERING THE LIKELY SIGNIFICANCE OF ANY INTERACTIONS**

Plan Components	Environmental Topic Areas										Explanation of Potential Environmental Effects	Explanation of Significance
	Biodiversity, flora and fauna	Population and human health	Soil	Water	Air	Climatic factors	Material assets	Cultural heritage	Landscape	Inter-relationship issues		
Supplementary Guidance: 'Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision)'	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	<p>The SG is intended to have a positive benefit on the environment, aiming to ensure that the impact of new development is mitigated through appropriate developer contributions. The SG sits within a wider development plan context which has undergone SEA.</p> <p>The SG shares the strategic objectives of the LDP which include promoting development in the most sustainable locations where its impact can be minimised; promoting community regeneration through the development of brownfield sites; ensuring that all essential infrastructure and facilities are</p>	<p>The SEA for the LDP considered any potential effects. The SG is not considered to have any additional significant environmental effects.</p>

											provided to support development; promoting and enhancing the natural and built environment; providing an improved network of linked open spaces and having regard to climate change by minimising the carbon footprint of development and supporting mitigation and adaption measures.	
--	--	--	--	--	--	--	--	--	--	--	--	--

STEP 4 – STATEMENT OF THE FINDINGS OF THE SCREENING

Summary of interactions with the environment and statement of the findings of the Screening:

(Including an outline of the likely significance of any interactions, positive or negative, and explanation of conclusion of the screening exercise.)

In conclusion, it is the view of the responsible authority that SEA is not required for the following reasons:

- ☐ The guidance will not create a new policy framework but provide updated detail and clarification to inform the application of LDP Policies INF 1 and CDA 1;
- ☐ The SG will have no consequential environmental effects

When completed send to: SEA.gateway@gov.scot or to the SEA Gateway, Scottish Government, Area 2H (South), Victoria Quay, Edinburgh, EH6 6QQ.



Environmental Assessment (Scotland) Act 2005

Strategic Environmental Assessment (SEA) Screening Determination

Supplementary Guidance (SG)

Developer Obligations for General Infrastructure for Site Delivery
(excluding transport and education infrastructure, cemetery and public art provision)

Table of Contents of Screening Determination

1. Introduction

2. Record of SEA Determination and Publicity Requirement

3. SEA Screening Report

- ◆ Cover Note
- ◆ Key facts
- ◆ Likely Significance of Effects on the Environment
- ◆ Summary of Environmental Effects

4. Responses from Consultation Authorities

- ◆ Scottish Government SEA Gateway Response
- ◆ Scottish Environment Protection Agency Response
- ◆ Historic Environment Scotland Response
- ◆ Scottish Natural Heritage Response

5. Appendices

- ◆ Appendix 1 - (SG) Supplementary Guidance - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision)
- ◆ Appendix 2 - Statutory Notice

1. Introduction

This statement sets out West Lothian Council's determination in accordance with Section 10(1) of the Environmental Assessment (Scotland) Act 2005 on whether or not a Strategic Environmental Assessment (SEA) is required for Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision).

Screening is the first stage in the SEA process. The purpose of screening is to establish whether or not a Plan, Programme or Strategies (PPS) will have significant environmental effects. Screening takes the form of a formal submission, where the responsible authority (the Council) seeks the views of the following Consultation Authorities on whether a PPS is likely to have significant environmental effects and therefore whether a SEA is required:

- ◆ Historic Environment Scotland (HES)
- ◆ Scottish Environmental Protection Agency (SEPA), and
- ◆ Scottish Natural Heritage (SNH)

As well as consulting the above bodies, responsible authorities are required to take into account the criteria set out in Schedule 2 of the 2005 Act when determining whether or not the plan is likely to have significant effects. The details of this process are contained within the Screening Report.

If the responsible authority and the consultation authorities agree that the plan or programme is unlikely to have significant environmental effects, the responsible authority is required to make a determination to that effect under section 8(1) of the 2005 Act.

2. Record of SEA Determination and Publicity Requirements

Title of Plan, Programme or Strategy:	Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision).
Responsible Authority:	West Lothian Council

Record of SEA Determination:

In accordance with section 9(1) of the 2005 Act, West Lothian Council submitted to the Consultation Authorities a screening report summarising its views as to whether West Lothian Local Development Plan Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) will have significant environmental effects.

In formally determining under Section 8(1) of the Act whether a SEA is required, the Council has taken into account the views of the three Consultation Authorities; Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland which were issued through the SEA Gateway on 13 August 2020.

West Lothian Council and the Consultation Authorities are in agreement that the West Lothian Local Development Plan Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) is not likely to have significant environmental effects and the Council has therefore determined that an SEA will not be required for the plan under Regulation 13(1) of the 2005 Act.

CONSULTATION AUTHORITY	LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS
Historic Environment Scotland	No
Scottish Environment Protection Agency	No
Scottish Natural Heritage	No
OVERALL VIEW ON LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS	No

Formal Determination	Statement of Reason
21 August 2020	<p>West Lothian Council's reasoning for determining that there are no overall likelihood of significant environmental effects is as follows:</p> <p>West Lothian Council has prepared a Local Development Plan to replace the West Lothian Local Plan 2009 (WLLP 2009) in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) etc. Act 2006.</p>

	<p>The new West Lothian Local Development Plan (LDP) was adopted on 4 September 2018 and is consistent with the Strategic Development Plan for Edinburgh and South East Scotland (SDP).</p> <p>The LDP focuses on providing for, and managing, future land use change across the council area in line with SESplan SDP requirements. The LDP comprises a development strategy for the period to 2024 and a detailed policy framework to guide future land use in a way which best reflects the SDP vision, strategic aims and objectives.</p> <p>The West Lothian Local Development Plan Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) sets out a framework that West Lothian Council will use to assess planning applications for development on sites in the adopted West Lothian Local Development Plan. The role of the West Lothian Local Development Plan Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) is simply to help interpret and provide further detail in respect of policies that are already set out in the adopted West Lothian Local Development Plan which was subject of a full Strategic Environmental Assessment and which will also be reviewed in the Post Adoption Strategic Environmental Assessment.</p>
--	---

Publicity Requirements for the Determination:	
<p>In accordance with section 10(1) of the Environmental Assessment (Scotland) Act 2005, within 28 days of the determination having been made, the Council will send a copy of the formal determination and related statement of reasons (prepared in accordance with section 8(2)(b) to the Scottish Government SEA Gateway and the three Consultation Authorities.</p> <p>In accordance with section 10(2) of the 2005 Act, within 14 days of the determination having been made, a copy of the determination, along with the Screening Report, shall be provided for inspection by the public at West Lothian Council's principal office at the West Lothian Civic Centre, Howden South Road, Livingston, EH54 6FF or on request from wldp@westlothian.gov.uk.</p>	
<p>The determination shall also be published in the West Lothian Courier and Linlithgow Journal & Gazette newspapers to notify the public and will be available to view at www.westlothian.gov.uk from 27 August 2020. A copy of the statutory notice is provided as Appendix 2.</p>	
Signature:	Craig McCorriston, Head of Planning, Economic Development & Regeneration
Date:	21 August 2020

3. SEA Screening Report

Cover Note

Part 1

To:

SEA.Gateway@gov.scot

or

SEA Gateway
Scottish Government
2-H (South)
Victoria Quay
Edinburgh
EH6 6QQ

Part 2

An SEA Screening Report is attached for the plan, programme or strategy (PPS) entitled:

Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery
(excluding transport and education infrastructure, cemetery and public art provision)

The Responsible Authority is:

West Lothian Council

Complete Part 3 or 4 or 5

Part 3

Screening is required by the Environmental Assessment (Scotland) Act 2005. Our view is that:

☐

An SEA is required because the PPS falls under the scope of Section 5 (3) of the Act and is likely to have significant environmental effects.

☐

An SEA is required because the PPS falls under the scope of Section 5(4) of the Act and is likely to have significant environmental effects.

☒

An SEA is not required because the PPS is unlikely to have significant environmental effects.

Part 4
<input type="checkbox"/> The PPS does not require a SEA under the Act. However we wish to carry out a SEA on a voluntary basis. We accept that because the SEA is voluntary the Statutory 28 days timescale for views from the Consultation Authorities cannot be guaranteed.
Part 5
<input type="checkbox"/> None of the above apply. We have prepared this screening report because:
Part 6
Contact Name: Steve Lovell Job Title: Principal Planning Officer Contact Address: c/o Civic Centre, Howden South, Livingston, EH54 6FF Contact Phone: 01506 282430 Contact email: steve.lovell@westlothian.gov.uk
Part 7
Signature: Steve Lovell Date: 21 August 2020

Key Facts	
West Lothian Council has undertaken screening of Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005.	
The Screening Report has been submitted to the Scottish Government SEA Gateway, setting out the views of West Lothian Council on the likelihood of the significant environmental effects of Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005 and the potential for requiring a SEA.	
Responsible Authority:	West Lothian Council
Title of PPS:	Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site

	Delivery (excluding transport and education infrastructure, cemetery and public art provision)
Purpose of PPS:	<p>The purpose of this Supplementary Guidance (SG) is to support Local Development Plan Policies INF 1 (Infrastructure Provision and Developer Obligations) and Policy CDA 1 (Development in the Previously Identified Core Development Areas).</p> <p>The strategic policy context for the securing developer contributions towards its provision of infrastructure is provided for by Policy 9 of the Strategic Development Plan for South East Scotland (2013).</p> <p>The guidance provides the justification for requiring developer contributions in respect of infrastructure provision and elaborates on its purpose and scope. It explains the policy and legal context in some detail before going on to address the practical mechanics of securing developer contributions and sets out detailed arrangements for the efficient conclusion of Section 75 legal agreements. It concludes by identifying a series of site specific infrastructure project requirements.</p>
What promoted the PPS: (e.g. a legislative, regulatory or administrative provision)	<p>An extensive suite of Supplementary Planning Guidance (SPG) governing developer contributions (with a strong bias to education infrastructure) was previously produced to support Policies IMP1 to 4 and IMP 17 of the West Lothian Local Plan (2009).</p> <p>West Lothian Council adopted the West Lothian Local Development Plan (LDP) on 4 September 2018 after Scottish Ministers confirmed the council could do so. It now forms part of the Development Plan for West Lothian along with the Strategic Development Plan (SDP) for Edinburgh and South-east Scotland.</p> <p>The Council has a programme to prepare a suite of new guidance to support the adopted West Lothian Local Development Plan.</p> <p>Specifically, Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure,</p>

	cemetery and public art provision) has been written with the intention of becoming statutory planning guidance (SG). SG becomes part of the development plan, giving it the same weight in decision making as the LDP. It has already been subject to consultation but will require to be approved by Scottish Ministers prior to its adoption.
PPS Subject: (e.g. transport)	Land use planning
Period covered by the PPS:	Anticipated date of adoption (September 2020) onwards.
Frequency of updates:	Supplementary Guidance will ordinarily be reviewed in tandem with the replacement of the Local Development Plan.
Area Covered by the PPS:	<p>This SG covers the West Lothian Local Development Plan area.</p> <p>To ensure the necessary infrastructure is in place to take account of the impacts of new developments this SG applies to all new and unconsented residential developments in West Lothian including the Core Development Areas (CDAs), namely <i>Armadales, East Broxburn and Winchburgh, , Calderwood (East Calder) and Gavieside (West Livingston) and the strategic development allocation site at Heartlands (Whitburn) and Bangour (Dechmont)</i>. Developments outwith these areas may also be required to contribute to infrastructure requirements to enable development to proceed.</p>
Summary of nature/content of PPS:	<p>A Local Development Plan (LDP) is prepared by the local planning authority, in this case West Lothian Council. It sets out a local interpretation of the requirements of national and strategic policy. In particular it must conform to the approved Strategic Development Plan (SDP) which has been prepared by the strategic planning authority (SESplan) and its purpose is to implement requirements on a more detailed site-specific basis than exists within the SDP.</p> <p>The LDP comprises a written statement detailing a spatial strategy, including policies</p>

	<p>and proposals together with a Proposals Map.</p> <p>LDP's are intended to provide the vision and strategy for how communities will grow and develop in the future and also to provide certainty for communities and prospective investors about where development should take place and where it should not. LDP's also identify detailed policies and proposals which are the basis for decision making on future planning applications.</p> <p>In order to deliver the planned growth set out in the LDP, improvements to infrastructure must be delivered alongside development and the council is entitled to require developers to mitigate the impact of their development and to pay for, or contribute towards, improvements to infrastructure that arises as a direct consequence of the development, or from the cumulative impact of the development and which might not otherwise be needed.</p> <p>The guidance is helpful in establishing the requirement for infrastructure and services that are attributable to a development early in the planning process and ensures that the burden of additional infrastructure is fairly absorbed by the landowner and developer and not by the council.</p> <p>The guidance sets out detailed criteria to assist the development and assessment of proposals for development across the plan area and specifically supports policies IMP 1 and CDA 1 of the LDP in order to facilitate the delivery of housing in West Lothian.</p>
Are there any plan objectives?	No
Copy of PPS attached	Yes
Date:	21 August 2020

Likely Significance of Effects on the Environment
<p>The Council has considered the likely significance of effects on the environment of the Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005. The screening was undertaken with references to the criteria in Schedule 2 of the 2005 Act and is set out in Table 1 (below).</p>

Table 1: Likely Significance of Effects on the Environment

Criteria for determining the likely significance of effects on the environment <i>[The paragraph numbers in the table 1(a), 1(b), 2(a), 2(b) etc. refer to paragraphs in Schedule 2 of the Environmental Assessment (Scotland) Act 2005.]</i>	Likely to have significant environmental effects? (Yes / No)	Summary of significant environmental effects (negative and positive)
The characteristics of plans and programme		
1(a): The degree to which the PPS sets a framework for the projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	<p>No</p>	<p>The adopted Local Development Plan sets a framework for assessing applications for new development and this SG sets out the mechanisms and options the Council will use to secure infrastructure contributions to assist the delivery of housing in West Lothian.</p> <p>The guidance provides additional detail and ensures that Policies INF 1 and CDA 1 are accurately and satisfactorily interpreted.</p> <p>The guidance does not seek to set the framework for projects and other activities.</p> <p>The implementation of the Supplementary Guidance is unlikely to result in significant environmental effects that are additional to those previously identified when Policies IMP 1 and CDA 1 underwent SEA assessment as part of the adopted Local Development Plan.</p>
1(b): The degree to which the PPS influences other PPS including those in the hierarchy.	<p>No</p>	<p>Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) provides background guidance to policy within the adopted Local Development Plan and does not seek to directly influence other programmes and strategies.</p> <p>Although in itself new, this SG is largely an update of previous Supplementary Planning Guidance (SPG) which supported the now superseded West Lothian Local Plan.</p> <p>The guidance sets out detailed criteria to assist the development and assessment of</p>

		<p>proposals for development across the plan area and specifically supports policies INF 1 (Infrastructure Provision and Developer Obligations) and Policy CDA 1 (Development in the Previously Identified Core Development Areas).</p> <p>It is at the same time consistent with the wider objectives of the overarching West Lothian Local Development Plan which has itself already undergone SEA.</p> <p>As the purpose of the SG is to provide further details on the scale and nature of developer contributions towards infrastructure provision it does not seek to directly influence other programmes and strategies.</p>
1(c): The relevance of the PPS for the integration of environmental considerations in particular with a view to promoting sustainable development.	No	The SG focuses on the context, requirements and methods of securing developer contributions to fund the infrastructure required to deliver new housing development and is not considered that this criteria has significant relevance.
1(d): Environmental problems relevant to the PPS	No	<p>The SEA of the adopted West Lothian Local Development Plan has previously had regard to the multitude of environmental issues which have the potential to affect West Lothian.</p> <p>The SG does not introduce any new policy considerations and consequently no negative environmental consequences are foreseen as being directly attributable to the SG.</p>
1(e): The relevance of the PPS for the implementation of Community legislation on the environment (for example PPS linked to waste management or water protection)	No	None identified. The SG does not introduce any new policy considerations and would not be directly relevant to this issue. If subsequently applicable, however, this could be considered in the assessment of individual planning applications.

The characteristics of the effects and the area likely to be effected		
2(a): The probability, duration frequency and reversibility of the effects	No	There are no significant environmental effects that can be attributed to the SG.

2(b): The cumulative nature of the effects	No	There are no significant environmental effects that can be attributed to the SG.
2(c): Trans-boundary nature of the effects (i.e. environmental effects on other EU Members States	No	No trans-boundary effects have been identified. The SG is in itself unlikely to have significant environmental impact beyond West Lothian.
2(d): The risks to human health or the environment (for example due to accidents)	No	No significant effects have been identified. Development proposals allied to the provision of infrastructure will in any event be assessed in detail as and when planning applications are submitted.
2(e): The magnitude and spatial extent of the effects (geographical area and size of population likely to be affected)	No	No significant effects have been identified. The SG will support other relevant policies in the LDP which will be relied upon to help determine the acceptability of new development but the SG only relates to development that takes place within the administrative area of West Lothian and its effect is invariably constrained.
2(f): The value and vulnerability of the area likely to be affected due to: <div style="margin-left: 40px;"> (i) Special natural characteristics or cultural heritage (ii) Exceeded environmental quality standards or limit values; <u>or</u> (iii) Intensive land use </div>	No	<p>The overarching SEA for the LDP has previously considered any potential significant environmental effects and provided mitigation measures where necessary.</p> <p>It is considered that adherence to the requirements of the SG will be of negligible consequence and will not in any event adversely affect the value and vulnerability of the criterion.</p>
2(g) The effects on areas or landscapes which have a recognised national, Community or international protection status.	No	<p>Any development will need to comply with the development plan which includes a range of policies to ensure the cumulative impact of development does not adversely affect designated landscapes and the principal landscape character/type of the area. There will be no implications for this PPS.</p> <p>The overarching SEA for the LDP has previously considered potential effects. It is</p>

		considered that adherence to the requirements of the SG will be of negligible consequence and will not in any event adversely affect the value and vulnerability of the criterion.
--	--	--

Summary of Environmental Effects

The Council has considered the likely significance of effects on the environment of Supplementary Guidance (SG) – Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) and these are set out below.

Table 2: Summary of Environmental Effects

Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) supports Local Development Plan Policies INF 1 (Infrastructure Provision and Developer Obligations) and Policy CDA 1 (Development in the Previously Identified Core Development Areas) by providing further guidance and detail on the circumstances in which developers will be required to contribute towards infrastructure provision and the mechanism for doing so.

The SG is intended to help implement the provisions of the adopted West Lothian Local Development Plan and specifically aims to ensure that the infrastructure impact of new development as set out in the LDP is mitigated. The guidance is intended to update, strengthen and streamline existing arrangements.

The SG does not create any new policy and is unlikely to have any significant effect on the environment as it deals only with the detail of infrastructure delivery allied to development which is for the most part already allocated in the LDP or which the LDP would support in principle.

The West Lothian Local Development Plan has itself already undergone an extensive SEA examining its policies, proposals and land use allocations and the council therefore concludes that Supplementary Guidance (SG) – Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision) does not require a Strategic Environmental Assessment.

4. Responses from Consultation Authorities

CONSULTATION AUTHORITY	LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS
Historic Environment Scotland	No
Scottish Environment Protection Agency	No
Scottish Natural Heritage	No
OVERALL VIEW ON LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS	No

- SEA GATEWAY
- SEPA
- HISTORIC ENVIRONMENT SCOTLAND
- SCOTTISH NATURAL HERITAGE

5. Appendices

Appendix 1 – Supplementary Guidance (SG) – Developer Obligations for General Infrastructure for Site Delivery (excluding transport and education infrastructure, cemetery and public art provision)

Appendix 2 - Statutory Notice

Local Government and Communities Directorate
Planning and Architecture Division

a b c d

T: 0131-244 7242
E: SEA.Gateway@gov.scot

Steve Lovell
Principal Planning Officer
Development Planning

01580 - Screening - West Lothian Council - Developer Obligations for General Infrastructure for Site Delivery –

13 August 2020

Dear Steve,

With reference to the Screening document you submitted on 13 July 2020.

The Consultation Authorities have now considered your screening request as per **Section 9(3)** of the **Environmental Assessment (Scotland) Act 2005**. I have attached the individual letters from the Consultation Authorities, outlining their views and opinions.

Please note, these are the views and opinions of the Consultation Authorities on the likelihood of significant environmental effects arising from the plan or programme and not a judgement on whether an SEA is required. It is therefore for the Responsible Authority to determine whether an SEA is required in the circumstances. Where possible the Consultation Authorities may have offered supplementary information and/or advice for you to consider, which you should find helpful.

As the Consultation Authorities have now notified you of their views, you should now refer to the 2005 Act to consider your next step. You should of course take into account the advice offered by the Consultation Authorities.

You should note, as per Section 10 of the 2005 Act, that within 28 days of your determination about whether an SEA is required or not, a copy of the determination and any related statement of reasons must be passed to the Consultation Authorities. This may be done via the SEA Gateway.

If you have any queries or would like me to clarify any points, please call me on 0131 244 7242.

Kind regards,

Antonia Georgieva

Victoria Quay, Edinburgh EH6 6QQ
www.gov.scot

) $\alpha\beta\chi\delta\epsilon$ $\alpha\beta\chi$ α

Environmental Assessment and Policy Officer

Our ref: PCS/172302
SG ref: SEA/01580/SCR

If telephoning ask for:
Silvia Cagnoni-Watt

4 August 2020

Steve Lovell
Principal Planning Officer West Lothian Council Civic Centre
Howden South Road
Livingston
EH54 6FF

By email only to: SEA_Gateway@gov.scot

Dear Steve

Environmental Assessment (Scotland) Act 2005
West Lothian Council
Supplementary Guidance - Developer Obligations for General Infrastructure for Site Delivery - Screening Report

Thank you for your Screening Report consultation which SEPA received via the Scottish Government SEA Gateway on 24 July 2020.

In accordance with Section 9(3) of the Environmental Assessment (Scotland) Act 2005 we have considered your screening report using the criteria set out in Schedule 2 for determining the likely significance of effects on the environment. Having reviewed the Screening Report, we consider that in respect of our main areas of interest (air, water, soil, human health, material assets (of which we have a specific interest in waste) and climatic factors) the Supplementary Guidance (SG) - Developer Obligations for General Infrastructure for Site Delivery is unlikely to have significant environmental effects. Although we are of the view that significant environmental effects are not likely, it is for the West Lothian Council as Responsible Authority to make a formal determination taking into account the consultation responses received.

We understand that the guidance will not create a new policy framework but provide updated detail and clarification to inform the application of LDP Policies INF 1 and CDA 1, which were already assessed under the SEA of the Local Development Plan.

Please note that although we do not consider that the SG will have significant strategic effects on the environment we do consider that it may have some effects. We would therefore welcome consultation on the draft proposals which should be directed to our local Planning Service team at planning.se@sepa.org.uk.

If it is formally determined that SEA is required, you will be aware that the next stage requires the Responsible Authority to consult the Consultation Authorities on the proposed scope and level of detail to be included within the Environmental Report. This can be undertaken through preparation



Chairman
Bob Downes
Chief Executive
Terry A'Hearn

SEPA Edinburgh Office
Silvan House, 3rd Floor, 231 Corstorphine Road,
Edinburgh EH12 7AT.
www.sepa.org.uk • customer enquiries 03000 99 66 99

of a concise Scoping Report. We would encourage you to use the scoping process to focus the assessment on those SEA issues upon which there are likely to be significant environmental effects, to outline the baseline information you consider as most relevant and explain your proposed method of assessment. To assist with this process we have produced [SEA topic guidance](#) for those issues which fall within our remit. Further information on scoping can be found in the [Scottish Government SEA Guidance](#) (sections 3.4 to 3.8 in particular).

We are committed to providing early and focused advice and supporting continuous engagement and therefore if it is determined that SEA is required we would welcome the opportunity to meet with you and discuss these issues prior to the formal consultation.

Should you wish to discuss this screening consultation please do not hesitate to contact me via our SEA Gateway at sea.gateway@sepa.org.uk.

Yours sincerely

Silvia Cagnoni-Watt
Senior Planning Officer

Ecopy: sea.gateway@hes.scot; SEA_GATEWAY@nature.scot



By email to: sea_gateway@gov.scot

Mr Steve Lovell
Principal Planning Officer
SESplan
Development Planning
West Lothian Council

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
Switchboard: 0131 668 8600
HMConsultations@hes.scot

Our case ID: 300020246
Your ref: 01580 – Screening

12 August 2020

Dear Mr Lovell

Environmental Assessment (Scotland) Act 2005
01580 - Screening - West Lothian Council - Developer Obligations for General
Infrastructure for Site Delivery

Screening Report

Thank you for your consultation which we received on <<date>> about the above screening report. We have reviewed this report in our role as a Consultation Authority under the above Act, in accordance with the requirements of Section 9(3). In doing so we have used the criteria set out in Schedule 2 for determining the likely significance of the effects on the environment.

Historic Environment Scotland's view

In light of the information and reasoning set out within the screening report, we are content to agree with your view that there are unlikely to be significant environmental effects for the historic environment.

Historic Environment Scotland's comments

We understand that the guidance will not create a new policy framework but will provide updated detail and clarification to inform the application of Local Development Plan (LDP) Policies INF 1 and CDA 1, which have been subject to environmental assessment as part of the LDP process. You consider that the guidance will not have any additional environmental effects, and we agree with this view in relation to effects on the historic environment.

Next steps

The Environmental Assessment (Scotland) Act 2005 requires you as the Responsible Authority to determine within 28 days whether an environmental assessment is required and to inform the Consultation Authorities accordingly. This may be done via the SEA Gateway (sea_gateway@gov.scot).

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**



We hope our advice is helpful to you in making this determination. Please feel welcome to contact us if you have any questions about this response. The officer managing this case is Virginia Sharp who can be contacted by phone on 0131 668 8704 or by email at Virginia.Sharp@hes.scot.

Yours sincerely

Historic Environment Scotland



Steve Lovell
Principal Planning Officer
West Lothian Council Civic Centre
Howden South Road
Livingston EH54 6FF

Sent by email via: sea.gateway@gov.scot

Date: 03 August 2020
Our ref: CEA159951

Dear Steve

Environmental Assessment (Scotland) Act 2005: Developer Obligations for General Infrastructure for Site Delivery – Screening Determination

I refer to your screening consultation submitted on 29 June 2020 via the Scottish Government SEA Gateway in respect of the above plan. In accordance with Section 9(3) of the Environmental Assessment (Scotland) Act 2005, we have considered your screening report using the criteria set out in Schedule 2 for determining the likely significance of effects on the environment.

We understand that the Supplementary Guidance has been prepared in support of Local Development Plan (LDP) Policies CDA1 and INF1 with the intention of updating and streamlining existing arrangements. It does not itself identify development beyond that already assessed during preparation of the LDP. On that basis, we agree that the guidance is not likely to have significant environmental effects.

Please note that this consultation response provides a view solely on the potential for the plan or programme to have significant environmental effects. We cannot comment on whether or not the plan or programme meets other criteria determining the need for SEA as set out in the Act.

Should you wish to discuss this screening determination, please do not hesitate to contact me on 0131 316 2644 or via SNH's SEA Gateway at sea.gateway@nature.scot.

Yours sincerely

Vivienne Gray
Planning Advisor
Supporting Good Development Team

Scottish Natural Heritage, Silvan House, 3rd Floor East, 231 Corstorphine Road, Edinburgh EH12 7AT
Tel: 0131 316 2600 www.nature.scot

Dualchas Nàdair na h-Alba, Taigh Silvan, 3mh Làr an Ear, 231 Rathad Chros Thoirphin, Dùn Èideann EH12 7AT
Fòn: 0131 316 2600 www.nature.scot

DATA LABEL: PUBLIC



West Lothian
Council

COUNCIL EXECUTIVE

**DEVELOPER CONTRIBUTIONS TOWARDS TOWN AND VILLAGE IMPROVEMENTS IN
FAULDHOUSE AND WHITBURN**

REPORT BY HEAD OF PLANNING ECONOMIC DEVELOPMENT AND REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is set out a proposed approach to considering applications for funding which is available for town and village centre improvements in Fauldhouse and Whitburn. The funding is available as a result of developer obligations relating to the Heartlands development site.

B. RECOMMENDATION

It is recommended that Council Executive:

1. notes the establishment of a fund for town and villages improvements within Fauldhouse and Whitburn;
2. approves the proposed means of disbursing monies from the fund for town and village improvements within the Fauldhouse and Whitburn; and
3. delegates the Head of Planning, Economic Development & Regeneration to make awards from the fund following consultation with the Polkemmet Community Liaison Group, councillors representing the wards of Whitburn and Fauldhouse and the clergy of churches within Whitburn and Fauldhouse.

C. SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.

II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)

The development plan which provides the framework for town centre improvements requires to be the subject of a Strategic Environmental Assessment (SEA). However, it is possible that some plans for specific projects in town centres may need to be subject of a separate assessment.

Similarly any equality, health or risk assessment issues will be addressed on an individual project basis.

III Implications for Scheme of Delegations to Officers	The proposed means of dispersing funds involves additional delegations to the Head of Planning, Economic Development & Regeneration.
IV Impact on performance and performance Indicators	None.
V Relevance to Single Outcome Agreement	Outcome 3 – Our economy is diverse and dynamic and West Lothian is an attractive place for doing business.
VI Resources - (Financial, Staffing and Property)	The lead developer at Heartland's is obligated to make a £50,000 fund available for improvements in the centre of Fauldhouse and Whitburn. With indexation the fund transferred to the council was £59,740.25.
VII Consideration at PDSP	The content of this report was considered by the Development and Transport PDSP on 4 September 2020. Panel members were generally supportive of the proposal A report dealing with disbursement of similar funds in Core Development Areas was discussed at the D&T PDSP on 6 February 2017.
VIII Other consultations	Finance.

D. TERMS OF REPORT

D1 Background

The developer obligation (Section 75 Agreement) relating to the development site at Heartlands obligated the developer to make £50,000 available for town and village improvements upon the occupation of the 200th house on the Heartlands development. This level of occupations was exceeded last year and the funding has now been transferred to the council. As a result of indexation the amount paid into the fund was £59,740.25. The fund can now be opened for applications subject to Council Executive's agreement on the disbursement of funds.

The council already has arrangements in place to deal with the disbursement of equivalent funding from developers in the Core Development Areas (CDA). As Heartlands is not a CDA these arrangements cannot automatically be applied and a separate arrangement needs to be put in place. It is proposed that this is based substantially on the arrangements which apply in the CDAs. However, these arrangements need to be slightly amended to reflect the particular agreement which applies for the funding being provided by the Heartlands development.

D2 Specific Requirements in Relation to the Heartlands Funding

The signed Section 75 Agreements sets out the requirements for the funding as follow:

Whitburn and Fauldhouse Town Centres Financial Contribution

Ecosse shall pay or procure the payment of the Town Centres Financial Contribution to the Council no later than the date occurring fourteen days after the date of occupation of the 200th Residential Unit within the Agreement Subjects. The Town Centres Financial Contribution shall be spent by the Council after consultation with the Polkemmet Community Liaison Group, Councillors representing the wards of Whitburn and Fauldhouse and the clergy of Churches within Whitburn and Fauldhouse solely for the purposes of public realm, openspace and streetscape enhancement works of a non-commercial nature within Whitburn and Fauldhouse. In the event that within five years from the date of payment the Council has not either spent or made a commitment to spend all of the Town Centres Financial Contribution as aforesaid, the Council shall forthwith upon demand by Ecosse refund to Ecosse any part of the Town Centres Financial Contribution remaining unspent or uncommitted, together with interest thereon at the rate obtained by the Council from its bank.

Three things are apparent from the terms of the legal agreement. Firstly, it is not definitive in terms of what the funding can be used for; secondly, it allows for funding to be used for projects in Fauldhouse and Whitburn but does not provide a funding split across both settlements; and thirdly it does not define the geographical area within the settlements.

To address these matters it is proposed that the following principles will apply:

- 1 It is proposed that the funding should be split across the two settlements on the same ratio as the population of the settlements. Currently the combined population of both settlements is 15,407 with 31.7% being in Fauldhouse and 68.3% in Whitburn. Consequently, £18,938 will be available for projects in Fauldhouse and £40,802 for projects in Whitburn.
- 2 Projects which are eligible for funding will be the same as those in CDAs with the exception of Public Transport improvements which would not fit within the definition set out above. This is set out as:
 - landscaping works including the provision and maintenance of public space;
 - street furniture and lighting;
 - townscape enhancement;
 - litter management and recycling (excluding general street cleaning activities);
 - crime prevention measures e.g. CCTV;
 - improved public transport facilities (to be excluded);
 - signage and information;
 - promotion and marketing;
 - car parking improvements and management;
 - town and village centre studies;
 - site assembly/site servicing (including CPO);and
 - traffic calming/traffic management.
- 3 The eligible area will be defined as the settlement boundaries for Fauldhouse and Whitburn as defined in the West Lothian Local Development Plan.

D3 Proposed means of disbursing funds

Given the similarity of the schemes it is proposed that governance arrangements for the developer funded improvements are based on the arrangements currently used for other CDAs. Those arrangements recognise that the funding could be used for schemes promoted by the council as well as those promoted by community groups.

The key stages of assessing funding applications for community led projects are proposed as:

1. An application, using a standard application form (as per the council village improvement fund), is submitted to the council's Community Planning and Regeneration Team.
2. The application is assessed, by officers, against the eligibility of the scheme and having regard to other projects being progressed within the settlement. Applications deemed not to meet the criteria, or those which are similar to or duplicate other projects, will be rejected at this stage.
3. Officers of the council's Community Planning and Regeneration Team will hold relevant consultations in line with the Section 75 agreement.
4. The availability of funding is assessed by the Head of Planning Economic Development and Regeneration having regard to the balance of the fund available, taking account of other committed projects or projects being developed by the council.
5. The application will be reported to the relevant local area committee (LAC) indicating the Head of Services' intention with regards to the application. The LAC will have an opportunity to comment on the application.
6. A decision on funding will be taken by the Head of Planning, Economic Development & Regeneration having regard to the view of the LAC.

The fund will remain open for applications until all funding has been disbursed. If funding remains uncommitted four years after receipt of the funding from the developer i.e. mid 2023, a different approach may be necessary to ensure that funding is spent on local projects and not returned to the developer given the requirement for money to be committed within five years of receipt. In those circumstances a further report will be presented to Council Executive.

Council promoted projects intended to be funded from the scheme will be set out in the council's capital programme and the Head of Planning, Economic Development & Regeneration will have regard to the likely cost of these projects when accessing the availability of funding for community led projects.

D4 Consideration at Development and Transport Policy Development and Scrutiny Panel (PDSP)

The PDSP considered the above content of this report on 4 September 2020 and recommended that prior to consideration by Council Executive details of the proposed engagement with communities was included in the report, together with details of faith groups who would be consulted. Details of these are as follows:

D5 Engagement

Officers from Community Planning and Regeneration will engage with the stated stakeholders in the Section 75 agreement via the following three stage process:

1. Following the closing of the applications deadline.

The submitted applications which are deemed eligible by officers will be provided to all stakeholders and comments will be invited. If appropriate a meeting will be convened to allow stakeholders the opportunity to discuss applications and provide comment on these which will then be taken into consideration by the Head of Planning, Economic Development and Regeneration in the development of proposals for awards.

2. Following the Head of Planning, Economic Development and Regeneration making proposals for the awards.

Stakeholders will be advised of the outcome of deliberation of the applications and will be afforded the opportunity to provide comment on the proposals prior to these being presented to the Local Area Committee. If appropriate and necessary a meeting will be convened to allow further discussion.

3. The proposed allocations will be referred to relevant Local Area Committees for further comment prior to any awards being made.

In the current circumstances of Covid-19 and the associated restrictions, it is likely that engagements will be facilitated, where necessary, as online meetings. In these circumstances officers will look to host separate meetings for Whitburn and Fauldhouse.

D6 Faith Groups

The section 75 agreement requires consultation with the clergy of churches within Fauldhouse and Whitburn. Within Whitburn and Fauldhouse, faith groups with a physical presence or those that meet on a regular basis within the settlements, are as follows and it is intended that representatives of these organisations are consulted:

Whitburn	Fauldhouse
Brucefield Church of Scotland	Fauldhouse Salvation Army
Whitburn South Parish Church	St. John the Baptist's R.C. Church
Whitburn Pentecostal Church	St. Andrew's Parish Church
West End Gospel Hall	
St. Joseph's R.C. Church	

D7 Other Matters considered at PDSP

At the PDSP a question was raised in relation to the ability of non constituted local groups to apply for funding. It would be normal practice to require any groups in receipt of funding to be constituted. This is to ensure that, for example, funding is only paid into an accredited bank account. However, the scheme as proposed allows the council to carry out works and non-constituted groups would be entitled to submit projects and ask the council to carry out the work on their behalf. Any such application would be considered in the same way as any other application.

E. CONCLUSION

The lead developer at Heartlands is required to make contributions to town and village improvements in Fauldhouse and Whitburn. A fund has been established and this report sets out a proposed means of disbursing funds from the fund.

F. BACKGROUND REFERENCES

None

Contact Person: Craig McCorriston, Head of Planning, Economic Development & Regeneration. Tel 01506 282443. Email craig.mccorriston@westlothian.gov.uk

Craig McCorriston
Head of Planning and Economic Development

6 October 2020

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

SUPPLEMENTARY AGREEMENT TO THE MINUTE OF AGREEMENT FOR THE EDINBURGH AND SOUTH EAST SCOTLAND REGION JOINT COMMITTEE

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is set out a proposed amendment to the Minute of Agreement for the Edinburgh & South East Scotland City Regional Deal Joint Committee. The original Minute of Agreement was agreed by the council on 17 April 2018 and the supplementary agreement is now required to allow the Joint Committee to carry out the functions currently carried out by the South East Scotland Planning Authority (SESplan) Joint Committee.

B. RECOMMENDATION

It is recommended that Council Executive:

1. notes that SESplan will be disbanded as a result of changes set out in the Planning (Scotland) Act 2019;
2. notes the intention to transfer the strategic planning functions from SESplan to the City Region Deal;
3. notes that, like SESplan, the City Region Deal Joint Committee will not have the ability to impose policy or financial commitments on the council; and
4. agrees that the council enters into the agreement as set out in the Supplementary Minute of Agreement.

C. SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable; making best use of our resources; working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Changes are required as a result of the Planning (Scotland) Act 2019. The proposals in the report do not raise any strategic environmental assessment, equality of risk issues.
III Implications for Scheme of Delegations to Officers	None.

IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Outcome 3 – Our economy is diverse and dynamic and West Lothian is an attractive place for doing business.
VI	Resources - (Financial, Staffing and Property)	The proposal does not have any significant financial or staffing implications for the council. The process should be more efficient as, if approved, two strategic committees will be replaced by one.
VII	Consideration at PDSP	The proposal has not been considered by a PDSP.
VIII	Other consultations	City Region Deal partners have been consulted as has the Council's Governance Manager.

D. TERMS OF REPORT

D1 Background

The council is a partner in the Edinburgh and South East Scotland City Region Deal and also in SESplan. The local authority partners are the same for each partnership, although the whole of Fife is included in the City Region Deal while only the southern part of Fife is included in SESplan.

The Planning (Scotland) Act 2019 removes the provision for strategic planning authorities which means that in the near future SESplan will be disbanded. Strategic planning will then become a function of the National Planning Framework rather than Strategic Development Plans and Strategic Development Planning Authorities.

Notwithstanding these changes there will still be the need for cross boundary planning input to the National Planning Framework and it has previously been agreed by the council that this should be co-ordinated by the City Region Deal Project Management Office and the City Region Deal Joint Committee in the future.

D2 The Need for a Supplementary Agreement

The Minute of Agreement which provided the governance framework for the City Region Deal Joint Committee was considered by West Lothian Council on 17 April 2018. Council Executive agreed to the arrangements. The agreement was subsequently approved and adopted by the joint committee in November 2018.

It was further agreed by joint committee in March 2020 that the regional planning functions should, subject to the agreement of the constituent council's, be co-ordinated by the City Region Deal given the terms of the Planning (Scotland) Act. In order to retain a focus on strategic planning it is proposed to establish an Elected Member Oversight Group to oversee the longer term progress of the Regional Spatial Strategy which is a new requirement of the Planning (Scotland) Act 2019. There is a separate report on the Regional Spatial Strategy on this agenda.

While these arrangements have been agreed by the joint committee they need to be ratified by the constituent councils. Similarly, there is no specific reference to the incorporation of strategic planning functions within the Minute of Agreement and, consequently, a Supplementary Agreement is required to ensure the competency of the proposed arrangements.

The specific wording of the clauses is set out immediately below and specifies the scope of the strategic planning work to be undertaken. Importantly it reaffirms the role of the individual councils in agreeing to any policy proposals.

- *Working in partnership with public authorities, public bodies and other public or private organisations it deems appropriate, including but not limited to the UK and Scottish Governments, SESplan and SEStran, to co-ordinate, plan, prepare, deliver, review and renew, any Regional Growth Framework and Regional Spatial Strategy for Edinburgh and South East Scotland, interim and final, or any replacement or reiteration or analogous such framework, strategy or plans, subject to the constituent councils' agreement to policy proposals*
- *To co-ordinate amongst the constituent councils, a contribution to the preparation, review and renewal of the National Planning Framework (NPF4) and its subsequent iterations or replacements, subject to the constituent councils' agreement to policy proposals, and to coordinate and support the constituent councils in their own contributions to it.*

The full Supplementary Agreement is appended as Appendix 1 together with the terms of reference for the Elected Member Oversight Sub-Committee (Appendix 2). For ease of reference the original Minute of Agreement is also appended as Appendix 3

E. CONCLUSION

Changes to the Minute of Agreement which sets the framework for the governance of the City Region Deal Joint Committee are required to allow that committee to take on a co-ordinating role for strategic planning and to establish a sub committee to provide oversight of strategic planning matters. The report sets out the justification for the proposed changes which have to be ratified by each of the six constituent councils.

F. BACKGROUND REFERENCES

Council Executive Report on the City Region Deal: 17 April 2018

Appendices 3

Appendix 1: Supplementary Agreement

Appendix 2: Elected Member Oversight Committee Terms of Reference

Appendix 3: Minute of Agreement

Contact Person: Craig McCorriston, Head of Planning, Economic Development & Regeneration. Tel 01506 282443. Email craig.mccorriston@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development & Regeneration

6 October 2020

DATA LABEL: PUBLIC

Appendix 2

EDINBURGH AND SOUTH-EAST SCOTLAND REGION JOINT COMMITTEE

SUPPLEMENTARY AGREEMENT

amongst

The City of Edinburgh Council

East Lothian Council

Fife Council

Midlothian Council

Scottish Borders Council

and

West Lothian Councils

("constituent councils")

The constituent councils hereby agree:-

1. That the Minute of Agreement amongst them concerning the Edinburgh and South-East Scotland City Region Deal and Joint Committee dated 2 November 2018 is amended by adding the words in Clause 6 below to the list of powers delegated to the Joint Committee in Clause 8 (Powers and Duties of Joint Committee)
2. That the Joint Committee Arrangements adopted by virtue of the constituent councils entering into the Minute of Agreement and under which the Joint Committee is constituted and governed is amended by adding the words in Clause 6 below to its sixth unnumbered paragraph
3. That the Governance Arrangements in Part 3 of and the Annex to the City Region Deal Document entitled "Accelerating Growth", setting out the constituent councils' vision and through which the Joint Committee is to deliver transformational programmes and projects to achieve full implementation of the Edinburgh and South-East Scotland City Region Deal, is amended by adding the words in Clause 6 below to the purpose set out in paragraph 1 of its Annex

4. That the Joint Committee will establish under the Joint Committee Arrangements and its Standing Orders an Elected Member Oversight Sub Committee in terms of Appendix 1 for the purposes of overseeing and directing the additional work as a result of this Supplementary Agreement and for the other purposes set out in Appendix 1
5. That the Joint Committee may, under the Joint Arrangements and its Standing Orders, make such other administrative and governance arrangements as it deems appropriate to meet this addition to its powers, remit and purpose, including, but not restricted to, establishing boards and groups and delegating responsibility and authority to officers appointed to support it
6. The words referred to in Clauses 1, 2 and 3 above are as follows:-
 - Working in partnership with public authorities, public bodies and other public or private organisations it deems appropriate, including but not limited to the UK and Scottish Governments, SESplan and SEStran, to co-ordinate, plan, prepare, deliver, review and renew, any Regional Growth Framework and Regional Spatial Strategy for Edinburgh and Southeast Scotland, interim and final, or any replacement or reiteration or analogous such framework, strategy or plans, **subject to the constituent councils' agreement to policy proposals**
 - To co-ordinate amongst the constituent councils, a contribution to the preparation, review and renewal of the National Planning Framework (NPF4) and its subsequent iterations or replacements, **subject to the constituent councils' agreement to policy proposals**, and to co-ordinate and support the constituent councils in their own contributions to it.
7. These amendments shall take effect from the latest date of execution of this Supplementary Agreement

This Supplementary Agreement and its Appendix are signed and executed in counterpart as follows:-

For the City of Edinburgh Council:-

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For East Lothian Council:-

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For Fife Council:-

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For Midlothian Council:-

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For Scottish Borders Council:-

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	

<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For West Lothian Council:

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

DATA LABEL: PUBLIC

Appendix 2

Elected Member Oversight Sub-Committee – Terms of Reference

1. Membership

Two Members from each constituent Council, up to four members from the Higher Education/Further Education consortium and up to two members from the Regional Enterprise Council.

2. Convener/Chair

The chair will be appointed by the Joint Committee and should be from the Council in the annual lead role for the City Region Deal.

3. Quorum

The Quorum will be one-third of the membership.

4. Substitutes

Substitutes are permitted from the same local authority.

5. Officers

Officers will attend to support meetings.

6. Remit

The powers and responsibilities of the Elected Member Oversight Sub-Committee cannot extend beyond those of the Edinburgh and South East Scotland City Region Deal Joint Committee. The remit of the Elected Member Oversight Sub-Committee would be:-

- a. To provide oversight of the Regional Growth Framework and Regional Spatial Strategy.
- b. Working in partnership with public authorities, public bodies and other public or private organisations it deems appropriate, including but not limited to the UK and Scottish Governments, SESplan and SEStran, to co-ordinate, plan, prepare, deliver, review and renew, any Regional Growth Framework and Regional Spatial Strategy for Edinburgh and South East Scotland, interim and final, or any replacement or reiteration or analogous such framework, strategy or plans, subject to the constituent councils' agreement to policy proposals.
- c. To co-ordinate amongst the constituent councils, a contribution to the preparation, review and renewal of the National Planning Framework (NPF4) and its subsequent iterations or replacements, subject to the constituent councils' agreement to policy proposals, and to co-ordinate and support the constituent councils in their own contributions to it.

- d. To support and encourage a sustainable approach to managing growth which aligns to local sustainability, energy and low carbon plans and strategies.
- e. To encourage and facilitate a close working partnership with SEStran, SESplan and other relevant organisations.
- f. To provide oversight and consider recommendations from the Regional Housing Board and the Transport Appraisal Board.
- g. To scrutinise the work of the SESplan Officer Board in regard to the Regional Growth Framework.
- h. To advise the City Region Deal Joint Committee in regard to the Regional Growth Framework and Regional Spatial Strategy.

7. Meeting Frequency

The sub-committee will usually meet monthly but may meet more frequently if determined necessary by the Chair or the Sub-Committee.

Appendix 3

MINUTE OF AGREEMENT

among

The City of Edinburgh, East Lothian, Fife, Midlothian, Scottish Borders and West Lothian
Councils

("The Constituent Councils")

MINUTE OF AGREEMENT

among

The City of Edinburgh, East Lothian, Fife, Midlothian, Scottish Borders and West Lothian Councils

("The Constituent Councils")

WHEREAS:

- First A joint committee is required to discharge a number of functions and the establishment of the committee requires the authorisation of the Constituent Councils.
- Second The Constituent Councils are local authorities constituted under the Local Government etc. (Scotland) Act 1994.
- Third It is provided by section 56(5) of the Local Government (Scotland) Act 1973 ("the 1973 Act") that two or more local authorities may discharge any of their functions by a Joint Committee of theirs.
- Fourth The Constituent Councils wish to appoint a Joint Committee under section 57(1) of the 1973 Act for the discharge of the functions referred to below.

Fifth Access to meetings and meeting documents of the Joint Committee is subject to the requirements laid out in section 50 of the Local Government (Scotland) Act 1973.

NOW THEREFORE:

ONE Commencement

This Agreement shall commence and have effect from **DATE** 2018.

TWO Constitution

There is hereby constituted a Joint Committee to be known as "The Edinburgh and South-East Scotland Region Joint Committee" hereinafter referred to as the "Joint Committee" for the discharge of the above specified functions in terms of this Agreement.

THREE Members

The Joint Committee shall consist of the following 10 members:

- a) 1 member from each Constituent Council (subject to 3(b);
- b) Where a constituent Council has co-leaders they will be entitled to attend the Joint Committee as members but their Council shall only enjoy a single vote;
- c) 3 non-Council members of which one must be a business representative, one a third-sector representative and one a further/higher education representative. The business representative will be appointed by the Regional Business Leadership Council and

the further/higher education representative will be appointed by the further/higher education group.

Any member of the Joint Committee may be represented by another member of the same authority (such member requiring to be a Councillor of the authority) or non-Council organisation. A person appointed as a substitute shall have the same powers at the meeting as the member whom he or she is representing.

The Joint Committee may co-opt for an agreed period additional non-voting participants to represent other interests or provide specialist expertise.

FOUR Voting Rights

Each constituent Council shall have one vote each. Where co-leaders attend the Committee from a constituent Council, that Council must intimate to the Clerk of the Committee prior to the meeting in accordance with the Committee's standing orders. .

A simple majority of those members present and voting shall be required in all voting procedures.

Where there are an equal number of votes, the matter should be continued to the next meeting to allow for further discussions between the members led by the convener.

Each Constituent Council and non-Council member can opt their organisation out of a proposal and this does not automatically stop the proposal being taken forward by other members.

FIVE Period of Office

Members appointed by the Constituent Councils to the Joint Committee shall hold office for a period determined by their Council but this period must not extend beyond the next local government elections. Immediately after such election, each Constituent Council shall again appoint its number of members to the Joint Committee. Non-Council organisations shall be free to vary the period of office for their members of the Joint Committee.

SIX Vacancies in Membership

A member ceasing to be a member of the Constituent Council which appointed him/her shall cease to be a member of the Joint Committee as at the same date. In that event, or any other time the Constituent Council by which a member was appointed may appoint a member, to take his/her place for the remaining part of his/her period of office. Non-Council organisations may choose to introduce a replacement member of the Joint Committee at any time.

SEVEN Quorum

A quorum of the Joint Committee shall be three members appointed by and representing no less than three of the six Constituent Councils, and one non-Council member. Should the Joint Committee appoint a Sub-Committee, the membership of the Sub-Committee and its quorum shall be determined by the Joint Committee.

Eight Powers and Duties of Joint Committee

The Constituent Councils are delegating the following powers to the Joint Committee:

- To oversee the implementation of the Edinburgh and South East Scotland City Region Deal programme;
- To monitor the impact of the Edinburgh and South East Scotland City Region Deal Programme.
- To build and support inclusive growth focusing on the needs of the local area and strengthening the partnership between public, private and third sectors;
- To improve business involvement from the Edinburgh and South East Scotland city region in local decision making;
- To collaborate and work in partnership to assist in delivering regional planning and transport policy linking the Edinburgh and South East Scotland City Region Deal to SESTRAN and SESPlan; and
- To work in partnership on other initiatives across the Edinburgh and South East Scotland city region with the explicit support of individual constituent members.

Any financial commitment proposed by the Joint Committee must be referred to each Constituent Council for individual agreement.

The Joint Committee may appoint from its members such Sub-Committees as it may from time to time consider necessary or desirable for the exercise of its functions and may, subject to such limitations as it may impose, delegate or refer to such Sub-Committees, any of the functions delegated to the Joint Committee under this Agreement. The Joint Committee shall appoint the Convener of any Sub-Committee appointed under this paragraph.

Further powers can be delegated to the Joint Committee with the agreement of all Constituent Councils.

NINE Standing Orders

The Joint Committee shall adopt its own Standing Orders. In the event of any inconsistency between Standing Orders and the provisions of this Agreement, the provisions of this Agreement shall prevail.

TEN Meetings

The Joint Committee shall hold at least 4 ordinary meetings each year and may meet on such other occasions as may be necessary when a special meeting may be called in terms of Standing Orders.

A schedule of meeting dates and venues will be agreed annually by the Joint Committee.

Copies of notices, agendas and minutes of all meetings of the Joint Committee shall be transmitted to Constituent Councils and others for their information as soon as practicable.

ELEVEN Clerk

A representative of the City of Edinburgh Council, shall be appointed as Clerk to the Joint Committee. This can be altered with the agreement of all Constituent Councils.

TWELVE Convener and Vice Convener to the Joint Committee

Subject to the provisions of this clause the Joint Committee shall appoint a Convener or Vice-Convener. The Convenership and Vice-Convenership of the Joint Committee shall be rotated annually at the first meeting of the Joint Committee following each 12 month term. The Convenership and Vice-Convenership of the Joint Committee shall rotate annually from amongst its members in the following sequence:

<u>Year</u>	<u>Convener</u>	<u>Vice-Convener</u>
1	City of Edinburgh Council	East Lothian Council
2	East Lothian Council	Fife Council
3	Fife Council	Midlothian Council
4	Midlothian Council	Scottish Borders Council
5	Scottish Borders Council	West Lothian Council
6	West Lothian Council	City of Edinburgh Council

Thereafter the same sequence will repeat.

The roles of Convener and Vice-Convener cannot be held by the same authority at the same time.

The roles of Convener and Vice-Convener must be held by a constituent Council.

The Convener, when present, shall preside at all meetings of the Joint Committee. In the absence of the Convener the Vice Convener shall preside and in the absence of both, another member shall preside as the members present appoint. Where a vacancy occurs in the case of the Convener or Vice-Convener, the Joint Committee shall appoint a replacement from the same Authority for the remainder of their period of office.

THIRTEEN Resources

On the recommendation of the Chief Officers' Group, comprising of the lead chief officers for the six Councils, a Chief Officer shall be nominated who shall report to the Joint Committee and be responsible for carrying out the functions delegated to the Joint Committee. Resources to the Joint Committee will be discussed and agreed at the Executive Board or equivalent body.

FOURTEEN Amendment of Agreement

This agreement may be altered with the agreement of all Constituent Councils.

FIFTEEN Difference or Dispute

Any difference or dispute between the Joint Committee and any of the Constituent Councils or among the Constituent Councils concerning the interpretation or any matter arising out of this Agreement, which cannot be resolved by discussion and agreement of the Constituent Councils, shall be referred to the arbitration of the Sheriff Principal of the Sheriffdom of Edinburgh and the Lothians or any person appointed by her/him, whose decision shall be final and binding:

SIXTEEN Termination of Agreement

If an Authority or non-Council organisation wishes to withdraw from the Joint Committee, they should give all member organisations two months' notice of this intention. An Authority or non-Council organisation withdrawing from the Joint Committee, does not affect the validity of the committee.

EXECUTION

This minute of agreement is signed and executed in counterpart as follows:

For the City of Edinburgh Council:

<u>Name:</u>	
<u>Signature:</u>	

<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For East Lothian Council:

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For Fife Council:

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For Midlothian Council:

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For West Lothian Council:

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

For Scottish Borders Council:

<u>Name:</u>	
<u>Signature:</u>	
<u>Witness:</u>	
<u>Signature:</u>	
<u>Place of Signing:</u>	
<u>Date:</u>	

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

THIRD SECTOR PARTNERSHIP AND VOLUNTARY ORGANISATIONS BUDGET 2021/22

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to inform Council Executive of the ongoing discussion with Third Sector representatives in West Lothian to develop partnership working and to ask it to consider and agree the arrangements for the disbursement of the Voluntary Sector budget in 2021/22.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Notes the role and work of the Third Sector Working Group as detailed in the report;
2. Notes the input provided by the Voluntary Organisations PDSP, provided as a verbal update;
3. Agrees the proposed changes of the revenue budget to allow for an interim extension of the grants to the organisations listed in Section D.5.1;
4. Agrees that the Gala Grant funding of £40,000 is not committed in 2020/21 due to the effects of COVID-19 and is utilised as set out in D.5.2
5. Agrees that the Twinning Grants will not be allocated in 2021/22 allowing for the roll over to the grants awarded in 2020/21; and
6. Agrees the process outlined in Section D.5.2 for the allocation of the remaining £400,000 through an application approach focussing on supporting our communities through the on-going challenges from the COVID 19.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs. Being honest, open and accountable. providing equality of opportunities; developing employees; making best use of our resources; working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Appropriate assessments of projects will be carried out as required.
III Implications for Scheme of Delegations to Officers	None, although the report sets out a one-off delegate for the Head of Planning, Economic Development & Regeneration to approve and disburse grant funding in April 2021.

IV Impact on performance and performance Indicators	None.
V Relevance to Single Outcome Agreement	CPP's are now required to prepare a Local Outcome Improvement Plan (LOIP) in place of Single Outcome Agreement (SOA). The proposal does not raise any matters of conflict with the SOA/LOIP.
VI Resources - (Financial, Staffing and Property)	Revenue funding of £944,000 is available for 2021/22.
VII Consideration at PDSP	The proposals set out in this report were considered by the Voluntary Organisations PDSP on 24 September 2020. Panel members were, Cllr Sullivan, Cllr A. McGuire, Cllr Kerr, Cllr Conn, Cllr Fairbairn, Cllr Scemilt, Cllr Dodds
VIII Other consultations	Third Sector Working Group, Finance, Social Policy.

D. TERMS OF THE REPORT

D.1 Background

A change to the current allocation process for Voluntary Organisations Budget through a grant process was agreed at Council Executive in 2018.

A new application process was implemented in 2019/20 which included funding for a Community Choices pilot. The pilot was to inform further revisions to the disbursement of the funding in 2020/21. However, the pilot was delayed and as a result the funding agreed for 2019/20 was rolled forward to 2020/21 with the intention that future funding would be done, either wholly or in part, through Community Choices should the pilot prove a successful model.

To help the council and start a process of working more closely with our third sector partners, a working group was established between council officers and third sector representatives to develop a joint approach to look at the new funding model as well working towards providing a way to work through other funding streams, community choices which would in turn strengthen and develop the working relationship between the Council and Third Sector. This has covered not just the Voluntary Organisations Budget but also how we are building on existing relationships to develop a more strategic relationship going forward through grant funding, commissioning, advice & support with access to specialist expertise where possible.

D.2 Strategic Approach

West Lothian Council recognises that the Third Sector, comprising Voluntary Organisations and Social Enterprises, plays a hugely important role in the fabric of society. The Third Sector is varied, adaptable, agile and solution focussed. Services are designed to support service users and disadvantaged communities across West Lothian and to be responsive to meeting their changing needs.

They are directly linked with our local communities both through their work within specific geographical communities or with a particular thematic group complimenting and adding value to public sector support provided by the council and our Community Planning Partners. They have the skills and expertise to support people in those communities and empower them to be more resilient. This has been further evidenced not only by the sector's response to the COVID-19 crisis and in the way organisations have responded but also by community members through the incredible level of volunteering witnessed in recent months.

The working group agreed a set of guiding principles around which to work, set out below:

- Council funding is strategic and will be aligned to identified priorities;
- We are all focused on investing in our communities and local services to protect the most vulnerable people in West Lothian;
- We will develop and maintain partnership approaches to supporting our communities/people;
- We all recognise the unique added value that the Third Sector brings, which enhances the public pound;
- We are focused on local spend in grassroots, community organisation and recognise the impact this can have on local communities/people;
- We are all committed to finding joint solutions through maintaining open and constructive dialogue, no matter how difficult the issues may be; and
- We will all model the behaviours that we would wish from all of our peers

These principles will apply to all joint discussions and offer a framework for honest and forthright engagement between the Council, Community Planning Partners and the Third Sector.

Both West Lothian Council and the Third Sector are keen that the relationship is built on an investment and resourcing model. This approach will move us forward together and enable the sector to support the council with the delivery of its agreed priorities and achieve better outcomes for people and communities.

This approach needs to be viewed in the round as all sides recognise the constraints continuing to be placed on council budgets. This financial pressure is also a fact of life for our Third Sector partners. It is recognised by all parties that in developing and supporting the Third Sector, investment will not simply be around financial support, thus, the relationship needs to be more holistic and partnership based. Through engagement we need to work with each other to maximise support for our communities. To do this we need a mix of approaches that provide a coherent package of support and meaningful ongoing dialogue around how we best provide support to residents of West Lothian.

D.3 The Voice of the Third Sector

The Third Sector is generally well represented on key fora and decision making bodies including Council PDSPs and within the Community Planning Partnership (and the various groupings that sit within this (Economic, Community Safety, Anti Poverty, Children and Families etc.) The importance of this representation is recognised and will develop and be strengthened as we move forward. This will give the Third Sector a clear role and voice in the strategic planning bodies both in terms of shaping priorities, developing actions and helping to deliver on these.

Officers will look to pull this work together through a commitment to an annual report to be produced with the Voluntary Sector Gateway West Lothian. This will show progress and articulate the overall financial value of the various methods of support and Council's ongoing investment in the sector, as well as how this work has met the priorities and needs of our communities, including highlighting issues that need to be addressed moving forward.

D.4 Funding support for the Third Sector

It is recognised that whilst it will never be possible to provide the levels of direct funding support that the sector may desire, as evidenced to an extent by the over subscription to grant schemes and various funding pots in recent years, that where budgets allow West Lothian Council will continue to put direct funding into the sector through a range of mechanisms. These in the main will be through:

- Direct Grants
- Commissioning/Procurement
- Service Level Agreements

Through the working group it is clear that where possible the sector would welcome multi-year funding rather than from year to year. West Lothian Council is supportive of this approach in principle but given both the uncertainty caused by COVID 19 on existing budgets and the existing one year budget arrangements in place for local authorities from the Scottish Government, this approach is not feasible at this time. Should multi-year funding for local authorities be reintroduced this can be revisited.

An example of where there will be opportunities in the coming months and years, particularly for our Social Enterprises Sector, can be seen with the increased target set by the Jobs Taskforce to increase local procurement to 40%. Whilst procurement is open to the private sector this will bring opportunities for the third sector and part of that will be to ensure that the sector has the appropriate skills to engage fully in this process.

This last point will be a major area for the joint working and one where council expertise and skills can also be developed to offer advice and training as part of a package of support over and above the funding elements mentioned above. Whilst Voluntary Sector Gateway West Lothian (VSGWL) and West Lothian Social Enterprise Network (WLSN) provide many elements of this in their role and can pull in expertise directly, the council will also look to support this by identifying gaps where its own expertise could be drawn upon. Initial examples being support with funding applications, building on our links with funding bodies, sharing best practice from other council areas, procurement advice, business planning, identifying relevant local data, joint events/training.

D.5 Voluntary Organisations Funding 2021/22

As set out in D1 the future development of the Voluntary Sector Budget was one part of a wider discussion but also the initial driver. In addition, this starting point directly linked any new scheme in part to the community choices pilot. This pilot was further delayed due to COVID-19 so there is no evidence yet to gauge the suitability, or otherwise, of using a Community Choices approach for the wider budget. Indeed, it should be pointed out that the Third Sector input into the Working Group did not see this as a desirable model for the wider budget. This view does, however, have to be balanced against the Scottish Government's requirement for a percentage of the council's revenue budget to be delivered by a Community Choices approach.

The working group has continued to meet virtually in recent months to discuss future funding arrangements. Various scenarios and discussions have taken place and the COVID-19 crisis has also shaped thinking. From early on in the discussion there were concerns that some groups previously funded through the grant scheme were not suitable for the process that was in place at the time and that other arrangements were needed for those if the council decided that it had commitments or requirements to do so.

In 2021/22 the overall pot remains £944,000 and the proposed approach for allocation is set out below:

D.5.1 Service Level Agreement/Commissioning interim phase

As a result of analysis of the previous funding a number of areas of work have been identified as unsuitable for an application based programme as these services are required by the council to be supported and delivered and that services have a commitment to do so. Those areas of work include transportation, museums, some advice provision and some aspects of youth provision.

This will see £586,004 allocated for this provision as broken down below. It is likely that this will result in new Service Level Agreements (SLAs) between West Lothian Council and the recipient directly with the services requiring the provision agreeing what services it requires. This may also see this taken to a direct commissioning process to test the market around this provision should services wish to do this. The timescales does not allow for this to be fully developed in time for 2021/22 but will be in place for 2022/23. As an interim measure the following organisations detailed in the table below will be offered a one year roll over grant as a stepping stone to allow time to investigate this more fully and agree the right approach. This will see a slight reduction if the award to allow for the remaining funding to be put out to an open process. It should be noted that the organisations listed will not be eligible for the fund set out in Section D.5.2.

Service Required	Organisation affected	Award 20/21	Proposed 21/22	Lead Service
Youth Services covering West Lothian including focus on community safety and Children and Families work	WLYAP	£190,000	£190,000	Tim Ward (Social Policy /Children and Families) and Beverley Akinlami (Education – Learning, Policy & Resources, CLD Youth Services) (with input from Community Safety and Community Planning and Regeneration) Note: Social Policy currently provide additional funding for Children and families work over and above this funding

Community Transport	HcL	£182,156	£182,156	Nicola Gill (Operational Services - Transportation)
Provision of a Third Sector and social enterprise interface to support the third sector across West Lothian.	VSGWL WLSEN	£80,270	£80,270	Douglas Grierson (Planning, Economic Development and Regeneration – Community Planning and Regeneration)
Additional Advice services across West Lothian in alignment with the Anti Poverty Strategy	Citizens Advice Bureau	£76,266	£76,266	Elaine Nisbett (WLC Finance and Property Services – Anti-Poverty Service)
Provision of Museum Services in Linlithgow and Bathgate	Linlithgow Heritage Trust Bennie Museum	£57,312	£57,312	Emma Peattie (Museums Development Officer)
Twinning	5 Twinning Associations	£11,920	Roll over 2019/20 award. No new grant award 2021/22	Steven Gray (Education - Learning, Policy and Resources)
	TOTAL	£597,924	£586,004	

The development of a robust Service Level Agreement or incorporating into a commissioning process will be developed over the course of the next 12 months and implemented in 2022/23 to ensure the council is clear on what it requires of the provider and that the provider can deliver to those council priorities identified by the appropriate council service. This will also be dependent on future budget arrangements.

It may also be the case that following further consideration the lead service decides that this work is no longer required. In this case the funding will remain within the Voluntary Organisations Budget going forward, again pending future budget decision for 2022/23 and beyond.

Should the lead service proceed with the Service Level Agreement / Commissioning process in 2022/23 then the funding, to the maximum set out above, will be transferred over to the lead service to manage for the duration of the agreement/contract. Should this require less funding then any balance will remain within the Voluntary Organisations budget. Should the service decide that it no longer requires the service at any point then the funding will be returned to the Voluntary Organisations Budget.

In relation to Twinning West Lothian Council remains committed to support this. It is proposed that this will continue to be managed by Education as a separate budget going forward. However, with the five twinning associations having received funding of £11,920 (covering 5 associations) for 2019/20, as part of the previous roll over of awards, their ability to carry out twinning activities due this year have been curtailed by the effects of COVID 19. It is proposed to allow the 2019/20 award to rollover into 2020/21 to allow that to be utilised in the next financial year. Therefore, there will be no new additional 2021/22 allocation. This will be picked up again in 2022/23.

D.5.2 Third Sector Community Support Fund 2021/22

The remaining £357,996 will be used to create a new £400,000 Third Sector Community Support Fund. The additional balance of £42,004 has been identified from rolling over the unallocated 2019/20 £40,000 Gala Grant and £2,004 from the Modernisation and Improvement Fund. The new fund will be used for a new open grant scheme focused on resilient communities recovering from COVID 19. This will address key areas identified through the Community Planning process as the key short and medium term priorities for partners as we move through COVID 19. The focus is primarily around health and wellbeing, particularly around supporting our most vulnerable communities, those in the bottom 20% SIMD data zones, and aligning applications to the Economic Recovery Plan and Health and Wellbeing/Anti-Poverty Action Plan, currently being finalised.

The priorities identified by partners and confirmed through an online survey of community organisations and partners will see the focus of the funding aligned to the following themes, with some examples, though not exhaustive, given of areas we would wish to see applications address:

- income and employment;
 - supporting people into work/into positive destinations;
 - young people (attainment/education/ training etc)
 - projects that address poverty related matters.
- physical and mental health and wellbeing: including:
 - addressing long term illness
 - isolation/loneliness
 - general health (prevention)
 - young people
 - older people,
 - people with protected characteristics
 - children and families with disabilities
- housing and homelessness issues;
 - projects that address local homelessness issues

Within these three broad headings applicants will be able to apply for new projects as well as ongoing core costs that allow them to continue to support their communities through this time. It is clear that new approaches have and are being developed, more partnership working has been clear and these are likely to have long term implications for our communities and how they are supported.

Applications should not exceed £50,000 per organisation, although consortium bids may apply for more funding and will be considered on the merits of both the additional value for money and on the effect on the overall pot of supporting a larger bid.

Applicants will be encouraged to show how this funding will support delivery of a service or projects that utilise other funding brought in by the applicant thereby showing how the contribution of the council helps to deliver that larger service provision. There is no specific percentage for this but it will be part of the decision making process.

If agreed the process will be launched in early October with a November deadline for applicants. A panel will then meet to make recommendations and applicants will be informed of the final decisions in December. Draft copies of the guidance and application form are attached as Appendices 1 and 2.

As with previous years allocations it is proposed that the award of funding is delegated to the Head of Planning, Economic Development & Regeneration.

D.6 Modernisation and Improvement Fund 2019/2020

It should be noted the council had also agreed to extend the Modernisation and Improvement Fund into 2020/21 with £150,000 allocated. Due to the response to COVID-19 no funding has been committed from this budget. During this time other new funding had been utilised to fund the Third Sector response during the crisis which has seen just under £900,000 allocated to West Lothian based organisations since the pandemic started.

Due both to the uncertainty and the alternative funding in place, the Modernisation and Improvement Fund has been held back as a contingency fund if needed to respond to the effects of COVID 19 over the coming months as some of the initial funding comes to an end. There remains uncertainty at this time about how things will develop but it would be hoped to take a more formal decision on this funding in the coming months once things are clearer as to how the money can be best utilised.

As set out in Section D.5.1, to ensure that the Third Sector Community Support Fund can be rounded up to £400,000 there has been a small allocation of £2,004 from the Modernisation and Improvement Fund.

E CONCLUSION

West Lothian Council recognises that the third sector plays a hugely important role in the fabric of society and both compliments and adds values to the work of West Lothian Council in delivering the support our communities need. It is vital that our working relationship is as strong as it can be and that partnership working is central to this, both for the council to understand the sector but also for the sector to work with and understand the council. Whilst the council's ability to fund the sector is important it is not the only way for us to work in partnership. The voice of the sector and the support that can be provided where possible can be part of building that overall relationship. Grant funding is one element of a wider, more strategic partnership.

In relation to the allocation of the Voluntary Organisations budget for 2021/22 as detailed this will see £586,004 allocated to continue to support areas of work that the council is seeking to commission or see delivered to a Service Level Agreement going forward. This will see interim outcomes agreed, updating their existing outcomes where necessary to ensure that the required service is provided in 2021/22. This will allow for more detailed work to take place to move to a new commissioning or Service Level Agreement arrangement for 2022/23.

A new £400,000 Third Sector Community Support Fund 2021/22 will be launched which will be an open application process available to all third sector organisations that meet the criteria.

F. BACKGROUND REFERENCES

West Lothian Council Executive, 29 October 2018
<http://coins.westlothian.gov.uk/coins/submissiondocuments.asp?submissionid=40192>

Voluntary Organisations PDSP, 21 March 2019
<https://coins.westlothian.gov.uk/coins/submissiondocuments.asp?submissionid=41887>

Appendices/Attachments:

Appendix 1 Third Sector Community Support Fund 2021/22 Draft Guidance

Appendix 2 Third Sector Community Support Fund 2021/22 Draft Application Form

Contact Persons:

Alice Mitchell, Economic Development and Regeneration Manager, tel: 01506 283079; email alice.mitchell@westlothian.gov.uk

Douglas Grierson, Regeneration Team Leader, tel: 01506 281088; email douglas.grierson@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development and Regeneration

06 October 2020



Third Sector Community Support Fund 2021/22

Background

In 2019-20 West Lothian Council agreed to an interim grant process, ring fenced to those organisations who had received funding through the rolling Service Funding Agreement process that had been in place up until 2018/19. This would last for one year and would be replaced by a new approach for 2020/21, one that would be open to a wider number of local third sector organisations. Timescale constraints meant that this was not achieved and funding was rolled over for one more year to cover 2020/21 to allow time to agree a replacement process for 2021/22.

The new process has been agreed following consultation with representatives of the third sector around the overarching principle to provide time limited investment in organisations best placed to deliver for the communities of West Lothian, addressing both key Community Planning priorities and ensuring that the recipient has the resources it needs, within the confines of the funding available, to support our communities. The priorities identified are also the result of the effects that the ongoing COVID 19 pandemic has had on our communities and the issues that are coming from that or are likely to do so.

The total funding available for 2021/22 is £400,000.

What are the priorities that we are looking to address?

The new grant scheme is open to all properly constituted third sector organisations in West Lothian that can delivery work that support the aims of the funding. The fund aims to support resilient communities recovering from COVID 19 with the focus of the key areas identified through the Community Planning using both identified data and feedback as the areas of focus in the coming months and possibly years.

The priorities identified will see the focus of the funding aligned to the following themes, with some examples, though not exhaustive, given of areas we would wish to see applications address:

- income and employment;
 - supporting people into work/into positive destinations;
 - Young people (attainment/education/ training etc)
 - projects that address poverty related matters.
- physical and mental health and wellbeing: including:
 - addressing long term illness
 - isolation/loneliness
 - general health (prevention)
 - Young people

- older people,
 - people with protected characteristics
 - children and families with disabilities
- housing and homelessness issues;
 - project that address local homelessness issues

Partners are also focussed on supporting the economy and business. This is being addressed through the West Lothian Economic Recovery Plan and partnerships are in place to support much of this work. However, innovative ideas that provide clear additionality will be considered.

Whilst not specifically detailed we are aware that many third sector organisations have, due to the circumstances adapted to the use of new and existing digital approaches and again this is an area that is likely to develop going forward.

Applications should aim to support our most vulnerable communities, those in the bottom 20% SIMD data zones, or key thematic groups, for example young people, families, older people, people with protected characteristics.

We are keen that applications help develop/strengthen partnership working between public, third sector and business. As such we will look for evidence of this and how your work or project fits. For example, you could explain how it links with the Anti-Poverty Action Plan, Economic Recovery Plan, local Regeneration Plans and the Health and Wellbeing issues that are clearly coming through.

Factoring in the effect of COVID 19

It is understood that the effects of COVID 19 are going affect us for some time and this funding is targeting support at these key areas that partners and communities have identified. We understand that things can change quickly and as such it is appreciated that some flexibility is likely to be needed and that asking applicants to definitively identify what they will deliver between 1 April 2021 and 31 March 2022 is not straightforward at this time.

It is appreciated that applicants can only apply based on how their organisation anticipates what they can deliver during the funding period but that they may have to adapt and change depending of the position at the at time. Therefore, we will be mindful and flexible around this in practice. However, you should be as clear as you can be to how you may adapt, essentially a level of scenario planning. Part of the decision making process will take this into account as what we will not want to do is to fund is something that can't be adapted or be deliverable if changes happen in the coming months that affect delivery. An example might be around face to face contact requiring a venue versus digital contact.

How much can I apply for?

Whilst you will need to cost your application to suit your identified needs. You must clearly show why you are asking for the amount identified. However, you should be aware that applications in excess of £50,000 will not be considered.

One caveat to this relates to consideration of innovative consortium bids. Such bids may apply for a higher amount and in such cases will be considered on the specific merits and how this might affect the ability to support a range of applications. We have not specified a top level for

this to allow for applicants to make a value for money case. Consortium bids must have a lead partner.

Balance of Funding

Given the amount available and the likely high level of demand we are also looking for applications that maximise the funding being made available to support our communities. It is unlikely that an applicant looking for 100% funding will be successful. Applicants will be expected to show how the funding will support delivery of a service or how it can enable projects that utilise other funding identified by the applicant thereby showing how the contribution of the Council through this fund helps to deliver that larger service provision. There is no specified percentage for this but this will be considered as part of the decision making process.

To be clear we will expect to see either:

- where it is a new project that should be funded through a mix on funding (external/self generated etc.) with the Council contributing a percentage of the total cost: OR
- That the council is contributing a percentage to a vital part of the service being provided but not funded directly. This may involve some core costs for example.

You will need to evidence this in the application.

You should think about proportionality when putting your application together to be clear that the amount being asked for is justified by the number of beneficiaries or level of support, and clearly shows value for money.

What can the funding be used for?

You can only use the funding to pay for costs associated with delivering what is set out in your application. This can be for a wide range of costs both to develop and run a new project or can also cover core costs to help the organisations deliver ongoing work as long as it delivers to the above priorities. It is essentially a revenue grant scheme but some capital costs can be considered. These can include the following items:

- Staffing
- Core costs such as office management and administration
- Volunteer costs e.g. travel expenses
- Equipment and materials where clearly evidenced as crucial to delivery of the work as outlined in the application
- Hire of venues or rental of premises and related costs
- Other costs, including core costs

If you are including core costs you should itemise these to be clear what these are:

- how this is currently funded;
- why it is required;
- why it is important; and

- the difference it makes to your work.

How to apply

To ensure each organisation has an equal opportunity to demonstrate how the work it wants funded in 2021/22 will impact on the priorities identified, applications for funding must be made using the application form which accompanies this guidance document.

Completed applications to the fund should be returned no later than:

- **17.00 p.m. on Monday, 9th November 2020.**

Any application received beyond that date/time will not be eligible for consideration unless in exceptional circumstances.

All applicants will have to show what the funding will be used for. A maximum word count has been set per section. You **must** stick to this and be clear, concise and where possible, use bullet points. To be fair to all applicants any words over the word limit will not be considered. If your project comprises more than one discrete element please treat and describe them individually.

As part of the application process you will be asked to provide the following information:

A general summary of your project which outlines and identifies:

- The need for the funding support;
- Who will benefit;
- How it will align with and contribute to the priorities that you have selected.
- How it links to other funding you have identified and/or other projects you will be delivering, and
- How you have considered the sustainability of the work

Outcomes for the project which outline:

- What you want to achieve; what changes or difference will the funding we give you make to the people and communities that you are targeting?
- Your planned activities: What measurable programmes, projects or activities you will design, use and deliver to achieve your outcomes? (For example a training course is an activity; community engagement is also an activity. You should also show how the project is going to be advertised and promoted and beneficiaries recruited/targeted/accessed).

Outcome indicators for the project which demonstrate:

- How you will measure your success?
- How you will show you are achieving or will achieve your stated outcomes?

Costs which clearly show:

Your application should clearly show how you have costed your project with a general breakdown of the resources you require e.g. staff, rent, equipment, training/course materials etc.

However, as stated above we accept that the effects of COVID 19 mean flexibility will be necessary so again we accept that the initial breakdown may be indicative and open to changes. The key is the delivery of the work.

As public money you will be asked to report back at the end of the funding period to show how the funding has been utilised and be able to provide supporting evidence (i.e. pay slips, timesheets, invoices, bank statements etc.) should you be asked.

How will the application be assessed?

All applications will be assessed by a panel made up of council officers and external representatives. That panel will draw on expert advice from officers, Council or Community Planning partners to ensure that the application being considered addresses local strategic priorities, builds on or complements other provision and does not duplicate other provision already in place. The clearer you can be in your application on this will make this easier for the panel to consider.

The panel will also consider the applicant's financial health and governance arrangements.

Please be aware that you **must** submit all requested documentation by the deadline or your application will not be submitted to the panel for assessment.

Officers may contact you with supplementary questions for the purposes of clarification both before the panel meets and possibly after.

The panel will meet in late November / early December and applicant informed of the outcome by the week ending 18 December 2020

What happens if the application is successful?

If you are successful, you will receive an offer letter from us via email that will outline how much we are investing, the terms of the offer and the methods of monitoring our investment.

Please note that you may not be offered the full amount requested. However, where this is the case officers will detail the panel's reasoning for this decision.

All funding is reliant on you signing a Conditions of Grant agreement. Funding will be paid directly into your bank account. Please note that no funding will be provided until the Conditions of Grant agreement is signed.

Monitoring

All organisations that receive funding will be required to complete a monitoring form. Details of which will be included with the award letter; that must be completed and submitted at the end of the financial year.

Copies of the monitoring form will accompany your funding award letter and conditions of grant so you will be clear of the requirements before you sign the offer. **This will cover both your performance in relation to your outcomes and financial monitoring.**

What happens if the application is unsuccessful?

If you are unsuccessful in your application, feedback will be provided as to the reasons why.

However, the decision that we make is final and there is no process for appeal. Council officers will offer support and provide advice on alternative sources of funding.

Additional conditions

Additional conditions that will apply to the offer will include:

- Right of access to organisation's financial records to ensure the funding is being used for the purposes it is granted for
- The council can reclaim funding if it can be shown that it has not been used in accordance with the application and with conditions of funding agreement. We will not reclaim funding if it can be shown that there is no fault on the part of the organisation.

Other conditions appropriate to our investment may also be included in the Offer Letter and Funding Agreement.

Help and Advice

If you require further information or advice on your application please contact the Community Planning and Regeneration Team at (regenerationteam@westlothian.gov.uk) and we will get back to you.

Where your service is based on a specific geographical location it is likely to be your local Community Regeneration Officer.



Third Sector Community Support Fund Application Form 21/22

Project /Service to be delivered	
Name of organisation	
Contact for this application:	
Position in Organisation:	
Confirm current number of Board Members	
Address	
Telephone & e-mail:	

Priorities

The priorities identified will see the focus of the funding aligned to the following themes, with some examples, though not exhaustive, given of areas we would wish to see applications address:

- income and employment;
 - supporting people into work/into positive destinations;
 - Young people (attainment/education/ training etc)
 - projects that address poverty related matter.
- physical and mental health and wellbeing: including:
 - addressing long term illness
 - isolation/loneliness
 - general health (prevention)
 - Young people
 - older people,
 - people with protected characteristics
 - children and families with disabilities
- housing and homelessness issues;
 - project that address local homelessness issues

Partners are also focussed on supporting the Economy and Business. This is being addressed through the Economic Recovery plan and partnerships are in place to support much of this work. However, innovative ideas that provide clear additionality will be considered.

Which of the above priorities will your service project deliver? (<i>maximum of 50 words</i>)
What areas of West Lothian does your service/project cover? (i.e all of West Lothian or specific communities. If the latter please specify (and include any areas in the bottom 20% SIMD data zones (<i>maximum of 50 words</i>))
Fit with relevant local plans (<i>maximum of 50 words</i>)

PROJECT SUMMARY. This should identify the need for the project; who / what will be supported, where and how; the change(s) this will make; and how this contributes to tackling social-economic inequality in West Lothian. If your project delivers several pieces of work please detail separately below (you should also to break the costs in the relevant section). It is possible that parts of the application will be supported and others not; breaking the project down will make it clearer and easier to assess and score.

Maximum of 500 words, using bullet points and heading to make as easy for the panel to understand as possible. Anything over this limit will not be considered.

What are the planned OUTCOMES from this project?

(OUTCOMES are the changes / differences made to individuals or groups resulting from activities or interventions e.g. a participant completing a training course is better able to access employment opportunities is an OUTCOME)

Maximum of 500 words, using bullet points and heading to make as easy for the panel to understand as possible. Anything over this limit will not be considered.

What are the planned ACTIVITIES?

(ACTIVITIES are programmes, services or projects designed to make a change to target groups or individuals e.g. a training course is an ACTIVITY)

Maximum of 500 words, using bullet points and heading to make as easy for the panel to understand as possible. Anything over this limit will not be considered.

How will you measure success?

Measurables (indicators) that help determine if you are achieving or have achieved your outcomes e.g. number of course participants moving into work)

For you should show what systems are in place to record and monitor, activities, outcomes etc to evidence how you are reaching your target group?

1	Measurable (indicator)	number, %, other	How will you evidence (i.e. systems, attendance records/questionnaire etc.)

COSTS for this service/project (Please include all relevant elements that contribute to the delivery of a service e.g. money, staff, equipment. A trainer, course materials and a venue are all resources)

Total budget (This should be the total cost of your project/service including all relevant costs, i.e. other external funding, your own funding etc.)	£
---	---

Please list the other sources of funding (i.e. lottery/trust/own finances):	
---	--

Total amount you are applying for from WLC	£
--	---

Total percentage of overall cost being requested from WLC	%
---	---

Please break down the cost of the service in more detail. As noted in the guidance given the potential for Covid 19 to require changes to provision this is generally indicative to show how you have come to the figure above and to give the panel an understanding of the components that make up the work.

Item of expenditure	Total cost of item	Council contribution	How would this be evidenced? (i.e. invoice, payslip, bank statement, accounts)

Total (this should equate to the amount awarded)			

SUSTAINABILITY

Please show what consideration you have given to how the work might be made sustainable beyond the end of the funding. he what steps you will take to become more sustainable.

This could be through identified alternative sources of funding, i.e. lottery funding or by developing a social enterprise model with a view to increasing or developing clear income streams going forward.

Maximum of 200 words, using bullet points and heading to make as easy for the panel to understand as possible. Anything over this limit will not be considered.

Supporting information (please provide copies of the following along with your application. This is a required part of the application and **MUST** be submitted along with)

Memorandum of Association or Constitution	
The most recent audited or independently examined accounts	
Cash flow forecast 2021/22	

Please do not include any additional documentation not requested above, for example Annual Reports etc.

Declaration	
I confirm that I am authorised to submit this application on behalf of my Organisation's Board of Trustees. I also confirm that all information given is accurate and that, if awarded funding the group will comply with West Lothian Council Conditions of Grant funding.	
Signature	
Organisation	
Position in organisation	
Date	

DATA LABEL: Public



COUNCIL EXECUTIVE

TIMETABLE OF MEETINGS 2020/21

REPORT BY CHIEF EXECUTIVE

A PURPOSE OF REPORT

The approval of a timetable of meetings to July 2021 of the council, its committees and working groups (including Policy Development and Scrutiny Panels) which meet according to a regular timetable.

B RECOMMENDATIONS

1. Subject to the following, to note and approve the arrangements shown in the appendices for meetings of the council, its committees and working groups from November 2020 until July 2021.
2. In relation to Policy Development & Scrutiny Panels (PDSPs):-
 - i. To note that their meeting dates are set through Lead Officers and Chairs
 - ii. To note that although Lead Officers and Chairs have been consulted about the dates proposed in this report those dates may be subject to later change
3. In relation to Local Area Committees (LACs):-
 - i. To note that each LAC sets its own meeting dates and that those in the appendices are not all yet agreed
 - ii. To delegate authority to the Chief Executive to make any changes required after LACs have agreed their meeting arrangements
4. In relation to Members' Training Days:-
 - i. To note and agree the proposed dates
 - ii. To delegate authority to the Chief Executive to adjust those dates and times in the event of a change of circumstances arising
5. To agree that meetings until 31 March 2021 should continue by remote access with that to be reviewed at Council Executive in March 2021, or earlier should circumstances change relating to the COVID-19 pandemic

C SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs, being honest, open and accountable, making best use

of our resources

II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Council's Standing Orders and Scheme of Administration Local Code of Corporate Governance
III	Implications for Scheme of Delegations to Officers	None
IV	Impacts on performance and performance indicators	None
V	Relevance to Single Outcome Agreement	None
VI	Resources – (Financial, Staffing and Property	None
VII	Consideration at PDSP	None
VIII	Other Consultations	Chairs and Lead Officers; Committee Services; Corporate Management Team

D TERMS OF REPORT

1 Background

- 1.1 The council is required to agree a timetable of meetings for the council, its committees and working groups that meet according to a regular timetable. In accordance with a recommendation by Internal Audit and recent practice, a timetable of meetings is produced for consideration and approval at Council Executive in March each year. That was scheduled to be done at Council Executive on 24 March 2020 but that meeting was cancelled due to lockdown restrictions imposed in reaction to the coronavirus pandemic. Meetings on a restricted basis resumed on 26 May 2020. On 23 June 2020 committee agreed meeting arrangements until 31 October 2020 and that a proposed timetable of meetings for the period from 1 November 2020 should be brought to an appropriate meeting of Council Executive before 31 October 2020.
- 1.2 As instructed by committee, a proposed timetable of meetings is produced for approval, contained in the appendices to this report, in accordance with the rules in Standing Orders. It covers the period from November 2020 to July 2021. It complies with Standing Orders and with previous council decisions concerning Family Friendly Working Arrangements. It takes into account the changes made to school holiday periods at Education Executive on 8 September 2020.
- 1.3 Meetings fixed by some other bodies, for instance, the Licensing Board, West Lothian Integration Joint Board, St John's Hospital Stakeholder Group, Community Planning Partnership Board and Community Safety Board are set independently and they have been shown in Appendix 1, where known, for information purposes only.

2 Council and committees

- 2.1 In general, meetings of council and its committees have been arranged on the same familiar and well-established pattern as before, in pre-COVID times. They take into account changes made to Standing Orders to allow meetings of regulatory committees to be more flexible and adaptable.
- 2.2 Council instructed a review of its decision-making arrangements on 13 February 2018. There have been no changes through that process in 2019/20 that make any significant difference to the way the proposed calendar has been prepared.

3 PDSPs

- 3.2 Under the council's Scheme of Administration, meetings of Policy Development and Scrutiny Panels are to be fixed by the Clerk in consultation with the Chairs and Lead Officers. Those arrangements have been completed with both the Chair and Lead Officer having been consulted on and agreed the proposed dates for Policy Development Scrutiny Panels. They may be subject to change from time to time.
- 3.2 In progressing the review of decision-making arrangements through Partnership & Resources PDSP members suggested that meetings of PDSPs and committees should be arranged to better facilitate the flow of business. That suggestion has been taken into account. It has not been possible to ensure the ideal for all PDSPs. However, everything practicable has been done to ensure that is the case for the PDSPs that tend to generate the most committee business.

4 LACs

- 4.1 Local Area Committees are required to agree each year a schedule of regular meetings for the succeeding twelve months to be submitted to the Council Executive for approval. Most of these proposed dates have been agreed by the LACs, but some remain outstanding, and provisional dates are included for those bodies in the appendices.
- 4.2 In progressing the review of decision-making arrangements through Partnership & Resources PDSP members were of the view that the frequency of meetings should reflect the business that required to be done, and that in relation to LACs, quarterly meetings were most appropriate. It is however for each LAC to make its own local arrangements.
- 4.3 In the course of that same review members were advised that the venue for LAC meetings was for each LAC to determine. Holding meetings outwith the Civic Centre would however be subject to finding appropriate and accessible premises and to budget considerations. That has been superseded to some extent by remote access meetings but may remain a constraint in future.
- 4.4 It is recommended that authority is delegated to the Chief Executive to make any changes required for Local Area Committees and to incorporate those details in the timetable in the appendices.

5 Training Days

- 5.1 As has been recent practice, a number of dates have also been identified for the purpose of elected member training. These are proposed as follows:-

- Wednesday 9 December 2020 (am)
- Monday 8 February 2021 (am)
- Thursday 1 April 2021 (am)
- Thursday 10 June 2021 (am)

- 5.2 Identifying and setting aside these dates for training and member development will assist in the planning and delivery of training. Since that practice was introduced there has been an increase in the take-up of training opportunities. It is hoped that will continue. Officers are considering how training and briefings can be carried out without physical attendance and members will be consulted about those arrangements in due course.
- 5.3 In case changed circumstances require a training day to be rearranged, authority is sought to allow the Chief Executive to change the dates where required.

6 Remote access, recording and webcasting

- 6.1 Although not specifically written with remote participation in mind the council's Standing Orders allow meetings to be convened and conducted in this way. Meetings from 26 May 2020 have been conducted by remote access using WebEx. Meetings during and since June 2020 have also been webcast for business for which the public would have had access were it not for the ban on public attendance imposed by the emergency coronavirus legislation. They have included regulatory meetings where members of the public have participated using the same platform. There have been occasional glitches where connections have been lost or sound quality has dropped but those are not typical. Overall, as a result of careful planning, testing, support, cooperation and goodwill, meetings have gone well and feedback from members and members of the public has been positive. Standing Orders were amended at full council on 29 September 2020 to formalise these previously informal webcasting arrangements.
- 6.2 It is recommended that meetings for the remainder of 2020/21 take place by remote access only. The council's business needs to be done and a further step back towards a normal meetings calendar is to be welcomed. However, restrictions on movement and gatherings continue in place and can vary at short notice on a national or local basis as COVID-19 circumstances change. the coronavirus emergency period is being extended to 31 March 2021. WebEx is becoming familiar to members and officers and to members of the public. A report will be brought to an appropriate meeting of Council Executive in March 2021 to again review the position and to make recommendations for meetings going forward. Proposals then will have to take account of circumstances current at the time. The impact on the calendar of meetings of changing coronavirus regulations and guidance and local circumstances will in the meantime be kept under review in case further decisions are needed before March next year
- 6.3 Officers will continue to support participants in the use of WebEx. That will apply in particular to community councils' representatives at LAC meetings and outside body representatives to PDSPs.

E CONCLUSION

Setting dates and times for meetings of full council, committees and other bodies will ensure compliance with the Code of Corporate Governance and Internal Audit's recommendations, and will assist in the forward planning of council business.

F BACKGROUND REFERENCES

Standing Orders and Scheme of Administration

West Lothian Council, 26 September 2017, 13 February 2018, 19 November 2019

Council Executive 26 May 2020 and 23 June 2020

Appendices: 1 List of Meetings 2020/2021
 2 Calendar of Meetings 2020/2020
 3 Summary of meeting arrangements 2020/2021

Contact Person: Carol Johnston, Chief Solicitor

Graham Hope, Chief Executive

6 October 2020

DRAFT

Appendix 1

SCHEDULE OF MEETINGS 2020/2021

DATE	MEETING	TIME	VENUE
	<u>NOVEMBER 2020</u>		
02/11/2020	Joint Consultative Group	14.00	Council Chambers
03/11/2020	Linlithgow Local Area Committee	09.30	TBC
03/11/2020	Education Quality Assurance Committee	14.00	Council Chambers
06/11/2020	Broxburn, Uphall & Winchburgh Local Area Committee	09.30	TBC
09/11/2020	Governance and Risk Committee	14.00	
10/11/2020	Development & Transport PDSP	09.30	Council Chambers
10/11/2020	Environment PDSP	11.00	Council Chambers
10/11/2020	WL Integration Joint Board	14.00	TBC
11/11/2020	Local Review Body	11.00	Council Chambers
12/11/2020	Livingston South Local Area Committee	09.30	Council Chambers
13/11/2020	Licensing Board	10.00	Council Chambers
16/11/2020	Community Planning Partnership Board	10.00	TBC
16/11/2020	Performance Committee	14.00	Council Chambers
17/11/2020	Education Executive	10.00	Council Chambers
17/11/2020	Council Executive	11.00	Council Chambers
18/11/2020	Licensing Committee	09.30	Council Chambers
19/11/2020	Voluntary Organisations PDSP	09.30	Council Chambers
19/11/2020	Placing in School Appeals Committee	09.30	TBC
20/11/2020	Livingston North Local Area Committee	09.30	Council Chambers
23/11/2020	Bathgate Local Area Committee	10.00	TBC
23/11/2020	Joint Consultative Group (Teaching)	14.00	Council Chambers

Appendix 1

24/11/2020	West Lothian Council	10.00	Council Chambers
25/11/2020	Development Management Committee	10.00	Council Chambers
26/11/2020	Culture & Leisure PDSP	09.30	Council Chambers
26/11/2020	West Lothian Leisure Advisory Committee	10.00	Council Chambers
26/11/2020	Asset Transfer Review Body	14.00	Council Chambers
27/11/2020	Employee Appeals Committee	10.00	Council Chambers
30/11/2020	Asset Transfer Committee	14.00	Council Executive
	<u>DECEMBER 2020</u>		
01/12/2020	Armada & Blackridge Local Area Committee	10.00	Council Chambers
02/12/2020	West Lothian Council (Planning)	10.00	Council Chambers
02/12/2020	West Lothian Council Planning Committee	11.00	Council Chambers
02/12/2020	WL Integration Joint Board Audit Risk & Governance	14.00	Council Chambers
03/12/2020	East Livingston & East Calder Local Area Committee	09.30	Council Chambers
04/12/2020	Partnership & Resources PDSP	09.30	Council Chambers
07/12/2020	Whitburn & Blackburn Local Area Committee	10.00	TBC
07/12/2020	Community Safety Board	14.00	Council Chambers
08/12/2020	Education Executive (Additional Meeting)	10.00	
09/12/2020	Members Training	10.00	Council Chambers
09/12/2020	Livingston Youth Trust	14.00	Council Chambers
10/12/2020	Placing in School Appeals Committee	09.30	TBC
10/12/2020	Asset Transfer Review Body	14.00	Council Chambers
11/12/2020	Licensing Board	10.00	Council Chambers
15/12/2020	Council Executive	11.00	Council Chambers
15/12/2020	Services for the Community PDSP	14.00	Council Chambers

Appendix 1

16/12/2020	Development Management Committee	10.00	Council Chambers
17/12/2020	Education PDSP	10.00	
17/12/2020	Health & Care PDSP	14.00	Council Chambers
18/12/2020	Employee Appeals Committee	10.00	Council Chambers
23/12/2020	Licensing Committee	09.30	Council Chambers
	<u>JANUARY 2021</u>		
08/01/2021	Licensing Board	10.00	Council Chambers
12/01/2020	Fauldhouse & Breich Valley Local Area Committee	09.30	Council Chambers
12/01/2021	Education Quality Assurance Committee	14.00	Council Chambers
13/01/2021	Local Review Body	11.00	Council Chambers
15/01/2021	Social Policy PDSP	09.30	Council Chambers
18/01/2021	Asset Transfer Committee	14.00	Council Chambers
19/01/2021	Education Executive	10.00	Council Chambers
19/01/2021	Council Executive	11.00	Council Chambers
19/01/2021	WL Integration Joint Board	14.00	TBC
20/01/2021	Development Management	10.00	Council Chambers
22/01/2021	Livingston North Local Area Committee	09.30	Council Chambers
25/01/2021	Governance and Risk Committee	14.00	Council Chambers
25/01/2021	Audit Committee	15.00	Council Chambers
26/01/2021	West Lothian Council	10.00	Council Chambers
27/01/2021	Licensing Committee	09.30	Council Chambers
28/01/2021	Placing in School Appeals Committee	09.30	TBC
28/01/2021	Asset Transfer Review Body	14.00	Council Chambers
29/01/2021	Employee Appeals Committee	10.00	Council Chambers

Appendix 1

	<u>FEBRUARY 2021</u>		
01/02/2021	Performance Committee	14.00	Council Chambers
02/02/2021	Development & Transport PDSP	09.30	Council Chambers
02/02/2021	Environment PDSP	11.00	Council Executive
02/02/2021	Education PDSP	14.00	Council Executive
05/02/2021	Partnership & Resources PDSP	09.30	Council Chambers
08/02/2021	Members Training	10.00	TBC
08/02/2021	Joint Consultative Group (Teaching)	14.00	Council Chambers
09/02/2021	Council Executive	10.00	Council Chambers
09/02/2021	Services for the Community PDSP	14.00	Council Chambers
10/02/2021	Local Review Body	11.00	Council Chambers
11/02/2021	Livingston South Local Area Committee	09.30	Council Chambers
11/02/2021	Placing in School Appeals Committee	09.30	TBC
12/02/2021	Licensing Board	10.00	Council Chambers
15/02/2021	Asset Transfer Committee	14.00	Council Chambers
17/02/2021	Development Management Committee	10.00	Council Chambers
18/02/2021	Voluntary Organisations PDSP	09.30	Council Chambers
18/02/2021	Health & Care PDSP	14.00	Council Chambers
19/02/2021	Employee Appeals Committee	10.00	Council Chambers
22/02/2021	Community Planning Partnership Board	10.00	TBC
22/02/2021	Joint Consultative Group	14.00	Council Chambers
23/02/2021	Armadale & Blackridge Local Area Committee	10.00	TBC
23/02/2021	Council Executive	10.00	Council Chambers
24/02/2021	Licensing Committee	09.30	Council Chambers

Appendix 1

24/02/2021	WL Integration Joint Board Audit, Risk & Governance	14.00	Council Chambers
25/02/2021	Culture & Leisure PDSP	09.30	Council Chambers
25/02/2021	West Lothian Leisure Advisory Committee	10.00	Council Chambers
25/02/2021	Asset Transfer Review Body	14.00	Council Chambers
26/02/2021	Social Policy PDSP	09.30	Council Chambers
	<u>MARCH 2021</u>		
01/03/2021	Whitburn & Blackburn Local Area Committee	10.00	TBC
02/03/2021	Linlithgow Local Area Committee	09.30	TBC
02/03/2021	Education PDSP	14.00	Council Chambers
04/03/2021	East Livingston & East Calder Local Area Committee	09.30	Council Chambers
05/03/2021	Broxburn, Uphall & Winchburgh Local Area Committee	09.30	TBC
08/03/2021	Bathgate Local Area Committee	10.00	TBC
08/03/2021	Governance & Risk Committee	14.00	Council Chambers
09/03/2021	Fauldhouse & Breich Valley Local Area Committee	09.30	Council Chambers
09/03/2021	Education Quality Assurance Committee	14.00	Council Chambers
10/03/2021	Local Review Body	11.00	Council Chambers
12/03/2021	Licensing Board	10.00	Council Chambers
15/03/2021	Community Safety Board	14.00	Council Chambers
16/03/2021	West Lothian Council	10.00	Council Chambers
17/03/2021	Development Management Committee	10.00	Council Chambers
19/03/2021	Livingston North Local Area Committee	09.30	Council Chambers
22/03/2021	Audit Committee	14.00	Council Chambers
23/03/2021	Education Executive	10.00	Council Chambers

Appendix 1

23/03/2021	Council Executive	11.00	Council Chambers
23/03/2021	WL Integration Joint Board	14.00	TBC
24/03/2021	Licensing Committee	09.30	Council Chambers
25/03/2021	Placing in School Appeals Committee	09.30	TBC
25/03/2021	Asset Transfer Review Body	14.00	Council Chambers
26/03/2021	Employee Appeals Committee	10.00	Council Chambers
29/03/2021	Asset Transfer Committee	14.00	Council Chambers
30/03/2021	Development & Transport PDSP	09.30	Council Chambers
30/03/2021	Environment PDSP	11.00	Council Chambers
30/03/2021	Services for the Community PDSP	14.00	Council Chambers
	<u>APRIL 2021</u>		
01/04/2021	Members Training	10.00	TBC
07/04/2021	Local Review Body	11.00	Council Chambers
09/04/2021	Licensing Board	10.00	Council Chambers
14/04/2021	Development Management Committee	10.00	Council Chambers
19/04/2021	Performance Committee	14.00	Council Chambers
20/04/2021	Council Executive	10.00	Council Chambers
20/04/2021	WL Integration Joint Board	14.00	Council Chambers
21/04/2021	Licensing Committee	10.00	Council Chambers
22/04/2021	Asset Transfer Review Body	14.00	Council Chambers
23/04/2021	Partnership & Resources PDSP	10.00	Council Chambers
26/04/2021	Asset Transfer Committee	14.00	Council Chambers
27/04/2021	Education Quality Assurance Committee	14.00	Council Chambers
28/04/2021	Placing in School Appeals Committee	09.30	TBC

Appendix 1

28/04/2021	Livingston Youth Trust	14.00	Council Chambers
29/04/2021	West Lothian Leisure Advisory Committee	10.00	Council Chambers
29/04/2021	Health & Care PDSP	14.00	Council Chambers
30/04/2021	Employee Appeals Committee	10.00	Council Chambers
	<u>MAY 2021</u>		
04/05/2020	Linlithgow Local Area Committee	09.30	Council Chambers
04/05/2021	Education PDSP	14.00	Council Chambers
05/05/2021	Local Review Body	11.00	Council Chambers
07/05/2021	Livingston North Local Area Committee	09.30	Council Chambers
11/05/2021	Fauldhouse & Breich Valley Local Area Committee	09.30	Council Chambers
11/05/2021	Armadale & Blackridge Local Area Committee	10.00	TBC
12/05/2021	Development Management Committee	10.00	Council Chambers
13/05/2021	Livingston South Local Area Committee	09.30	Council Chambers
14/05/2021	Licensing Board	10.00	Council Chambers
17/05/2021	Joint Consultative Group	14.00	Council Chambers
18/05/2021	Education Executive	10.00	Council Chambers
18/05/2021	Council Executive	11.00	Council Chambers
19/05/2021	Licensing Committee	09.30	Council Chambers
20/05/2021	Voluntary Organisations PDSP	09.30	Council Chambers
20/05/2021	Placing in School Appeals Committee	09.30	TBC
20/05/2021	Asset Transfer Review Body	14.00	Council Chambers
21/05/2021	Broxburn, Uphall & Winchburgh Local Area Committee	09.30	TBC
24/05/2021	Placing in School Appeals Committee	09.00	TBC

Appendix 1

24/05/2021	Community Planning Partnership Board	10.00	TBC
24/05/2021	Joint Consultative Group (Teaching)	14.00	Council Chambers
25/05/2021	West Lothian Council	10.00	Council Chambers
26/05/2021	Placing in School Appeals Committee	09.30	TBC
27/05/2021	Culture & Leisure PDSP	09.30	Council Chambers
27/05/2021	Placing in School Appeals Committee	09.30	TBC
27/05/2021	West Lothian Leisure Advisory Committee	10.00	Council Chambers
28/05/2021	Employee Appeals Committee	10.00	Council Chambers
31/05/2021	Placing in School Appeals Committee	09.30	TBC
31/05/2021	Asset Transfer Committee	10.00	Council Chambers
	<u>JUNE 2021</u>		
01/06/2021	Development & Transport PDSP	09.30	Council Chambers
01/06/2021	Environment PDSP	11.00	Council Chambers
01/06/2021	Services for the Community PDSP	14.00	Council Chambers
02/06/2021	Local Review Body	11.00	Council Chambers
03/06/2021	East Livingston & East Calder Local Area Committee	09.30	Council Chambers
03/06/2021	Placing in School Appeals Committee	09.30	TBC
03/06/2021	Health & Care PDSP	14.00	Council Chambers
04/06/2021	Placing in School Appeals Committee	09.30	TBC
04/06/2021	Social Policy PDSP	09.30	Council Chambers
07/06/2021	Placing in School Appeals Committee	09.30	TBC
07/06/2021	Whitburn & Blackburn Local Area Committee	10.00	TBC
07/06/2021	Performance Committee	14.00	Council Chambers
08/06/2021	Council Executive	10.00	Council Chambers

Appendix 1

08/06/2021	Education Quality Assurance Committee	14.00	Council Chambers
09/06/2021	Development Management Committee	10.00	Council Chambers
10/06/2021	Members Training	10.00	TBC
11/06/2021	Licensing Board	10.00	Council Chambers
14/06/2021	Bathgate Local Area Committee	10.00	TBC
14/06/2021	Governance and Risk Committee	14.00	Council Chambers
16/06/2021	Licensing Committee	09.30	Council Chambers
16/06/2021	Placing in School Appeals Committee	09.30	TBC
17/06/2021	Placing in School Appeals Committee	09.30	TBC
17/06/2021	WL Integration Joint Board Audit, Risk & Governance	14.00	Council Chambers
18/06/2021	Livingston North Local Area Committee	09.30	Council Chambers
18/06/2021	Partnership & Resources PDSP	09.30	TBC
21/06/2021	Placing in School Appeals Committee	09.30	TBC
21/06/2021	Audit Committee	14.00	Council Chambers
22/06/2021	Education Executive	10.00	Council Chambers
22/06/2021	Council Executive	11.00	Council Chambers
23/06/2021	Placing in School Appeals Committee	09.30	TBC
23/06/2021	Livingston Youth Trust	14.00	Council Chambers
24/06/2021	Placing in School Appeals Committee	09.30	TBC
24/06/2021	Asset Transfer Review Body	14.00	Council Chambers
25/06/2021	Employee Appeals Committee	10.00	Council Chambers
28/06/2021	Asset Transfer Committee	14.00	Council Chambers
29/06/2021	WL Integration Joint Board	14.00	TBC
30/06/2021	Licensing Committee	09.30	Council Chambers

Appendix 1

	<u>JULY 2021</u>		
07/07/2021	Licensing Committee	09.30	Council Chambers
14/07/2021	Development Management Committee	10.00	Council Chambers

November 2020

November 2020							December 2020						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
2	3	4	5	6	7	8	7	1	2	3	4	5	6
9	10	11	12	13	14	15	14	15	16	17	18	19	20
16	17	18	19	20	21	22	21	22	23	24	25	26	27
23	24	25	26	27	28	29	28	29	30	31			
30													

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
2 Nov <div>14:00 Joint Consultative Group (Non Teaching)</div>	3 <div>09:30 Linlithgow Local Area Committee</div> <div>14:00 Education Quality Assurance Committee</div>	4	5	6 <div>09:30 Broxburn, Uphall & Winchburgh Local Area Committee</div>
9 <div>10:00 Education Executive Agenda Setting</div> <div>10:30 Council Executive Agenda</div> <div>14:00 Governance and Risk Committee</div> <div>14:00 West Lothian Council Agenda</div>	10 <div>09:30 Development & Transport PDSP</div> <div>11:00 Environment PDSP</div> <div>14:00 WL Integration Joint Board</div>	11 <div>11:00 Local Review Body</div>	12 <div>09:30 Livingston South Local Area Committee</div>	13 <div>10:00 Licensing Board</div>
16 <div>10:00 Community Planning Partnership Board</div> <div>14:00 Performance Committee</div>	17 <div>10:00 Education Executive</div> <div>11:00 Council Executive</div>	18 <div>09:30 Licensing Committee</div>	19 <div>09:30 Placing in School Appeals Committee</div>	20 <div>09:30 Livingston North Local Area Committee</div>
23 <div>10:00 Bathgate Local Area Committee</div> <div>14:00 Joint Consultative Group (Teaching)</div>	24 <div>10:00 West Lothian Council</div>	25 <div>10:00 Development Management Committee</div>	26 <div>09:30 Culture & Leisure PDSP</div> <div>10:00 West Lothian Leisure Advisory Committee</div> <div>11:00 Voluntary Organisations PDSP</div> <div>14:00 Asset Transfer Review Body</div>	27 <div>Cosla Leader Meeting</div> <div>10:00 Employee Appeals Committee</div>
30 <div>10:00 Council Executive Agenda Setting</div> <div>14:00 Asset Transfer Committee</div>	1 Dec	2	3	4

December 2020

December 2020							January 2021						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
7	1	2	3	4	5	6	4	5	6	7	1	2	3
14	8	9	10	11	12	13	11	12	13	14	15	16	17
21	15	16	17	18	19	20	18	19	20	21	22	23	24
28	22	23	24	25	26	27	25	26	27	28	29	30	31

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
30 Nov	1 Dec 10:00 Armadale & Blackridge Local Area Committee	2 10:00 West Lothian Council (Planning) 11:00 West Lothian Council Planning Committee 14:00 IJB Audit, Risk & Governance Committee	3 09:30 East Livingston & East Calder Local Area Committee	4 09:30 Partnership & Resources PDSP
7 10:00 Council Executive Agenda Setting 10:00 Whitburn & Blackburn Local Area Committee 14:00 Community Safety Board	8 10:00 Education Executive	9 10:00 Members Training 14:00 Livingston Youth Trust	10 09:30 Placing in School Appeals Committee 14:00 Asset Transfer Review Body 14:00 IJB Strategic Planning Group (officer only meeting)	11 10:00 Licensing Board
14	15 10:00 Council Executive 14:00 Services for the Community PDSP	16 10:00 Development Management Committee	17 10:00 Education PDSP 14:00 Health & Care PDSP	18 10:00 Employee Appeals Committee
21 School Holiday	22	23 09:30 Licensing Committee	24 School Holiday	25 To 6 Jan → Public Holiday
28 Public Holiday	29 School Holiday	30	31 To 6 Jan →	1 Jan 21

January 2021

January 2021							February 2021						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
4	5	6	7	8	9	10	1	2	3	4	5	6	7
11	12	13	14	15	16	17	8	9	10	11	12	13	14
18	19	20	21	22	23	24	15	16	17	18	19	20	21
25	26	27	28	29	30	31	22	23	24	25	26	27	28

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
28 Dec	29	30	31	1 Jan 21 School Holiday Public Holiday
4 ← From 23 Dec Public Holiday	5 School Holiday	6	7	8 10:00 Licensing Board
11 10:00 Education Executive Agenda Setting 10:30 Council Executive Agenda Setting 14:00 West Lothian Council Agenda	12 09:30 Fauldhouse & Breich Valley Local Area Committee 14:00 Education Quality Assurance Committee	13 11:00 Local Review Body	14	15 09:30 Social Policy PDSP
18 14:00 Asset Transfer Committee	19 10:00 Education Executive 11:00 Council Executive 14:00 WL Integration Joint Board	20 10:00 Development Management Committee	21	22 09:30 Livingston North Local Area Committee
25 14:00 Governance & Risk Committee 15:00 Audit Committee	26 10:00 West Lothian Council	27 09:30 Licensing Committee	28 09:30 Placing in School Appeals Committee 14:00 Asset Transfer Review Body	29 10:00 Employee Appeals Committee

February 2021

February 2021							March 2021						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
1	2	3	4	5	6	7	1	2	3	4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14
15	16	17	18	19	20	21	15	16	17	18	19	20	21
22	23	24	25	26	27	28	22	23	24	25	26	27	28
							29	30	31				

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
1 Feb <div>10:00 Council Executive Agenda Setting</div> <div>14:00 Performance Committee</div>	2 <div>09:30 Development & Transport PDSP</div> <div>11:00 Environment PDSP</div> <div>14:00 Education PDSP</div>	3 <div>14:00 St John's Hospital Stakeholder Group</div>	4	5 <div>09:30 Partnership & Resources PDSP</div>
8 <div>10:00 Members Training</div> <div>14:00 Joint Consultative Group (Teaching)</div>	9 <div>10:00 Council Executive</div> <div>14:00 Services for the Community PDSP</div>	10 <div>11:00 Local Review Body</div>	11 <div>09:30 Livingston South Local Area Committee</div> <div>09:30 Placing in School Appeal</div> <div>14:00 IJB Strategic Planning Group (officer only meeting)</div>	12
15 <div>10:00 Council Executive Agenda Setting</div> <div>14:00 Asset Transfer Committee</div>	16 <div>School Holiday</div>	17 <div>10:00 Development Management Committee</div>	18 <div>14:00 Health & Care PDSP</div>	19 <div>10:00 Employee Appeals Committee</div>
22 <div>10:00 Community Planning Partnership Board</div> <div>14:00 Joint Consultative Group (Non Teaching)</div>	23 <div>10:00 Armadale & Blackridge Local Area Committee</div> <div>10:00 Council Executive</div>	24 <div>09:30 Licensing Committee</div> <div>14:00 IJB Audit, Risk & Governance Committee</div>	25 <div>09:30 Culture & Leisure PDSP</div> <div>10:00 West Lothian Leisure Advisory Committee</div> <div>11:00 Voluntary Organisations PDSP</div> <div>14:00 Asset Transfer Review Body</div>	26 <div>09:30 Social Policy PDSP</div>

March 2021

March 2021							April 2021						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
1	2	3	4	5	6	7				1	2	3	4
8	9	10	11	12	13	14	5	6	7	8	9	10	11
15	16	17	18	19	20	21	12	13	14	15	16	17	18
22	23	24	25	26	27	28	19	20	21	22	23	24	25
29	30	31					26	27	28	29	30		

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
1 Mar 10:00 Whitburn & Blackburn Local Area Committee 14:00 West Lothian Council Agenda Setting	2 09:30 Linlithgow Local Area Committee 14:00 Education PDSP	3	4 09:30 East Livingston & East Calder Local Area Committee	5 09:30 Broxburn, Uphall & Winchburgh Local Area Committee
8 10:00 Bathgate Local Area Committee 14:00 Governance & Risk Committee	9 09:30 Fauldhouse & the Breich Valley Local Area Committee 14:00 Education Quality Assurance Committee	10 11:00 Local Review Body	11	12 10:00 Licensing Board
15 10:00 Education Executive Agenda Setting 10:30 Council Executive Agenda Setting 14:00 Community Safety Board	16 10:00 West Lothian Council	17 10:00 Development Management Committee	18	19 09:30 Livingston North Local Area Committee
22 14:00 Audit Committee	23 10:00 Education Executive 11:00 Council Executive 14:00 WL Integration Joint Board	24 09:30 Licensing Committee	25 09:30 Placing in School Appeals Committee 14:00 Asset Transfer Review Body	26 10:00 Employee Appeals Committee
29 14:00 Asset Transfer Committee	30 09:30 Development & Transport PDSP 11:00 Environment PDSP 14:00 Services for the Community PDSP	31 14:00 Livingston Youth Trust	1 Apr	2

April 2021

April 2021							May 2021						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
5	6	7	1	2	3	4	3	4	5	6	7	1	2
12	13	14	8	9	10	11	10	11	12	13	14	15	16
19	20	21	15	16	17	18	17	18	19	20	21	22	23
26	27	28	22	23	24	25	24	25	26	27	28	29	30
			29	30			31						

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
29 Mar	30	31	1 Apr 10:00 Members Training 14:00 IJB Strategic Planning Group (officers meeting only)	2 School Holiday Public Holiday
5 Public Holiday	6	7 11:00 Local Review Body	8	9 To 16 Apr
12 10:00 Council Executive Agenda Setting	13	14 10:00 Development Management Committee	15	16 10:00 Licensing Board
19 14:00 Performance Committee	20 10:00 Council Executive 14:00 WL Integration Joint Board	21 09:30 Licensing Committee	22 14:00 Asset Transfer Review Body	23 09:30 Partnership & Resources PDSP
26 14:00 Asset Transfer Committee	27 14:00 Education Quality Assurance Committee	28 09:30 Placing in School Appeals Committee	29 10:00 West Lothian Leisure Advisory Committee 14:00 Health & Care PDSP	30 10:00 Employee Appeal Committee

May 2021

May 2021							June 2021						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
3	4	5	6	7	8	9	7	8	9	10	11	12	13
10	11	12	13	14	15	16	14	15	16	17	18	19	20
17	18	19	20	21	22	23	21	22	23	24	25	26	27
24	25	26	27	28	29	30	28	29	30				
31													

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
3 May <div>Public Holiday</div>	4 <div>09:30 Linlithgow Local Area Committee</div> <div>14:00 Education PDSP</div>	5 <div>11:00 Local Review Body</div> <div>14:00 St John's Hospital Stakeholder Group</div>	6 <div>In-Service Day (possible SG election day)</div>	7 <div>09:30 Livingston North Local Area Committee</div>
10 <div>10:00 Education Executive Agenda Setting</div> <div>10:30 Council Executive Agenda Setting</div> <div>14:00 West Lothian Council Agenda</div>	11 <div>09:30 Fauldhouse & the Breich Valley Local Area Committee</div> <div>10:00 Armadale & Blackridge Local Area Committee</div>	12 <div>10:00 Development Management Committee</div>	13 <div>09:30 Livingston South Local Area Committee</div>	14
17 <div>14:00 Joint Consultative Group (Non Teaching)</div>	18 <div>10:00 Education Executive</div> <div>11:00 Council Executive</div>	19 <div>09:30 Licensing Committee</div>	20 <div>09:30 Placing in School Appeals Committee</div> <div>14:00 Asset Transfer Review Body</div>	21 <div>09:30 Broxburn, Uphall & Winchburgh Local Area Committee</div>
24 <div>09:30 Placing in School Appeals Committee (Block Appeals)</div> <div>10:00 Community Planning Partnership Board</div> <div>14:00 Community Safety Board</div>	25 <div>10:00 West Lothian Council</div>	26 <div>09:30 Placing in School Appeals Committee (Block Appeals)</div> <div>14:00 Joint Consultative Group (Teaching)</div>	27 <div>09:30 Culture & Leisure PDSP</div> <div>09:30 Placing in School Appeals Committee (Block Appeals)</div> <div>10:00 West Lothian Leisure Advisory</div> <div>11:00 Voluntary Organisations PDSP</div>	28 <div>10:00 Employee Appeals Committee</div>
31 <div>09:30 Placing in School Appeals Committee (Block Appeals)</div> <div>10:00 Council Executive Agenda Setting</div> <div>14:00 Asset Transfer Committee</div>	1 Jun	2	3	4

June 2021

June 2021							July 2021						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
	1	2	3	4	5	6				1	2	3	4
7	8	9	10	11	12	13	5	6	7	8	9	10	11
14	15	16	17	18	19	20	12	13	14	15	16	17	18
21	22	23	24	25	26	27	19	20	21	22	23	24	25
28	29	30					26	27	28	29	30	31	

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
31 May	1 Jun 09:30 Development & Transport PDSP 11:00 Environment PDSP 14:00 Services for the Community PDSP	2 11:00 Local Review Body	3 09:30 East Livingston & East Calder Local Area Committee 09:30 Placing in School Appeals Committee (Block Appeals) 14:00 Health & Care PDSP	4 09:30 Placing in School Appeals Committee (Block Appeals) 09:30 Social Policy PDSP
7 Newlands Day (Bathgate only) 09:30 Placing in School Appeals Committee (Block Appeals) 10:00 Whitburn & Blackburn Local 14:00 Performance Committee	8 10:00 Council Executive 14:00 Education Quality Assurance Committee	9 10:00 Development Management Committee	10 10:00 Members Training 14:00 IJB Strategic Planning Group (officers meeting only)	11 10:00 Licensing Board
14 10:00 Bathgate Local Area Committee 10:00 Education Executive Agenda Setting 10:30 Council Executive Agenda 14:00 Governance & Risk Committee	15 Linlithgow Marches	16 09:30 Licensing Committee 09:30 Placing in School Appeals Committee (Block Appeals)	17 09:30 Placing in School Appeals Committee (Block Appeals) 14:00 IJB Audit, Risk & Governance Committee	18 09:30 Livingston North Local Area Committee 09:30 Partnership & Resources PDSP
21 09:30 Placing in School Appeals Committee (Block Appeals) 14:00 Audit Committee	22 10:00 Education Executive 11:00 Council Executive	23 09:30 Placing in School Appeals Committee (Block Appeals) 14:00 Livingston Youth Trust	24 09:30 Placing in School Appeals Committee (Block Appeals) 14:00 Asset Transfer Review Body	25 10:00 Employee Appeals Committee
28 14:00 Asset Transfer Committee	29 School Holidays 14:00 WL Integration Joint Board	30	1 Jul	2

July 2021

July 2021							August 2021						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
5	6	7	1	2	3	4	2	3	4	5	6	7	1
12	13	14	8	9	10	11	9	10	11	12	13	14	8
19	20	21	15	16	17	18	16	17	18	19	20	21	22
26	27	28	22	23	24	25	23	24	25	26	27	28	29
			29	30	31		30	31					

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
28 Jun	29	30	1 Jul	2
			School Holidays To 16 Aug →	
5	6	7	8	9
		School Holidays To 16 Aug →		
		09:30 Licensing Committee		
12	13	14	15	16
		School Holidays To 16 Aug →		
		10:00 Development Management Committee		10:00 Licensing Board
19	20	21	22	23
		School Holidays To 16 Aug →		
26	27	28	29	30
		School Holidays To 16 Aug →		

Appendix 3

COMMITTEE TIMETABLE 2020-21 - SUMMARY

Asset Transfer Committee	Monday afternoons: 30/11/2020, 18/01/2021, 15/02/2021, 29/03/2021, 26/04/2021, 31/05/2021, 28/06/2021
Asset Transfer Review Body	Thursday afternoons: 26/11/2021, 10/12/2020, 28/01/2021, 25/02/2021, 25/03/2021, 22/04/2021, 20/05/2021, 24/06/2021
Armadale and Blackridge Local Area Committee	Tuesday mornings: 01/12/2020, 23/02/2021, 11/05/2021
Audit Committee	Monday afternoons: 25/01/2021, (3pm) 22/03/2021, 21/06/2021
Avoidance of Disputes Committee	Ad hoc
Bathgate Local Area Committee	Monday mornings: 23/11/2020, 08/03/2021, 14/06/2021
Broxburn, Uphall and Winchburgh Local Area Committee	Friday mornings: 06/11/2020, 05/03/21, 21/05/21
Community Planning Partnership Board	Monday mornings: 16/11/2020, 22/02/2021, 24/05/2021
Community Safety Board	Monday afternoons: 07/12/2020, 15/03/2021
Council Executive	Tuesday mornings: 27/10/2020, 17/11/2020, 15/12/2020, 19/01/2021, 09/02/2021, 23/03/2021, 20/04/2021, 18/05/2021, 08/06/2021, 22/06/21
Culture and Leisure Policy Development and Scrutiny Panel	Thursday mornings: 26/11/2020, 25/02/2021, 27/05/2021
Development and Transport Policy Development and Scrutiny Panel	Tuesday mornings: 10/11/2020, 02/02/2021, 30/03/2021, 01/06/2021
Development Management Committee	Wednesday mornings: 25/11/2020, 16/12/2020, 20/01/2021, 17/02/2021, 17/03/2021, 14/04/2021, 12/05/2021, 09/06/2021, 14/07/2021
East Livingston and East Calder Local Area Committee	Thursday mornings: 03/12/2020, 04/03/2021, 03/06/2021
Education Executive	Tuesday mornings: 17/11/2020, add in 08/12/2020 , 19/01/2021, 23/03/2021 18/05/2021, 22/06/2021
Education Quality Assurance Committee	Tuesday afternoons: 03/11/2020, 12/01/2021, 09/03/2021, 27/04/2021, 08/06/2021
Education Policy Development and Scrutiny Panel	Tuesday afternoon: 17/12/2020 am, 02/02/2021, 02/03/2021, 04/05/2021,
Employee Appeals Committee	Friday mornings: 27/11/2020, 18/12/2020, 29/01/2021, 19/02/2021, 26/03/2021, 30/04/2021, 28/05/2021, 25/06/2021
Environment Policy Development and Scrutiny Panel	Tuesday mornings: 10/11/2020, 02/02/2021, 30/03/2021, 01/06/2021
Fauldhouse and The Breich Valley Local Area Committee	Tuesday mornings: 12/01/2021, 09/03/2021, 11/05/2021
Governance and Risk Committee	Monday afternoons: 09/11/2020 25/01/2021 08/03/2021, 14/06/2021
Health and Care Policy Development and Scrutiny Panel	Thursday afternoons: 17/12/2020,

Appendix 3

	18/02/2021, 29/04/2021, 03/06/2021
Joint Consultative Group (Non-Teaching)	Monday afternoons; 02/11/2020, 22/02/2021, 17/05/2021
Joint Consultative Group (Teaching)	Monday afternoons; 23/11/2020, 08/02/2021, 24/05/2021
Licensing Committee	Wednesday mornings; 18/11/2020, 23/12/2020, 27/01/2021, 24/02/2021, 24/03/2021, 21/04/2021, 19/05/2021, 16/06/2021, 07/07/2021
Linlithgow Local Area Committee	Tuesday mornings; , 03/11/2020, 02/03/2021, 04/05/2021
Livingston North Local Area Committee	Friday mornings; 20/11/2020, 22/01/2021, 19/03/2021, 07/05/2021, 18/06/2021
Livingston South Local Area Committee	Thursday mornings; 12/11/2020, 11/02/2021, 13/05/2021
Local Review Body	Wednesday mornings; 11/11/2020, 13/01/2021, 10/02/2021, 10/03/2021, 07/04/2021, 05/05/2021, 02/06/2021
Miscellaneous Appeals Committee	Ad hoc
Partnership and Resources Policy Development and Scrutiny Panel	Friday mornings; 04/12/2020, 05/02/2021, 23/04/2021, 18/06/2021
Performance Committee	Monday afternoon; 16/11/2020, 01/02/2021, 19/04/2021, 07/06/2021
Senior Officer Appointment Committee	Ad hoc
Services for the Community Policy Development and Scrutiny Panel	Tuesday afternoons; 15/12/2020, 09/02/2021, 30/03/2021, 01/06/2021
Social Policy, Policy Development and Scrutiny Panel	Friday mornings; 15/01/2021, 26/02/2021, 04/06/2021
St John's Hospital Stakeholder Group	Wednesday afternoons; (meeting dates set by the group for each calendar year and this group will transfer back to the council in the summer of 2020)
Voluntary Organisations Policy Development and Scrutiny Panel	Thursday mornings; 19/11/2020, 18/02/2021, 20/05/2021
West Lothian (Placing In Schools) Appeals Committee	19/11/2020, 10/12/2020, 28/01/2021, 11/02/2021, 25/03/2021, 28/04/2021, 20/05/2021, plus block appeals 24/05/2021, 26/05/2021, 27/05/2021, 31/05/2021, 03/06/2021, 04/06/2021, 07/06/2021, 16/06/2021, 17/06/2021, 21/06/2021, 23/06/2021, 24/06/2021
West Lothian Integration Joint Board	Tuesday afternoon; 10/11/2021, 19/01/2021, 23/03/2021, 20/04/2021, 29/06/2021 (to be agreed by the IJB)
West Lothian Integration Joint Board Appointments Committee	Ad hoc
West Lothian Integration Audit, Risk & Governance	Wednesday afternoons; 09/12/2020, 24/02/2021, 17/06/2021
West Lothian Council	Tuesday mornings; 24/11/2020, 26/01/2021, 16/03/2021, 25/05/2021
West Lothian Leisure Advisory Committee	Thursday morning; 22/10/2020, 26/11/2020, 25/02/2021,

Appendix 3

	29/04/2021,27/05/2021
West Lothian Licensing Board	Friday mornings; 13/11/2020, 11/12/2020, 08/01/2021, 12/02/2021, 12/03/2021, 09/04/2021, 14/05/2021, 11/06/2021, 09/07/2021
West Lothian Council (Planning)	02/12/2020
West Lothian Council Planning Committee	02/12/2020
Whitburn and Blackburn Local Area Committee	Monday mornings; 07/12/2020, 01/03/2021, 07/06/2021

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

CYCLING, WALKING AND SAFE STREETS – NEW FOOTWAY SCHEMES AND ASSESSMENT OF PEDESTRIAN CROSSINGS

REPORT BY OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to seek approval to progress four new footway schemes as part of the Cycling, Walking and Safer Streets (CWSS) funding and to commence with an assessment of identified pedestrian crossing sites.

B. RECOMMENDATION

It is recommended that Council Executive notes the contents of the report and:

1. approves the new footway schemes detailed in Appendix 1 and instructs officers to proceed with their design and implementation;
2. instructs officers to carry out assessments of the pedestrian crossing sites identified in Appendix 2; and
3. instructs officers to bring back a report to a future Environment Policy Development and Scrutiny Panel (PDSP) on the assessment's recommendations and a programme for delivery commencing from 2021/22 onwards.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The delivery of these projects will contribute to improved road safety and encourage active travel.
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None

V	Relevance to Single Outcome Agreement	The project will contribute to outcomes: “We live in resilient, cohesive and safe communities.”
VI	Resources - (Financial, Staffing and Property)	The projects will be funded through the General Services capital budget allocation for Cycling, Walking and Safer Streets/Active Sustainable Travel.
VII	Consideration at PDSP	The proposed list of pedestrian crossing locations for assessment and footway schemes appended were considered by the Environment PDSP at its meeting on 15 September 2020.
VIII	Other consultations	The Financial Management Unit has been consulted and is satisfied with the contents of the report. Consultation on individual projects will be carried out during their development.

D. TERMS OF REPORT

D.1 Background

At its meeting on 23 June 2020, the Council Executive approved a budget of £801,000 to deliver schemes relating to cycling, walking and safer streets and active sustainable travel. This budget is linked to the Scottish Government's CWSS grant funding.

The conditions of the grant funding stipulate that it must be spent by 31 March 2021 and a number of projects were previously identified to achieve the spend level. However, with resources diverted to deal with the design and implementation of the Spaces for People programme, the progress of a number of CWSS schemes has slowed.

In spite of this, the approved Armadale to Whitburn Cyclepath is currently under construction and will be completed by mid-January 2021. £446,000 of the construction cost will be drawn down from the CWSS grant, leaving the balance of £355,000 for new schemes.

D.2 New Footway Schemes

Four new footway schemes have been identified by officers through community requests, to a value of £335,000, that could be quickly delivered and enhance the footway network. These new schemes are outlined in Appendix 1.

D.3 Assessment of Pedestrian Crossings

To enable early delivery of pedestrian crossing schemes in future years, it proposed that assessments are carried out now at the various site locations listed in Appendix 2.

These assessments will be carried out to determine the most suitable type of crossing for the location and inform a prioritised programme for implementation. This procedure is in line with the process used in the previous years.

A report providing details of the assessment's findings and the recommended programme for implementation will be submitted to a future Environment PDSP.

To inform this assessment officers require traffic and pedestrian counts and speed surveys to be carried out at these locations. The assessments will be carried out in accordance with Local Transport Note 1/95, The Assessment of Pedestrian Crossings. Examples of the different types of crossings are shown in Appendix 3.

D.4 Environment PDSP Consultation

The Environment PDSP considered the new footway schemes and the proposed list of pedestrian crossing sites for assessment, as detailed in Appendix 1 and 2, at its meeting on 15 September 2020.

The Panel agreed that officers should take a report to the Council Executive for approval.

E. CONCLUSION

This report highlights the opportunity to progress four new footway schemes to ensure that CWSS grant funding is maximised in 2020/21.

Approval is also sought to undertake an assessment of pedestrian crossing sites which will inform a programme of future works.

BACKGROUND REFERENCES

F.

Council Executive on 23 June 2020 - General Services Capital Investment Strategy 2020/21 to 2027/28 Update

Council Executive on 4 June 2013 - Cycling, Walking and Safer Streets Grant 2012/13 – 2014/15 Proposed Pedestrian Crossing Programme, Various Locations, West Lothian

Appendices/Attachments: Appendix 1: List of Proposed Footway Schemes
Appendix 2: List of Pedestrian Crossing Locations for Assessment
Appendix 3: Examples of Pedestrian Crossings

Contact Person: *Ronald Fisher, Design Engineer Manager, Tel: 01506 284597, email: ronnie.fisher@westlothian.gov.uk*

Jim Jack, Head of Operational Services

Date of meeting: 6 October 2020

Appendix 1 – List of Proposed Footway Schemes

SCHEME REQUEST	SETTLEMENT	ESTIMATED SCHEME COST	NOTES
Request for footway on Whitburn Road to Inchcross Industrial Estate.	Bathgate	£100,000	This would require a footway approximately 230m long.
Request for footway widening on Balmuir Road from Jardine Place to Race Road	Bathgate	£25,000	This would require a footway approximately 50m long.
Request to complete the missing footway link outside Livingston Crematorium on the A779 Starlaw Road.	Livingston	£60,000	This would require 120m of footway.
Request for widening of footway and signalisation of Mid Calder bridge on the B7015 between Mid Calder to East Calder.	Mid Calder	£150,000	Would require widening of footway over bridge and traffic signals as the road would have to be narrowed down to one lane.
		£335,000	

Appendix 2 – List of Pedestrian Crossing Locations for Assessment

SCHEME REQUEST	SETTLEMENT	ESTIMATED SCHEME COST
Request existing zebra crossing in Addiewell be upgraded to a pelican at Addiewell primary school.	Addiewell	£40,000
Request for crossing North Street south of McNeill Crescent.	Armadale	£40,000
Provision of Pelican Crossing on Lower Bathville and upgrade of the zebra crossing east of Heathervale Walk to a puffin crossing.	Armadale	£80,000
Request for additional ped crossing facilities on the B8084 South Street north of Mayfield Drive.	Armadale	£40,000
Request for a pedestrian crossing on Hardhill Road near Falside Drive for children crossing to Windyknowe Primary School.	Bathgate	£40,000
Request for a new pedestrian crossing point on the A705 at the old Redhouse School.	Blackburn	£40,000
Request for pedestrian island on the A89 for a pedestrian crossing at Newhouses Road.	Broxburn	£40,000
Request for a pedestrian crossing on Preston Road in the vicinity of Linlithgow Primary School.	Linlithgow	£40,000
Request for a zebra crossing outside Springfield Primary School in Linlithgow.	Linlithgow	£55,000
Request for pedestrian crossing on Kirkton South Road near Charlesfield Lane.	Livingston	£40,000
Request for controlled pedestrian crossing on Muirieston West Road at Robins Path.	Livingston	£40,000

Appendix 2 – List of Pedestrian Crossing Locations for Assessment

SCHEME REQUEST	SETTLEMENT	ESTIMATED SCHEME COST
Request for crossing on Simpson Parkway to link to bus stops from adult learning centre in Lister Road.	Livingston	£40,000
Request for pedestrian crossing on Calderpark Road south of Braeside Gardens.	Mid Calder	£40,000
Request for pedestrian crossing at Mid Calder Primary School.	Mid Calder	£40,000
Request for pedestrian crossing and footway improvements on the B7015 Mid Calder outside Cunnigar House.	Mid Calder	£50,000
Request for pedestrian crossing point on A705 East Whitburn near to Red Mill Nursing Home for access to park and bus stop.	Whitburn	£25,000
		£690,000

APPENDIX 3 – Examples of Pedestrian Crossings



Pedestrian Refuge Island

Is an uncontrolled crossing commonly used throughout the road network where a form of crossing is justified but either pedestrian footfall or traffic volume do not justify the expense of the installation of a controlled crossing such as a Zebra or Puffin Crossing.



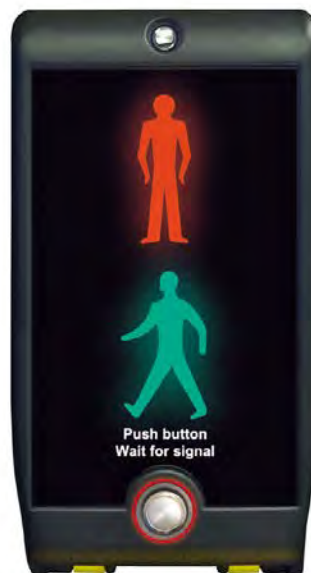
Zebra Crossing

Crossings are marked by black and white painted strips across the road and flashing amber beacons. The Highway Code states that motorists 'must give way when someone has moved onto a crossing'. However, pedestrians should remain on the kerbside for safety's sake until approaching vehicles have stopped. Zebra crossings are cheaper to build than traffic signal controlled crossings although their use on roads where traffic speeds are higher than 35 mph is not recommended.

APPENDIX 3 – Examples of Pedestrian Crossings



Puffin Crossing



Puffin Push Button Unit

Puffin Crossing have superseded Pelican Crossing. They do not have a flashing green man/flashing amber signal. The demand for the crossing is triggered by the push button unit with the red man/green man signals above the push button unit on the pedestrians' side of the road. This allows pedestrians, waiting at the crossing, to look at the approaching traffic at the same time as looking at the red man/green man signal.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

RIVERLIFE: ALMOND & AVON – ALMOND BARRIERS PROJECT – MID CALDER WEIR

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to provide a further update on progress in the development of the project to adapt Mid Calder Weir to allow fish passage and to enhance access to the weir from Mid Calder.

B. RECOMMENDATION

The Council Executive is recommended to:

1. Note the progress being made on detailed design to adapt the weir at Mid Calder, restoring fish passage; and
2. Approve efforts to secure realignment of the National Cycle Network route (NCN75) between Pumpherston Road, Mid Calder east towards East Calder Wastewater Treatment Works and authorise officers to secure external funding and the necessary consents leading to detailed design and construction, if the proposal proves technically feasible.

C. SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; and working in partnership.

II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)

Policy: The Scottish Biodiversity Strategy identifies the role of local authorities in meeting national species and habitat priorities.

Legal: The Water Environment & Water Services (Scotland) Act 2003 requires local authorities to carry out their statutory functions and duties in a way, which adheres to the principles of the European Water Framework Directive.

The Nature Conservation (Scotland) Act 2004 places a duty on officials and public bodies to further biodiversity.

Delivery of the active travel component of this project would contribute to improved road safety

and further encourage active travel.

III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	Across Scotland river quality has improved significantly over the last 25-years and just under half of our rivers are now of good status. Ambitious targets have been set for rivers, with an objective for 87% to be at good or high-status by 2027. SOA1308-11 (% of water bodies achieving high or good status).
V	Relevance to Single Outcome Agreement	<p>SOA 3. Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business;</p> <p>SOA 6. Older people are able to live independently in the community with an improved quality of life;</p> <p>SOA 7. We live longer, healthier lives and have reduced health inequalities;</p> <p>SOA 8. We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>
VI	Resources - (Financial, Staffing and Property)	<p>Financial: Funding for RiverLife projects derives from the Scottish Government's Water Environment Fund (WEF) and National Lottery Heritage Fund (NLHF).</p> <p>Officers to apply for Places for Everyone grant funding through Sustrans to fund the realignment of the NCN 75.</p> <p>Staffing: The Council is represented by officers on individual project groups and the RiverLife Project Board. The National Lottery Heritage Fund and Scottish Government provide additional resources to support the project through a number of pre-agreed activities discharged by Forth River Trust.</p> <p>Property: The Council has riparian ownership, of the right (south) bank to the middle of the river.</p>
VII	Consideration at PDSP	This report was presented to the Environment Policy Development & Scrutiny Panel at its meeting on 15 September 2020. The Panel

- 1) Noted the contents of the report; and
- 2) Agreed that the report and its recommendations be forwarded to the next appropriate meeting of the Council Executive for approval

VIII Other consultations

The following organisations and individuals have been consulted in work leading to preparation of this report:

NETs, Land & Countryside Services, Forth District Salmon Fishery Board (FDSFB), Householders with left (north) bank riparian ownership, Mid Calder Community Council (MCCC), Mid Calder Weir Project Group, RiverLife: Almond & Avon Project Board, Scottish Government, Scottish Environment Protection Agency (SEPA) and Sustrans.

D. TERMS OF REPORT

1.0 Mid Calder Weir

- 1.1 In May 2020, Council Executive approved a proposal to authorise officers to commission work to determine the optimum location and technical design of a Larinier-type technical fish pass at Mid Calder Weir to restore fish passage.
- 1.2 In arriving at the proposed location and layout, close to the right (south) bank of the river (Appendix 1 attached), specialist consultants considered available guidance, hydrology, fish ecology, wildlife crime, installation of a fish counter, the effects of debris and sedimentation, appearance and whole-life costs.
- 1.3 Specialists from Forth Rivers Trust, Forth District Salmon Fishery Board and the Scottish Environment Protection Agency have contributed to the proposal by providing feedback in response to a draft report and layout and support what is proposed. Whilst the proposal in plan form is unlikely to change significantly, detailed design and modelling is ongoing, and could potentially result in slight shifting of location or changes to detailing.
- 1.4 As this stage of the project has developed, there has been regular dialogue between those householders that have riparian ownership from the left (north) bank of the river, the consultants and a council official to ensure that everyone remains informed about what is proposed and allow concerns to be addressed.
- 1.5 Mid Calder Community Council and Ward Members have also been advised of the proposals.
- 1.6 An application for planning permission has recently been submitted following further meeting with householders to avert any last-minute concerns.

2.0 National Cycle Network Route 75

- 2.1 A route for construction access to the weir has not yet been established. Three options are being explored. Currently, only one provides the prospect of quality, long-term access to the weir for the purposes of maintenance.

- 2.2 The National Cycle Network (NCN) is a network of signed paths and routes extending throughout the United Kingdom for walking, cycling and wheeling. Sustrans, the UK walking and cycling charity, as custodians of the NCN, envisage a network of routes, which are sufficiently wide and fully accessible for all legitimate users. The section of NCN 75 within proximity of the proposed fish pass (extending from Pumpherson Road east towards the west edge of the East Calder Wastewater Treatment Works) currently comprises steep path gradients, stepped access, unbound path construction and reduced path width. This does not accord with Sustrans NCN design principles and opportunities to improve this route have the potential to provide immediate benefits to local people and increase overall patronage of the route.
- 2.2 Although an initial bid for funding was unsuccessful, officers are in continued talks with Sustrans, about the potential realignment and upgrading of this part of the route, which would also provide attractive, long-term access to the weir and to Almondell Country Park beyond. In assessing feasibility, however, consideration still needs to be given to the potential impact on the functional flood plain and consequent flood risk, and ensure that the quality of what may later be proposed is consistent with its location within Mid Calder Conservation Area.
- 2.3 The residents of Powie's Path, with whom officers have been in discussion, and who look directly across the river towards the proposed alternative route have indicated support for the concept and see significant benefit to the community, particularly as it would allow the less-able to enjoy access to the Almondell Country Park from Mid Calder. They have also suggested that consideration be given to extending the proposed route eastwards, to approximately 50 metres downstream of the weir on the basis that it is currently one of the less-appealing sections of this otherwise attractive walkway.

E. CONCLUSION

Council Executive has previously approved a proposal to proceed with detailed design and determination of the optimum location for a technical fish pass at Mid Calder Weir.

Consultants have now confirmed the broad location, layout and appearance of the structure and have continued to refine its design.

Officers have been engaging with those householders that have riparian ownership from the left (north) bank and have their support and have kept the Community Council and Ward Members up to date as detailed design has progressed. An application for planning permission for the weir has also recently been submitted.

Access to the weir and to Almondell Country Park beyond is currently compromised. Although an initial bid for funding was unsuccessful, officers are in talks with Sustrans with a view to securing funding to investigate the feasibility of realigning part of this route, which has the potential to provide improved access for all.

F. BACKGROUND REFERENCES

Consultation on SEPA's Second River Catchment Management Plan for the Scotland River Basin District - Report by Head of Operational Services to the Environment Policy Development & Scrutiny Panel - 23 April 2015

SEPA consultation on developing the second river basin management plan for the Scotland River Basin District:

http://www.sepa.org.uk/water/river_basin_planning/scotland.aspx

Barriers to Fish Migration - River Almond - Report by Head of Operational Services to the Environment Policy Development & Scrutiny Panel - 04 June 2015

Barriers to Fish Migration - River Almond - Report by Head of Operational Services to the Council Executive - 30 June 2015

RiverLife: Almond & Avon Programme - Report by Head of Operational Services to the Environment Policy Development & Scrutiny Panel - 13 September 2016.

RiverLife: Almond & Avon Programme - Report by Head of Operational Services to the Council Executive - 11 October 2016

RiverLife: Almond & Avon - Novation & Procurement Exemption - Report by Head of Corporate Services to the Council Executive - 23 October 2018

RiverLife: Almond & Avon Programme - Report by Head of Operational Services to the Environment Policy Development & Scrutiny Panel - 30 October 2018

RiverLife: Almond & Avon Programme - Report by Head of Operational Services to the Council Executive - 13 November 2018

RiverLife: Almond & Avon - Almond Barriers Project - Mid Calder Weir - Report by Head of Operational Services to the Environment Policy Development & Scrutiny Panel - 10 March 2020

RiverLife: Almond & Avon - Almond Barriers Project - Mid Calder Weir - Report by Head of Operational Services to the Council Executive - 26 May 2020

RiverLife: Almond & Avon – Almond Barriers Project – Mid Calder Weir – Report by Head of Operational Services to the Environment Policy Development & Scrutiny Panel – 15 September 2020

Appendices/Attachments:

Appendix 1 - Plan Showing the Proposed Location and Layout of the Technical Fish Pass at Mid Calder Weir

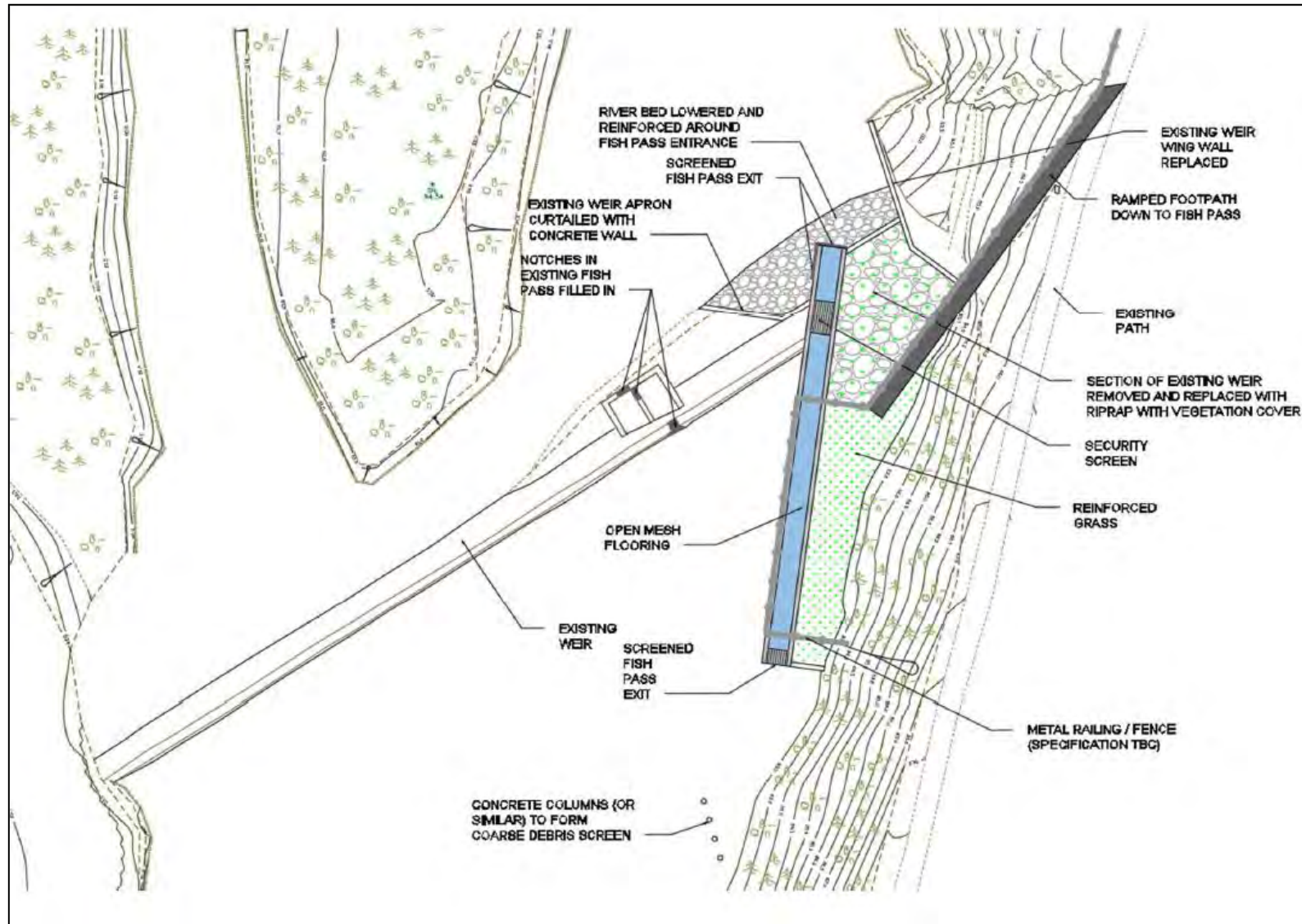
Appendix 2 - Aerial photograph showing existing route and proposed realignment of NCR75

Contact Person: Graeme Hedger, Senior Professional Officer, 07774 479863, graeme.hedger@westlothian.gov.uk

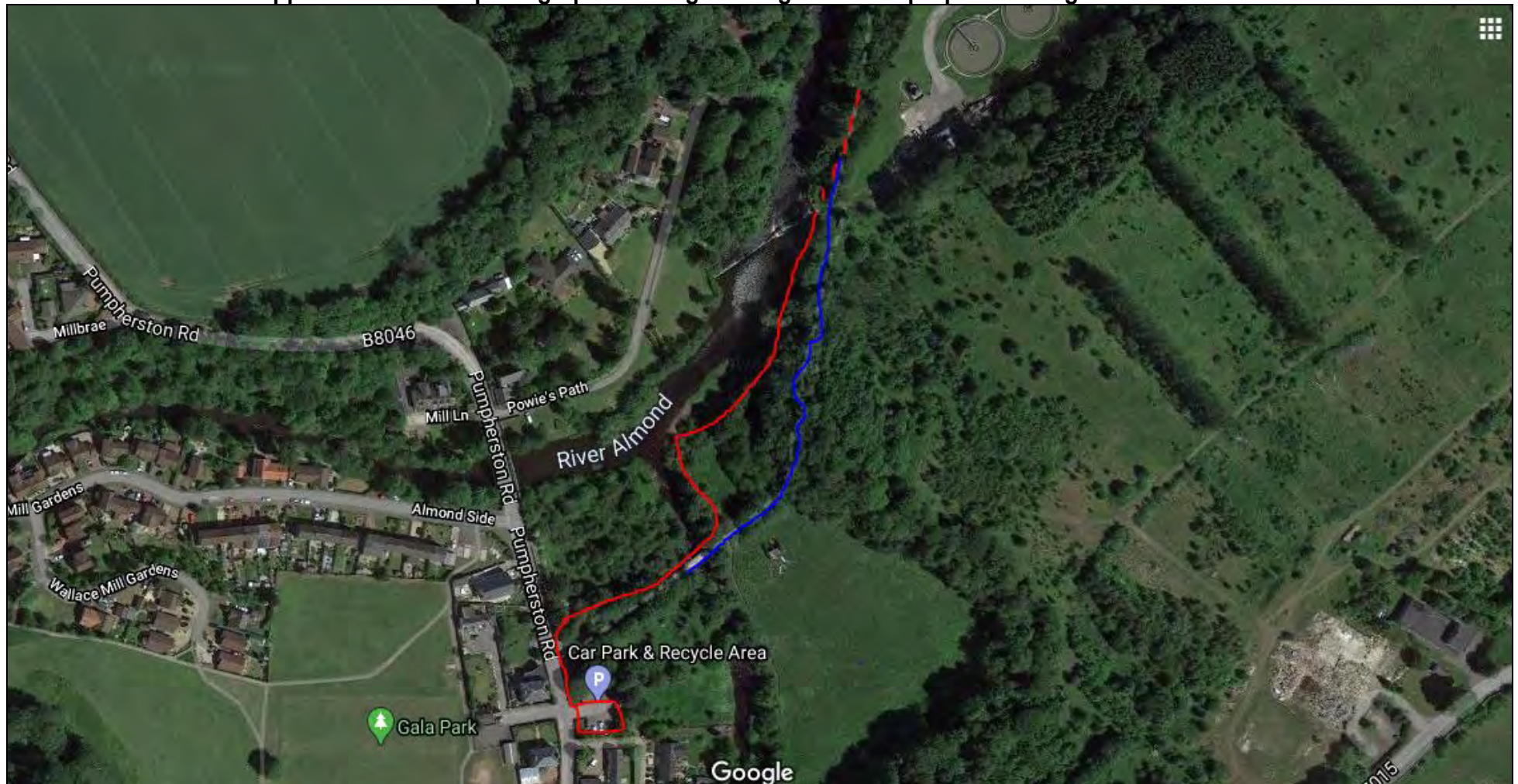
CMT Member: Jim Jack, Head of Operational Services

Date of meeting: 06 October 2020

Appendix 1 - Plan Showing the Proposed Location and Layout of the Technical Fish Pass at Mid Calder Weir



Appendix 2 – Aerial photograph showing existing route and proposed realignment of NCR 75



Existing route - blue
Proposed realignment - red

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

2020/21 WINTER PLAN – ROADS AND TRANSPORTATION

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The *Code of Practice “Well-managed Highway Infrastructure” – 2016* recommends that councils should review and approve their Winter Service Plan annually. The purpose of this report is to seek approval for councils Winter Service Plan for 2020/21

B. RECOMMENDATIONS

It is recommended that the Council Executive approves the Winter Service Plan 2020/21 as detailed in Appendix A.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; Making best use of our resources; and Working in partnership
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Council's Winter Service Plan. Roads (Scotland) Act 1984 and The <i>Code of Practice “Well-managed Highway Infrastructure” – 2016</i>
III Implications for Scheme of Delegations to Officers	None
IV Impact on performance and performance Indicators	The Plan will ensure that the winter service is delivered in a consistent and efficient manner which will meet existing performance targets and service standards.
V Relevance to Single Outcome Agreement	Maintaining strategic transport links within the community are necessary in order to deliver the SOA Outcomes. The Winter Service Plan supports Outcomes 1, 2, 10 and 14.
VI Resources - (Financial, Staffing and Property)	Operational Services have a Winter Service budget for 2020/21 of £2.329 million to carry out their statutory duties under the Roads (Scotland) Act 1984 (Section 34).

VII Consideration at PDSP	None
VIII Other consultations	None.

D. TERMS OF REPORT

D.1 Background

In Scotland, Councils statutory responsibilities regarding the Winter Service are defined in the Roads (Scotland) Act 1984, Section 34 which requires “that a road authority shall take such steps as it considers reasonable to prevent snow and ice endangering the safe passage of pedestrians and vehicles over public roads”.

The Code of Practice recommends that councils should review and approve their Winter Service Plan annually.

D.2 Winter Service Plan

The council’s current Winter Service Plan (summarised in Appendix A), is well established and is based on The *Code of Practice “Well-managed Highway Infrastructure” – 2016*.

The Winter Service Plan includes; the service standards and a definition for an “Extreme Weather Event”; a statement on resilience and salt conservation strategy; and promotes the benefits of self-help in line with Government recommendations.

The Winter Service Plan extreme weather event actions were triggered during the 2017/18 winter when West Lothian was affected by its first “red weather warning event” and although the delivery of the service was extremely challenging an effective service was provided in these exceptional circumstances.

Domain based forecasting is utilised with separate forecasts being obtained for the north and south of the county. With each of the primary carriageway routes falling within a single domain it allows treatment plans to be more specific with resources being deployed appropriately providing an improved service to areas in most need.

Once again, the Gritter Tracking page will be available on the council’s website. This allows users to view the gritters deployed when treatment is deemed necessary, providing up-to-date information on the location of our vehicles.

Route maps are continually reviewed and updated to reflect any newly adopted streets, with additions being prioritised in line with the plan. These route maps and further information on how the council prioritise gritting can be found on the council website; along with details of our grit bin policy and self-help advice

D.3 Winter 2020/21 Resources

Delivery of the winter plan rests with Roads & Transportation however additional resources are utilised from NET's, and Land & Countryside Services to provide a robust and flexible rota.

It is recognised that COVID-19 has the potential to severely impact staff availability and consequently additional contingency plans are being prepared. The Winter Service is a key activity and will be prioritised over less critical work should the need arise.

Staffing levels have been reviewed and Roads & Transportation have 40 trained gritter drivers who will be rostered to the winter service similar to previous years. In addition, the service has access to around 150 HGV drivers from other service areas of which training is planned for an initial 10 drivers to ensure that they are available from the start of the winter season. To put these staffing numbers in to context the service requires 7 HGV drivers at any one time to allow treatment of the primary carriageway routes as detailed in Appendix A

Staggered start and finish times are in place to ensure staff from different service areas remain separate from each other to help mitigate an outbreak. Enhanced vehicle cleaning regimes have also been introduced to minimise cross contamination.

If our ability to carry out winter maintenance activities is reduced, the service would focus on the primary carriageway routes; which cover 50% of the network. This would be communicated to the public advising them to consider their travel plans or to make allowances for the conditions.

Our stock level of 30,000 tonnes of salt will be available for the winter period. In addition, our salt contract includes alternative suppliers should the need arise.

A framework contract is also in place allowing us to engage external resources and equipment if required.

E. CONCLUSION

Consideration of the potential impacts of Covid19 has been considered and contingency measures will be in place for the start of the winter season. Following review of the 2019/20 Winter Service Plan it is recommended that no changes are required and that this plan as detailed in Appendix A is approved for the coming winter season 2020/21.

F. BACKGROUND REFERENCES

Roads (Scotland) Act 1984

The Code of Practice "Well-managed Highway Infrastructure" – 2016

Appendices/Attachments: Appendix A – Winter Service Plan

Contact Person: David Wilson, Roads Operations Manager, Tel: 01506 284598, Email: David.Wilson@westlothian.gov.uk

Jim Jack
Head of Operational Services
Date: 6th October 2020

APPENDIX A

The Winter Service Plan 2020/21 is summarised as follows:-

Carriageways	Road Type	Treatment
Primary Routes (SNOW ROUTES)	Important principal roads, major scheduled bus routes, routes to fire stations, hospitals, ambulance depots, railway stations and local danger spots on highly trafficked roads and major industrial estates.	Gritting and/or snow ploughing 24 hours a day on all days. Pre grit if required. Planned or reactive.
Secondary Routes Level 1	Other classified routes, distributor routes and connecting routes between centres, minor bus routes, main accesses to schools, medical centres and residential areas.	Gritting and/or snow ploughing during normal working hours i.e. 0800 to 1505 hours Monday to Friday. Pre grit as resources allow.
Secondary Routes Level 2	Residential areas, cul-de-sacs and other unclassified roads.	Gritting and/or snow ploughing during normal working hours i.e. 0800 to 1505 hours Monday to Friday. Reactive treatment only.
Secondary Routes Level 3	Surfaced areas within schools, roads within industrial estates, routes to car parks and car park surfaces.	Gritting and/or snow ploughing during normal working hours i.e. 0800 to 1505 hours Monday to Friday. Reactive treatment only.

Footways	Footway Type	Treatment
Primary Routes (SNOW ROUTES)	Urban shopping areas and precincts. Routes to schools, accesses to health centres and medical centres, hospitals, etc. main routes to residential areas and bus stops.	During November and March , gritting of widespread ice/snow clearing 0500 to 1505 hours Monday to Friday. During December, January and February the service will be extended to cover weekends and public holidays (0500 to 1505 hours). Reactive treatment only.
Secondary Routes Level 1	Other routes to schools, residential areas and housing areas in general.	Gritting of widespread ice/snow clearing 0800 to 1505 hours Monday to Friday. Reactive treatment only.
Secondary Routes Level 2	Footway links to car parks, community centres, day centres etc and cycle routes	Gritting of widespread ice/snow clearing 0800 to 1505 hours Monday to Friday. Reactive treatment only.

EXTREME WEATHER EVENT

An extreme weather event will be considered to be an event where continuous snow is forecast and likely to give significant accumulations in excess of 10cm covering the whole of the north or south expanse within the council area. The snow will also be expected to remain in untreated areas for a prolonged period due to low temperatures before a natural thaw disperses it.

During periods of extreme weather and heavy continuous snowfall when roads and footways are affected by significant levels of lying snow, priority will be given to primary carriageway routes and primary footpath routes and these routes will be known as West Lothian Council's "Snow Routes". These routes are defined within the council plan and will be published on the council website. Gritters and footpath resources will be deployed on these specified snow

routes continuously until satisfactory snow clearance has been achieved before resources are deployed to any secondary routes.

The plan is aimed at providing a minimum strategic network during periods of extreme weather and will provide access to key facilities and other transport needs.

RESILIENCE and SALT CONSERVATION

West Lothian Council procures and stocks salt supplies for use on the whole of the public carriageway and footway network during the winter period. A stock level of 30,000 tonnes of salt will be available for the winter period.

In periods of an extreme weather event or periods of prolonged conditions that demand a high usage of salt it may be necessary to restrict the use of salt to snow routes only. For West Lothian Council, salt will be restricted to snow routes when the council reaches a minimum stock level of salt for 6 days resilience of continuous salting.

GRIT BIN POLICY

- Only provided on sites with difficult conditions.
- Bins will only be located where they can be filled from a lorry.
- Only replenished during and immediately after periods of adverse weather or upon request from the public as resources allow.
- No provision in private areas or car parks for internal use by either Council or any other public or private property such as schools, parks, hospitals, old people's homes, lunch clubs etc. unless a service level agreement is in place.
- Bins will not be designated to serve a carriageway if that carriageway is designated as a primary route or snow route.
- Bins will not be designated to serve a footway if that footway is designated as a primary route or snow route.
- Only written requests for bins will be considered.
- A request will not be accepted unless a location to site the bin has been agreed. Therefore, even if the criterion for locating the bin is met, none will be provided if residents cannot agree a position.
- The position of any proposed bin should not obstruct the passage of pedestrians.
- Grit bins will be left in-situ during the summer months unless the responsible officer confirms that they are causing a public nuisance.
- Bins should be yellow and tagged with a unique id number and their position recorded in the electronic database.

In times of an extreme weather event it is not always possible to service and replenish grit bins due to their location and the deployment of resources in higher priority areas.

In the event that West Lothian Council suspends the grit bin service then Road Services will provide temporary grit bags and grit heaps at strategic locations across West Lothian for use by the public. The locations of the grit bags and grit heaps will be advertised to the public when the service is in operation.

SELF HELP – WHAT CAN YOU DO?

There is no law preventing members of the public from clearing snow and ice from public roads and footways outside their properties and businesses. However, people should exercise care and caution when attempting to undertake any snow clearing so that they do not create any further hazards through careless or inconsiderate actions.

Being a good neighbour during severe winter weather is usually welcomed. Detailed below is some advice provided by the Government on clearing roads and footways yourself:-

1. Do not use hot water as this could freeze, increasing the risk of injury to persons.
2. Choose suitable clothing for the task to ensure that you remain warm, clearly visible to traffic and that footwear provides a good grip.
3. Do not take unnecessary risks in the road and be aware that vehicles may find it difficult to stop quickly in icy conditions.
4. If shovelling snow consider where you are going to put it to avoid shifting the problem elsewhere, for example, avoid blocking other footways and drainage features such as gullies.
5. Use a shovel with a wide blade and do not overload the shovel with snow.
6. It is easier to remove fresh snow before pedestrians have compressed the snow into compacted ice.
7. Clear a line down the middle of the area to be cleared first to create a safer surface to work from.
8. Spread some salt on the area cleared to prevent the formation of ice.
9. Do not use too much salt as a few grams, about a tablespoon for each square metre that you clear should be sufficient.
10. If there is no salt available then a little sand or grit is a reasonable substitute. It will not have the same de-icing properties as salt but will improve grip underfoot.
11. Salt applied to the road or footway could be washed away by rain or snow and subsequently freeze – in this case a further application of salt should be used soon after the rain has ceased and before temperatures approach freezing.
12. Particular care and attention should be given to steps and steep gradients to ensure that snow and ice is removed – it may be beneficial to apply additional salt at these locations to reduce the risk of injury.

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

2019/20 ANNUAL RETURN ON THE CHARTER

REPORT BY HEAD OF HOUSING, CUSTOMER AND BUILDING SERVICES

A. PURPOSE OF REPORT

To advise Council Executive on the service's performance against the Annual Return on the Charter, and to seek approval of the submission of our Annual Assurance Statement following our recent submission of the ARC to the Scottish Housing Regulator on 31 July 2020.

B. RECOMMENDATION

Council Executive are asked to note the performance that forms part of our return to the Scottish Housing Regulator and approves that the chair signs and submits our Annual Assurance Statement.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of resources.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Housing (Scotland) Act 2010.
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	This report is part of the agreed process for performance reporting.
V	Relevance to Single Outcome Agreement	None.
VI	Resources - (Financial, Staffing and Property)	None.
VII	Consideration at PDSP	N/A
VIII	Other consultations	Service staff; Staff Networks and Tenants Panel (Performance).

D. TERMS OF REPORT

The Scottish Social Housing Charter (the Charter) came into force on 1 April 2012. The Charter is a requirement of the Housing (Scotland) Act 2010 which sets out its functions, powers and duties. It provides a clear statement of what tenants and other customers can expect from social landlords and it helps to make landlords more accountable.

The Charter describes outcomes and standards that landlords should achieve. It is the basis of landlord self-assessment and is used by the Scottish Housing Regulator (SHR) to monitor, assess and report on Registered Social Landlords performance.

The Annual Return on the Charter (ARC) is the vehicle which landlords must use to submit the requisite performance information to the SHR. The standard Charter indicators allow effective benchmarking amongst registered social landlords across Scotland. There are eight Charter themes with multiple indicators and contextual indicators and the SHR provides detailed technical guidance to support landlords in calculating these.

In conjunction with our tenants we published our landlord report for the 2019/20 performance results, and the SHR published their Charter key findings report for tenants.

This year has been the first return since the SHR introduced their revised performance framework which has resulted in different data being collected for the 2019/20 return, whilst this has brought some improvements to the quality and context of the data being provided on our performance, it also means that benchmarking is not available against previous years for the new datasets. This is highlighted within the appendix against these specific indicators.

2019/20 Annual Return on the Charter

Officers run a programme of activity throughout the year to monitor progress, collate and verify data, and submit our response each year. Appendix 1 provides the 2019/20 results that forms part of our submission to the SHR. The appendix also provides detail on the comparative results from 2016/2017 to 2018/2019 on indicators where this is possible in the new framework. The appendix also sets out our performance against our social landlord peer group where available, our peer group are all medium sized social landlords, with relatively comparable stock size., The table also includes an indication on whether performance has improved, declined, or remained the same.

The regulator has indicated that benchmarking information will not be available until later in the year – this is normally provided by the end of August, this is due to the deadline for submission being extended from May 31st to July 31st as a result of the pandemic.

Of the indicators outlined in Appendix 1, 13 have improved from the previous year, 24 have decreased, with some only slightly, and 9 have seen no change or are data only. The service is already in the process of implementing an improvement plan in preparation for the 2020/21 submission, and has been in close contact with the regulator during the pandemic to feed back monthly performance, and to provide feedback on plans for the 2020/21 charter return that factors in pandemic impacts.

Local Government Benchmarking Framework

The Local Government Benchmarking Framework (LGBF) is focused on providing a consistent approach to benchmarking local authority performance, with an evolving dataset reported each year to the public. The comparative performance of the 32 Scottish local authorities is published in a national report each year that identifies national trends across eight thematic categories of council activity.

The indicators which make up the LGBF housing performance framework are taken directly from the ARC. The 2019/2020 data is due to be published and a report on the Council's comparative performance to LGBF will be taken to the Performance Committee following publication.

Post-Submission Regulation Assurance

The service will submit our Annual Assurance Statement before October 31st 2020. This is a statement providing assurance as signed off by the Head of HCBS and the Leader of the Council, that the service is satisfied that the information provided is accurate, robust, and can be fully evidenced should this be required.

HCBS remains in the lowest category of risk in terms of regulatory compliance and assurance of our management of service activity. There are no further plans to engage with the service other than a request to report our breaches of homeless duty on a quarterly basis. The service has made arrangements to ensure this happens on an ongoing basis following discussion with the Regulation Manager.

E. Conclusion

The service submitted our Annual Return on the Charter in advance of the 31 July 2020 deadline. The appendix to this report provides detail on the indicators that formed part of our submission.

Performance overall is positive, but the service acknowledges that improvement plans are required in terms of homelessness and customer satisfaction performance. Where improvements are required, this will be addressed by the implementation of action plans during 2020/21. We will use the SHR's complete dataset, once available in late 2020, to benchmark our full results.

The service seeks the approval of Council Executive for the Chair to sign our Annual Assurance Statement and submit to the Scottish Housing Regulator.

F. Background References – Scottish Social Housing Charter

<https://www.scottishhousingregulator.gov.uk/landlord-performance/national-reports/national-reports-on-the-scottish-social-housing-charter>

Appendices/Attachments: 2

1 - 2019/20 Annual Return on the Charter Data.

Contact Person: Sarah Kelly - 01506 281877 sarah.kelly@westlothian.gov.uk

AnnMarie Carr

HEAD OF HOUSING, CUSTOMER AND BUILDING SERVICES

Date of Meeting: 6TH October 2020

West Lothian Council – Annual Return on the Charter

S- All Scotland average incl. RSLs

P – SHN Peer Group (Medium LAs) Aberdeenshire, Dundee City, East Ayrshire, Falkirk, Highland, North Ayrshire, Renfrewshire, West Dunbartonshire and West Lothian

Indicator	2016/17 Results	2017/18 Results	2018/19 Results	2019/20 Target	2019/20 Results	Performance 2018/19 to 2019/20
Ind 1 (Ind1) -Percentage of tenants satisfied with the overall service provided by their landlord	WLC - 86.68% S – 89.71% P – 84.14%	84.18% P – 84.34%	84.18% S – 90.12% P – 86.21%	88%	83.56%	Declined
Ind 2 (Ind3) -Percentage of tenants who feel their landlord is good at keeping them informed about their services and decisions	WLC - 84.69% S – 91.14% P – 81.66%	83.13% P – 81.83%	83.13% S – 91.6% P – 84.42%	86%	78.47%	Declined
Ind 3 & 4 (Ind4) - Percentage of 1st stage complaints upheld by the landlord – changed 2019/20. (Ind5) - Percentage of 2nd stage complaints upheld by the landlord Updated The percentage of all complaints responded to in full at: Stage 1 Stage 2 The average time in working days for a full response at: Stage 1 Stage 2	53.46% 54.79%	39.94% 42.18%	43.19% 36.65%	Updated Indicator	97.26 87.87% 3.86 days 14.29 days	Updated Indicator
Ind 5	WLC - 68.4% S – 83.82%	65.37% P – 74.87%	65.37% S – 86.48%	72%	59.74%	Declined

Indicator	2016/17 Results	2017/18 Results	2018/19 Results	2019/20 Target	2019/20 Results	Performance 2018/19 to 2019/20
(Ind6) - Percentage of tenants satisfied with the opportunities given to them to participate in their landlord's decision making processes	P – 71.68		P – 77.57%			
Ind 6 (Ind7) -Percentage of stock meeting the SHQS at the end of the reporting year	WLC - 99.65% S – 94.9% P – 95.41%	99.47% P – 95.58%	99.66% S – 94.09% P – 96.06%	100%	94.24%	Declined
Ind 7 (Ind10) - Percentage of tenants satisfied with the quality of their home	WLC - 83.09% S – 86.93% P – 82.28%	78.09% P – 82.15%	78.09% S – 88.12% P – 85.1%	84%	77.80%	Declined
Ind 8 (Ind11) - Average length of time taken to complete emergency repairs (Hours)	WLC -5.56 hrs S – 4.66 hrs P – 5.94 hrs	5.89 hrs P – 5.32 hrs	6.56 hrs S – 3.65 hrs P – 4.72 hrs	24 hrs	5.96 hrs	Improved
Ind 9 (Ind12) - Average length of time taken to complete non-emergency repairs (days)	WLC – 8.24 days S – 7.09 days P – 8.39 days	9.47 days P – 6.93	7.85 days S – 6.56 days P – 6.76 days	7 days	7.01 days	Improved
Ind 10 (Ind13) - Percentage of reactive repairs carried out in the last year completed right first time	WLC -96.01% S – 92.41% P – 90.45%	92.09% P – 91.05%	94.3% S – 92.52% P – 91.56%	92%	96.76%	Improved
Ind 11 (Ind15) - Percentage of properties that require a gas safety record which had a gas safety check and record completed by the anniversary date Updated: How many times in the reporting year did you not meet your statutory obligations to complete a gas safety check within	WLC -99.65% S – 99.9% P – 99.79%	99.95% P – 99.34%	99.97% S – 99.93% P – 99.96%	100%	0%	Improved

Indicator	2016/17 Results	2017/18 Results	2018/19 Results	2019/20 Target	2019/20 Results	Performance 2018/19 to 2019/20
12 months of a gas appliance being fitted or its last check						
Ind 12 (Ind16) - Percentage of tenants who have had repairs or maintenance carried out in last 12 months satisfied with the repairs and maintenance service	WLC - 85.04% S – 90.57% P – 92.82%	98.26% P – 94.9%	99.65% S – 91.66% P – 93.48%	98%	98.53%	Declined
Ind 13 (Ind17) - Percentage of tenants satisfied with the management of the neighbourhood they live in Updated: Percentage of tenants satisfied with the landlord's contribution to the management of the neighbourhood they live in.	WLC - 75.24% S – 87.11% P – 83.05%	72.5% P – 80.96%	72.5% S – 87.77% P – 81.73%	79%	68.25%	Declined
Ind 14 (Ind18) -Percentage of tenancy offers refused during the year	WLC - 58.7% S – 37.33% P – 46.06%	47.16% P – 44.79%	50.98% S – 36.32% P – 46.32%	45%	27.63%	Improved
Ind 15 (Ind19) - Percentage of anti-social behaviour cases reported in the last year which were resolved within locally agreed targets Updated: Percentage of anti-social behaviour cases reported in the last year which were resolved.	WLC – 76.47% S – 87.21% P – 82.78%	79.82% P – 83.57%	71.43% (91% - when using last years corresponding figures to 2019/20) S – 87.86% P – 82.75%	77%	94.12%	Improved
Ind 16.a (Ind20.1) - Percentage of new tenancies to existing tenants sustained for more than a year	WLC – 95% S – 93.01% P – 92.19%	95.65% P – 92.57%	96.47% S – 93.6% P – 92.64%	96%	98.37%	Improved

Indicator	2016/17 Results	2017/18 Results	2018/19 Results	2019/20 Target	2019/20 Results	Performance 2018/19 to 2019/20
Ind 16.b (Ind20.2) -Percentage of new tenancies to applicants who were assessed as statutory homeless by the local authority sustained for more than a year	WLC – 87.16% S – 88.4% P – 83.35%	86.48% P – 84.26%	87.15% S – 87.88% P – 83.52%	88%	88.89%	Improved
Ind 16.c (Ind20.3) - Percentage of new tenancies to applicants from the landlord's housing list sustained more than a year	WLC – 93.14% S – 88.22% P – 87.35%	90% P – 87.11%	85.71% S – 87.9% P – 86.11%	90%	93.56%	Improved
Ind 17 (Ind21) - Percentage of lettable houses that became vacant in the last year	WLC – 5.85% S – 8.41% P – 8.78%	6.01% P – 8.62%	7.16% S – 8.56% P – 9.33%	7%	6.91%	Improved
Ind 18 (Ind34) - Percentage of rent due lost through properties being empty during the last year	WLC – 0.5% S – 0.87% P – 1.71%	0.45% P – 1.04	0.81% S – 0.88% P – 1.07%	0.9%	0.81%	No change
Ind 19 – new Number of households currently waiting for adaptations to their home.						36 New Indicator
Ind 20 – new Total cost of adaptations completed in the year by source of funding (£).						£298,322 New Indicator
Ind 21 (Ind23) - Average time to complete approved applications	WLC – 18.72 days S – 51.8 days P – 51.67 days	16.51 days P - 49.82	13.71 days S – 49.42 days P – 44.88 days		10.31 days	Improved

Indicator	2016/17 Results	2017/18 Results	2018/19 Results	2019/20 Target	2019/20 Results	Performance 2018/19 to 2019/20
for medical adaptations in the reporting year Updated: The average time to complete adaptations.						
Ind 22 (Ind24) - Percentage of the court actions initiated which resulted in eviction	WLC – 8.33% S – 16.78% P – 14.28%	6.02% P – 14.26%	13.5% S – 19.85% P – 15.72%		10.22%	Declined
Ind 24 Homelessness (LAs only) – the percentage of homeless households referred to RSLs under section 5 and through other referral routes (Indicator 24).					29.31%	New Indicator
Ind 25 (Ind29) - Percentage of tenants who feel that the rent for their property represents good value for money	WLC – 84.15% S – 81.85% P – 77.19%	78.51% P – 78.07	78.51% S – 83.21% P – 82.42%	85%	88.66%	Improved
Ind 26 (Ind30) - Rent collected as percentage of total rent due in the reporting year	WLC – 99.66% S – 99.61% P – 99.61%	98.77% P – 99.43	97.59% S – 99.1% P – 90.03%	99%	98.23%	Improved
Ind 27 (Ind31) - Gross rent arrears (all tenants) as at 31 March each year as a percentage of rent due for the reporting year	WLC – 4.87% S – 5.3% P – 5.88%	5.19% P – 5.93	6.6% S – 5.67% P – 6.48%	8.6%	6.4%	Improved
Ind 28 (previously indicator 32) Average annual management fee per factored property	NA	£98.29 S- £86.79 P- £90.82	£101.18 S- £93.73 P-£93.29	NA	£77.40	Improved
Ind 29	NA	31.03%	31.03%	50%	59.09%	Improved

Indicator	2016/17 Results	2017/18 Results	2018/19 Results	2019/20 Target	2019/20 Results	Performance 2018/19 to 2019/20
(previously indicator 33) Percentage of factored owners satisfied with the factoring service they receive		S-66.23% P-48.04%	S-67.04% P-52.32%			
Ind 30 (Ind35) - Average time to re-let properties in the last year	WLC – 25.55 S – 31.54 P – 40.48	20.24 days P – 38.17 days	37.24 days S – 31.89 days P – 38.96 days	30 days	36.92 days	Improved
Ind C4 (IndC11) – The number of properties abandoned during the reporting year	WLC – 86 P – 90	104	95 P – 91.33	NA	81	Improved
Ind C7 (IndC23) - Amount and percentage of former tenant rent arrears written off at the year end	WLC – 30.45% S – 37.05% P – 31.06%	38.03%	41.23% S – 37.98% P – 37.54%	NA	31.45%	Improved
Average Rent	WLC – £69.76	£69.86	£73.32			

Green 20

Red 7

No Change 1

New Indicator 3

Our Annual Assurance Statement

We comply with the regulatory requirements set out in Chapter 3 of the Scottish Housing Regulator's Framework. This includes that we:-

- Achieve all of the standards and outcomes in the Scottish Social Housing Charter for tenants, people who are homeless and others who use our services.
- Comply with all but the following legal obligations related to housing and homelessness, equality and human rights, and tenant and resident safety:

▪

We confirm that we have seen and considered sufficient evidence to give us this assurance.

We approved our Annual Assurance Statement at the meeting of our Council Executive on 18th August 2020.

Cllr Lawrence Fitzpatrick

Chair of West Lothian Council Executive

Ann Marie Carr

Head of Housing, Customer & Building
Services

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

2020/21 HOUSING REVENUE ACCOUNT – MONTH 5 MONITORING REPORT

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To provide the Council Executive with a report on financial performance following the month 5 monitoring exercise.

B. RECOMMENDATION

It is recommended that Council Executive notes the outcome of the month 5 monitoring exercise and the projected outturn.

C. SUMMARY OF IMPLICATIONS

I. Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of resources, working in partnership.
II. Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None.
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)	A breakeven position is predicted at this stage.
VII. Consideration at PDSP	Not applicable.
VIII. Other consultations	Head of Finance & Property Services.

D. TERMS OF REPORT

D.1 Introduction

The council approved a £54.450 million Housing Revenue Account (HRA) budget on 18 February 2020. This report provides information on the financial position in relation to the HRA as at 31 August 2020 and provides a projection to the year end.

D.2 Summary of Month 5 Financial Information

The table below summarises the position for the main expenditure headings and provides a projected outturn:

	2020/21 Budget £'000	Committed Expenditure to 31 Aug £'000	2020/21 Projected Outturn £'000	2020/21 Projected Variance £'000
Employee Costs	5,282	4,604	4,647	(635)
Premises Costs	17,899	3,181	15,364	(2,535)
Transport Costs	142	96	116	(26)
Supplies & Services	3,296	783	3,159	(137)
Third Party Payments	118	60	118	0
Transfer Payments	2,095	3,994	6,037	3,942
Support Services	2,552	1,063	2,552	0
Capital Financing	12,687	5,286	12,687	0
CFCR	10,379	3,974	9,537	(842)
Total Expenditure	54,450	23,041	54,217	(233)
Income	(54,450)	(22,995)	(54,217)	233
Net Expenditure	0	46	0	0

Employee Costs

Employee costs are forecast to underspend by £635,000, mainly as a result of vacant posts and staff turnover. The 2020/21 budget included provision for the establishment of a customer engagement team but, due to Covid-19, this has not yet been progressed.

There have also been a number of vacancies due to staff turnover, which have resulted in one off savings during the recruitment period to fill these posts. Whilst progressing the recruitment to these vacant posts there has been no impact on overall service delivery.

Premises Costs

Based on current information, premises costs are anticipated to underspend by £2.535 million. This is primarily a consequence of the Covid-19 pandemic situation and the limited repairs and maintenance work that has been able to be progressed in the first four months of 2020/21 due to Scottish Government restrictions during the lockdown period, with only essential repairs and gas servicing works being undertaken. With restrictions easing and repairs and maintenance schedules beginning to resume, it is anticipated that expenditure will increase to normal levels for the remainder of the year, although there is a risk that this position may be affected by any further restrictions that are enforced due to the current ongoing Covid-19 situation.

Expenditure on repairs also remains a key risk area; it is demand led and reactive to customer requirements, and any adverse weather can also materially impact on expenditure. This volatility will require the budget to be closely monitored during the remainder of 2020/21.

Supplies & Services

Supplies and Services are forecast to underspend by £137,000 due to a combination of savings across a number of budget headings, including legal fees and printing costs.

Transfer Payments

Transfer payments comprise void losses, irrecoverable rents and bad debt provision for rents. They also include additional costs incurred as a consequence of Covid-19, with the forecast overspend of £3.942 million principally due to the impact on the HRA from the Covid-19 lockdown period. This includes Covid related costs such as additional signage and personal protective equipment for staff in both Housing Services and in Building Services, as well as the cost of non-productive time for staff in Building Services primarily responsible for delivering the housing repairs and maintenance and capital programmes.

During the lockdown period, a high proportion of Building Services staff were unable to carry out their usual roles and duties due to the restrictions put in place by the Scottish Government. As staff were still being paid during this period, as per council policy, then this resulted in costs being incurred for non-productive time.

For staff usually engaged in revenue works, this has resulted in the forecast underspend outlined above against premises costs, with a corresponding overspend in non-productive costs which has been recognised against transfer payments. For staff usually employed to carry out works related to the housing capital programme, then guidance provided by Audit Scotland has stipulated that these non-productive costs are also required to be charged to the HRA, rather than to the capital programme.

The forecast overspend within this area therefore includes the cost of non-productive time for Building Services staff who would normally have been working on projects within the approved capital programme, as well as staff who would have been working on HRA repairs and maintenance works.

Capital Financing & CFCR

The CFCR is the amount of income raised through the housing revenue account that is not spent directly on revenue costs, but is earmarked to fund capital works, mainly consisting of refurbishment and upgrade programmes to maintain and improve the housing stock. The mix between borrowing and CFCR is largely dependent on the required level of borrowing and associated capital financing charges as well as the level of CFCR affordable to the HRA.

The level of CFCR is also subject to confirmation dependant on other movements within the HRA revenue account, principally in relation to expenditure on reactive repairs and levels of housing rent. At this stage, it is proposed that the CFCR contribution be reduced to £9.537 million due to the forecast additional costs as a consequence of Covid-19, as outlined above.

Income

Income budgets for 2020/21 relate to the estimated level of rent and other miscellaneous charges due to the HRA. Forecast income has been projected based on the latest information relating to housing stock, taking account of new build completions.

Based on the 2019/20 rental income outturn, and factoring in stock changes during 2020/21, chargeable income is forecast to be £233,000 under budget. This is in part due to Covid-19 restrictions delaying additions to the housing stock via new build completions and open market acquisitions.

The change to the benefits system means that those tenants who are entitled to housing benefit now receive the housing cost element of their entitlement directly as part of their lump sum Universal Credit payment rather than this being paid directly to the council, which has resulted in uncertainty in relation to rent payments. It is possible to partly mitigate this through tenants applying for Managed Payments or Scottish Flexibilities, however the council has no control over these as ongoing financial arrangements and the tenant can cancel the arrangements at any time.

The change to the system has also meant that the council is no longer involved in benefit claim processing for tenants claiming Universal Credit, meaning that there is no knowledge of new claims until tenants begin to accumulate arrears. Staff had previously assisted with the claim process, and ensured that the housing cost elements of the claim were correct, verified and evidenced. This change has had the effect of delaying early advice and support for tenants struggling to manage their finances, with the service continuing to reshape processes to enable these interventions as early as possible where arrears occur.

Both of these factors directly caused by the implementation of Universal Credit have impacted on rent collection rates and the level of current tenant arrears.

The value of current tenant arrears at 30 August was £4.044 million (6,588 cases), with the equivalent position in 2019/20 of £3.303 million. Arrears values range from £0.01 to £9,993.71, with an average value of £613.88. Arrears and their impact on the financial position of the HRA will continue to be closely monitored.

The committed income noted above at month 5 includes house rent, garage rent, insurance recoveries, factoring income and other general recoverable charges, and is an assessment of the total income due to 31 August 2020. The £23.217 million in rental income collected in cash to date is £2.470 million higher than the £20.747 million of rental income collected in cash at the same stage in 2019/20, and equates to a cash collection rate of 94% at month 5.

E. CONCLUSION

A breakeven position is forecast on the basis of the information available.

Appendices/Attachments: None

Contact Person: stephen.ross@westlothian.gov.uk – Tel No: 01506 281311

Graeme Struthers
Depute Chief Executive
6 October 2020

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

2020/21 HOUSING CAPITAL REPORT – MONTH 5 MONITORING REPORT

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To provide the Council Executive with a report on the financial position in relation to the Housing Capital Programme following the completion of the month 5 monitoring exercise.

B. RECOMMENDATION

It is recommended that Council Executive note the outcome of the month 5 Housing capital monitoring exercise and the projected outturn for 2020/21.

C. SUMMARY OF IMPLICATIONS

I. Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of our resources, working in partnership.
II. Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The council's Housing Capital Programme is managed within the stringent requirements set out in the Prudential Code.
III. Implications for Scheme of Delegations to Officers	None.
IV. Impact on performance and performance Indicators	None.
V. Relevance to Single Outcome Agreement	"Outcome 10 – We live in well designed, sustainable places where we are able to access the services we need."
VI. Resources - (Financial, Staffing and Property)	Council Executive approved a revised three year capital programme of £107.615 million for 2020/21 to 2022/23 on 23 June 2020. The 2020/21 revised budget is £29.241 million.
VII. Consideration at PDSP	Not applicable.
VIII. Other consultations	Consultation has taken place with Housing Customer and Building Services, tenants and Finance & Property Services.

D. TERMS OF REPORT

D.1 Introduction

The council approved a three year programme for Housing capital investment in February 2020. An updated 2020/21 Housing capital investment programme of £29.241 million was approved by Council Executive on 23 June 2020, taking account of the 2019/20 outturn, the most recent assumptions available regarding the potential effect of the Covid-19 situation on the programme for 2020/21 and updated phasing profiles. This report contains detail of expenditure to date in the Housing capital programme and provides a projected outturn for the financial year.

D.2 Summary of Month 5 Financial Information

The summarised position for actual and projected expenditure is shown below. The table shows actual investment of £4.727 million in the housing stock to 31 August 2020. The forecast expenditure for the year is £25.632 million. The investment programme comprises the creation of new build social housing and refurbishment of existing stock, which includes large scale housing projects, energy efficiency works and planned programmes, much of which is undertaken by Building Services.

Table 1	2020/21 Revised Budget £'000	Actual Expenditure at Month 5 £'000	2020/21 Projected Outturn £'000	2020/21 Projected Variance £'000
New Housing Supply	11,800	2,205	9,140	(2,660)
Major Refurbishment	2,669	294	2,041	(628)
Major Elemental Upgrades	3,239	280	3,239	0
Planned Programmes	2,742	468	2,742	0
Environmental Upgrading	468	45	468	0
Compliance Works	7,855	1,388	7,534	(321)
Miscellaneous	468	47	468	0
Total	29,241	4,727	25,632	(3,609)

New Housing Supply

Significant resources continue to be invested in the creation and acquisition of new homes, with budgeted resources of £11.800 million in 2020/21. New housing supply includes increasing the existing council housing stock through new builds, open market acquisitions and mortgage to rent properties.

The Covid-19 shutdown period has had a major impact on new build provision for 2020/21, with planned construction works being halted for approximately three months. However, works have now recommenced at the sites that were operational before the shutdown, and progress is now being made, with projected spend for 2020/21 of £9.140 million. Work is ongoing at sites in Brucefield, Livingston and in Standhill, Bathgate and these projects are expected to deliver a number of completed properties this year. The final property at Wester Inch was handed over in June 2020, completing the project at this site.

As at 31 August 2020, two houses have been acquired through the Open Market Acquisitions scheme, with a further ten acquisitions currently in progress. This is in addition to the 191 open market acquisitions that have been added to the housing stock in previous years since the scheme was introduced.

The new build programme was reviewed and updated in June 2020, in light of current restrictions in place at the time, estimates of when these restrictions were likely to be eased and the likely impact that these changes would have on the various types of projects required to be carried out as part of the housing capital investment programme. For projects that had not yet started before the Covid-19 lockdown was announced, the impact is likely to be greater than anticipated when the budget was updated in June.

The sites at Deans South and Eagle Brae are now expected to start later than was expected when the budget was updated in June, due to delays in the tender process as a result of the Covid-19 situation. Although both are now expected to commence in November/December 2020, this is likely to mean slippage of approximately £1.1 million in the budgeted spend for these projects in 2020/21.

Similarly, delays with planning permission are expected to result in slippage of approximately £250,000 in the planned project at Mossend, West Calder, and the project to acquire 20 additional new build units directly from the developer at Eliburn in Livingston is also now forecast to be delayed due to the developers returning from furlough later than originally anticipated, meaning forecast slippage of £600,000 in the budgeted spend for the year. Further open market acquisitions that were approved to replace the new build element of the project at Bathville, Armadale, are also likely to be delayed as a result of the Covid-19 situation, resulting in slippage of approximately £900,000.

Whilst it is anticipated that a number of areas within the new supply budget are now expected to be more adversely affected by the coronavirus pandemic than was anticipated when this budget was updated in June 2020, officers will continue to review all available options for delivery of the programme and will actively seek every opportunity to minimise delays in the delivery of the plan. This will include a review of approved future years projects to determine if any can be delivered early, however contractor and supplier availability continues to be impacted by the pandemic which makes it difficult to predict with certainty what accelerated work could be achieved at the present time.

Major Refurbishments

Major refurbishment works include planned works on streets, beyond traditional roof and render renewal works. Expenditure of £2.041 million is expected on these projects during 2020/21.

The project programmed for 2020/21 at the Lochs scheme in Whitburn is progressing well and is expected to be delivered to budget during the year, however the project at Bathville in Armadale is now projecting slippage of £628,000 due to delays in the tender process and the ability to progress demolition works in advance of other planned works at the site. Tenders are due to be returned by the end of October 2020, and any options to reduce this forecast slippage position will be fully considered.

Major Elemental Upgrades

Planned expenditure of £3.239 million is expected on major elemental upgrades in 2020/21.

Projects largely include roof and roughcasting work undertaken, or managed, by Building Services. Projects have now recommenced following the lockdown period, with the elemental upgrade programme expected to be delivered substantially to budget.

Planned Programmes

Planned programmes maintain the safety of houses and components, with expenditure of £2.742 million expected across the programme during 2020/21. This includes new kitchens and bathrooms, window and door refurbishments and renewals, stair upgrades, fencing programmes and high value repairs.

The programme consists of approximately: 80 kitchens and bathrooms, external painting and internal decoration to a combined total of 1,811 properties, rhone cleaning and upgrading to 1,717 properties and various common stair upgrades such as painting and new security entrance doors in 22 blocks.

Environmental / External Upgrading

Forecast expenditure of £468,000 is anticipated on environmental programmes and external upgrading in 2020/21.

These works encompass a range of environmental, street improvement and drainage projects, planned in conjunction with tenants and other council services, and works have restarted and are progressing well at various sites throughout West Lothian.

Compliance Works

Compliance works to housing stock include asbestos management works, legionella upgrades, periodic testing and electrical upgrades and a number of energy efficiency projects aimed at meeting the requirements of Scotland's Energy Efficiency Standard for Social Housing (EESH) regulations.

These works include central heating upgrades, enhanced investment in external wall insulation and PV panels. The 2020/21 programme consists of 347 central heating replacements, periodic testing of 1,746 houses and the installation of hard wired smoke detectors in 6,300 properties.

As an integral part of the council's Energy Efficiency Standard for Social Housing Programme (EESH), an air source heat pump project is to be undertaken in all none gas areas to improve energy efficiency, which will include over 50 properties being fitted with new air source heat pump heating systems. PV Panel installations will continue in Westfield, in conjunction with programmed roof and render repair works.

External Wall Insulation (EWI) is being progressed in the last remaining council houses in the Knightsridge, Dedridge, Eliburn, Polbeth, and Fauldhouse areas, with works being carried out in conjunction with the HEEPS:ABS programme.

Miscellaneous

Works are ongoing in various miscellaneous projects throughout West Lothian, which includes feasibility studies, the home safety service, the home security for older people and provision for works required as a result of new unsuitable accommodation legislation introduced by the Scottish Government, with anticipated spend of £468,000 in 2020/21.

D.3 Capital Resources

The table below shows the capital resources available to fund the housing capital programme in 2020/21. It should be noted that the investment programme is largely funded through a mix of borrowing and Capital Funded from Current Revenue (CFCR), with additional funding sources from council house sales, government grants and council tax on second homes.

The mix between CFCR and Borrowing is largely dependent on the required level of borrowing and associated capital financing charges as well as the level of CFCR affordable to the Housing Revenue Account, and is subject to confirmation at the end of the financial year.

Table 2	2020/21 Revised Budget £'000	2020/21 Income to Month 5 £'000	2020/21 Projected Outturn £'000	2020/21 Projected Variance £'000
CFCR	10,379	3,974	9,537	(842)
Borrowing	15,312	5,090	12,216	(3,096)
Government Grants	3,120	156	3,120	0
Developer Contributions	250	0	250	0
Council Tax (Second Homes)	80	145	145	65
Capital Receipts	100	154	364	264
Total Income	29,241	9,519	25,632	(3,609)

CFCR

At this stage, the contribution of Capital from Current Revenue (CFCR) is anticipated to be £9.537 million. As set out in the 2020/21 Housing Revenue Account – Month 5 Monitoring Report, guidance provided by Audit Scotland has stipulated that non-productive costs resulting from capital funded staff are required to be charged to the HRA, rather than to the capital programme. This additional cost pressure in the revenue account has resulted in a lower than budgeted CFCR for 2020/21.

Although the lower than budgeted CFCR will be offset by the forecast slippage in 2020/21, the CFCR forms part of the overall funding package for the three year capital programme for 2020/21 to 2022/23 and therefore the overall forecast reduction in the CFCR will need to be replaced to ensure that the three year programme remains fully funded. It is proposed that the loss of CFCR income is replaced in the first instance by surplus forecast income from council tax from second homes and from capital receipts. The balance will be funded through project savings in the three year programme, with any savings generated within the programme earmarked to fund the loss in CFCR.

It should be noted the final CFCR contribution can be subject to capital borrowing requirements and related costs, as well as affordability within the Housing Revenue Account, subject to pressures such as rent arrears and reactive repair costs, and the anticipated CFCR contribution will be reviewed when Treasury forecasts are updated.

Borrowing

The programme approved in June 2020 outlined anticipated borrowing requirements of £15.312 million. At this stage it is anticipated that £12.216 million of borrowing will be required to meet projected expenditure levels, taking into account the forecast slippage in the programme and the forecast decrease in CFCR noted above.

E. CONCLUSION

Progress is being made in the 2020/21 Housing capital programme, following a period of shutdown within the construction sector as a result of the Covid-19 pandemic. Within the new housing supply projects, work has restarted on a number of sites, although there are expected to be delays to some projects as a result of the ongoing current situation.

Significant investment is also being made in the housing stock to both improve the overall standard of the stock, meet energy efficiency standards and to increase the number of available houses for West Lothian residents. Although works have now recommenced on works to achieve energy efficiency standards, there is a risk that full compliance may not be achievable due to the time lost during the lockdown period. Much of the focus of this work in 2020/21 continues to be on work undertaken, where possible and within the terms of the Best Value framework, by Building Services.

As set out in the updated budget report to Council Executive in June 2020, although the capital programme has been reviewed and updated based on current guidance and assumptions, there remains a material risk that circumstances may change.

There also remains a substantial risk around the affordability of the current approved programme. Although identified savings from within the programme were used in the update to offset assumed increased costs as a result of the pandemic, the full impact of any increased costs is not likely to be known until later in the year. There may be further increased costs due to construction inflation, there may be further increased costs and delays due to lack of availability of materials, and there may be issues around availability of contractors as some companies may not survive the current crisis.

Given the ongoing uncertainty around the Covid-19 situation, officers will continue to review the programme and will continue to report on the impact to Council Executive as part of the established budget monitoring exercise. Officers will also endeavour to pursue all options for delivery of the programme and to minimise any further delays where possible. All project budgets will continue to be closely monitored and the position managed by appropriate lead officers.

Appendices/Attachments: One

Contact Person: pamela.bell@westlothian.gov.uk – Tel No: 01506 281282

Graeme Struthers
Depute Chief Executive
6 October 2020

DATA LABEL: PUBLIC

West Lothian Council
Housing Capital Programme Month 5 Monitoring
Council Executive

APPENDIX 1

	Annual Budget 2020/21	Actual to Date 2020/21	Projected Outturn 2020/21	Projected Variance 2020/21	Variance Analysis
EXPENDITURE					
<u>NEW HOUSING SUPPLY</u>					
New Build	10,225	1,946	7,565	(2,660)	Slippage
Open Market Acquisition Scheme	1,425	259	1,425	0	On budget
Mortgage to Rent	150	0	150	0	On budget
NEW SUPPLY TOTAL	11,800	2,205	9,140	(2,660)	
<u>REFURBISHMENT AND INVESTMENT</u>					
Major Refurbishment					
Bathville Flats, Armadale	1,628	123	1,000	(628)	Slippage
Harrison Houses - Loch Scheme, Whitburn	1,041	171	1,041	0	On budget
	2,669	294	2,041	(628)	
Major Elemental Upgrades					
57 - 117 Lower Bathville	0	1	1	1	Overspend
Anderson Avenue, Armadale	497	1	497	0	On Budget
Auldhill Crescent, Bridgend	15	0	15	0	On Budget
Badallan Place, Fauldhouse	287	0	287	0	On Budget
Balbardie Av & Cres, Rosemary & Slate Roofs, Bathgate	72	14	72	0	On Budget
Bedlormie	113	88	89	(24)	Saving
Church Place, Fauldhouse	0	1	1	1	Overspend
Cuthill, Stoneyburn	1	0	1	0	On Budget
Dedridge Area, Livingston	1,680	97	1,680	0	On Budget
Drummond Place, Blackridge	289	7	289	0	On Budget
Empire St, Baillie St, Bog Rd, Park View, Dean St, Whitburn	1	0	1	0	On Budget
Glebe Rd, Union Rd & Dr, Armadale Rd, Jubilee Rd, Whitburn	10	5	5	(5)	Saving
Lanrigg Area, Fauldhouse - Ogilvy Crescent & Scott Place	38	64	65	27	Overspend
Race Road & Glasgow Road, Bathgate	5	0	5	0	On Budget
Strathlogie, Westfield	231	2	231	0	On Budget
	3,239	280	3,239	0	
Planned Programmes					
Assisted Decoration and Internal Upgrade Scheme	150	20	150	0	On budget
Common Access Door Upgrades	231	58	231	0	On budget
Common Stair Upgrades	105	48	105	0	On budget
Fencing	105	5	105	0	On budget
Kitchens and Bathrooms	315	101	315	0	On budget
Painting	210	40	210	0	On budget
Planned Reactive/ HIO Investment	1,061	135	1,061	0	On budget
Rainwater Goods Testing and Upgrading	232	52	232	0	On budget
Windows & Doors Refurbishment / Renewal	333	9	333	0	On budget
	2,742	468	2,742	0	
Environmental / External Upgrading					
Aerial Upgrades	30	6	30	0	On budget
Almondell, Broxburn	10	0	10	0	On budget
Bin Store Improvements	78	0	78	0	On budget
Play Areas	50	0	50	0	On budget
Programmed Drainage	100	9	100	0	On budget
Tenant Environmental Projects	200	30	200	0	On budget
	468	45	468	0	
Compliance Works					
Aids and Adaptations - Building Services	507	35	357	(150)	Saving
Aids and Adaptations - Occupational Therapists	250	35	250	0	On Budget
Asbestos Management	690	214	690	0	On Budget
Central Heating	1,496	134	1,496	0	On Budget
Energy Efficiency/PV Panels	600	91	600	0	On Budget
Stock Condition Surveys/Energy Performance Certificates	200	0	100	(100)	Slippage
External Wall Insulation	1,498	171	1,498	0	On Budget
Firewalls	13	0	13	0	On Budget
Smoke and heat detector upgrades	1,487	597	1,487	0	On Budget
Legionella Upgrades	19	0	0	(19)	Saving
Periodic testing and Electric Upgrades	618	108	618	0	On Budget
Orlit Remedial Upgrades	252	0	200	(52)	Slippage
The Vennel Remedial Works	197	2	197	0	On Budget
Renewal of walls and footpaths	28	2	28	0	On Budget
	7,855	1,388	7,534	(321)	
Miscellaneous					
Deans South, Livingston	120	7	120	0	On Budget
Feasibility Surveys	18	4	18	0	On Budget
Home Safety Service	170	0	170	0	On Budget
Home Security for Senior People	13	1	13	0	On Budget
IT	50	19	50	0	On Budget
Unsuitable Accommodation Works	97	16	97	0	On Budget
	468	47	468	0	
REFURBISHMENT & INVESTMENT TOTAL	17,441	2,522	16,492	(949)	
TOTAL HOUSING CAPITAL INVESTMENT PROGRAMME	29,241	4,727	25,632	(3,609)	
On Budget	16,249	2,464	16,249	0	
Slippage	12,305	2,069	8,865	(3,440)	
Accelerated Spend	0	0	0	0	
Saving	649	128	451	(198)	
Overspend	38	66	67	29	
	29,241	4,727	25,632	(3,609)	

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

KICK START

REPORT BY REPORT BY HEAD OF PLANNING ECONOMIC DEVELOPMENT AND REGENERATION

A. PURPOSE OF REPORT

The purpose of the report is to provide an overview of the UK Government's Kick Start programme and seek approval for West Lothian Council to submit a bid to create initially 200 Kick Start places in West Lothian.

B. RECOMMENDATION

It is recommended that the committee:

1. notes the introduction of the Kick Start programme.
2. notes the Council's potential role as a gateway organisation creating Kick Start opportunities,
3. notes the Council's intention to create kick start opportunities within Council services and;
4. approves the submission of an initial bid to create 200 opportunities on behalf of West Lothian Council and Partners, with the option to apply for more at a later date if required.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; providing equality of opportunities and; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	The additional opportunities for young people will have a positive impact on performance indicators linked to supporting young people to progress into a positive destination.

V	Relevance to Single Outcome Agreement	The creation of opportunities for young people reinforce a number of the aims of the Single Outcome Agreement, specifically: We are better educated and have access to increased and better quality learning and employment opportunities.
VI	Resources - (Financial, Staffing and Property)	Budget to be made available via Kick Start, £300 per opportunity, to support the additional administration and employability support that will be required to deliver the programme.
VII	Consideration at PDSP	The details set out in this report have not been considered by a PDSP.
VIII	Other consultations	Community Planning Partnership, West Lothian Chamber of Commerce, Federation of Small businesses, Scottish Enterprise and Developing the Young Work Force regional Group.

D. TERMS OF REPORT

D.1 On the 2 September 2020 the UK government announced the details of the Kick Start scheme. The Kick Start scheme is one of the interventions announced to tackle the increasing level of youth unemployment in the UK.

The Kick Start scheme aims to create new paid 6-month job placements for young people who are currently on Universal Credit and at risk of long-term unemployment. The ambition is that 250,000 young people will be supported under the Kick Start Scheme throughout the UK.

The scheme will run until the summer 2022, with a go live date for placements of November 2020. The programme is being managed and administered by the Department of Work and Pensions (DWP). Placements can be created within any size employer in the private, public and voluntary sector, with the minimum number of placements to be created per organisation of 30.

The placements created with Kickstart funding must be new jobs and must not replace existing or planned vacancies. The roles must be a minimum of 25 hours per week, for six months and paid at least the national minimum wage for their age group.

Organisations that are successful in securing funding will receive 100% of the relevant national minimum wage for 25 hours per week, plus associated employer National Insurance contributions and employer minimum automatic enrolment contributions.

In addition to the cost of the wages there is also extra funding to support young people to build their experience and help them move into sustained employment after they have completed their Kick Start Scheme funded opportunity. There will be £1,500 per participant available to provide employability support, training and any additional costs including travel or PPE required to undertake the role.

There is no maximum limit on the number of employers that can secure funding for, with the minimum limit being 30 but organisations will have to ensure roles offered through the scheme meet the criteria.

Once opportunities are created they will be published on the Universal Credit system within DWP, with DWP Work Coaches assessing their suitability for their clients who meet the criteria. DWP will therefore be responsible for matching young people to the opportunities what have been created.

D2 Application Process

There are two routes to securing funding to create Kick Start opportunities:

- 1) organisations can apply directly to the DWP via an online application if they are able to create 30 opportunities; and
- 2) organisations can apply to DWP to become a gateway organisation for the area and support those organisations like SME's or voluntary sector organisations that are unable to create 30 opportunities.

Local authorities are able to become gateway organisations and have been encouraged to explore the possibility of becoming one.

The role of a gateway organisation is to:

- support organisations to create opportunities;
- drawn down the funding from DWP and pay it to organisations receiving support, this is done at the 2, 4 and 6 month point;
- manage the £1,500 wraparound support and how this is utilised on a case by case basis; and
- provide the employability support, if required, to young people on the scheme.

As well as being a gateway organisations can also create opportunities within their own organisation, this is included in their bid to create opportunities as an intermediary.

The role of gateways is key to ensure that smaller organisations are able to access the opportunities and to ensure that there is consistency in approach in an area.

D3 Kick Start in West Lothian

West Lothian Council has registered an interest in becoming a gateway for the West Lothian locality. Officers have been working with community planning partners to develop a consortium bid for West Lothian, where West Lothian Council would lead the bid for the area and partners would access opportunities through the one bid. One consortium bid will reduce the confusion in the market for employers as there will be one entry point to access funding for creating opportunities.

West Lothian Council's Steps n2 Work programme has been creating employability and training places in West Lothian, with partners for eight years, the delivery of Kick Start would be delivered through this structure and follow the same processes as the current Steps n2 Work programme.

Council Executive is asked to approve West Lothian Council leading the consortium bid for West Lothian and an application to DWP for, initially, 200 Kick Start places for the area, with the option to apply for more at a later date. Should more places be

required gateway organisations will be able to bid for more places at a later date as the application process will remain open throughout the duration of Kick Start.

In addition to being a gateway organisation West Lothian Council will also create Kick Start opportunities within West Lothian Council services.

E. CONCLUSION

Tackling youth unemployment remains a key priority for West Lothian Council and Partners. The introduction of Kick Start will provide young people, currently claiming Universal Credit, the opportunity to access six months paid employment and training. A West Lothian consortium bid will ensure that confusion isn't created within the market place for employers and that partners have the opportunity to bring in the maximum investment into the West Lothian area.

F. BACKGROUND REFERENCES

None

Appendices/Attachments: None

Contact Person: Clare Stewart, Employability Manager, Tel: 01506 281100,
Clare.stewart@westlothian.gov.uk

Craig McCorriston
Head of Planning, Economic Development and Regeneration

6 October 2020

DATA LABEL: OFFICIAL



COUNCIL EXECUTIVE

LOCAL GOVERNMENT BENCHMARKING FRAMEWORK

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

This report provides the updated Local Government Benchmarking (LGBF) data for 2018/19. The LGBF compares the performance of the 32 Scottish councils in a consistent set of key performance indicators and is published each year in a national report.

B. RECOMMENDATIONS

It is recommended that the Council Executive notes the council's comparative performance in the LGBF 2018/19.

C. SUMMARY OF IMPLICATIONS

I.	Council Values	<ul style="list-style-type: none">• Focusing on customers' needs• Being honest, open and accountable
II.	Policy and Legal	Compliance with the Code of Corporate Governance requirements.
III.	Implications for Scheme of Delegations to Officers	None
IV.	Impact on performance and performance indicators	The council is required to publish Specified Performance Indicators in accordance with the Local Government (Scotland) Act 2003. This includes comparative performance information from the LGBF.
V.	Relevance to Single Outcome Agreement	The LGBF contains indicators across the main domains of council activities. Some of these indicators are included within the council's performance reporting arrangements for outcomes and priorities.
VI.	Resources (Financial, Staffing and Property)	From existing budget
VII.	Consideration at PDSP/Executive Committee required	A report on the council's comparative performance in the LGBF will be taken to the next meeting of the Performance Committee.
VIII.	Details of consultations	None

D. TERMS OF REPORT

D.1 Local Government Benchmarking Framework Overview

The Local Government Benchmarking Framework (LGBF) is focused on providing a consistent approach to benchmarking local authority performance, with an evolving data set reported each year to the public.

The comparative performance of the 32 Scottish local authorities is published in an annual report that identifies national trends across eight thematic categories of council activity. The report also highlights local challenges and priorities, how this varies across councils and the subsequent impact on performance.

Following the publication of the national report in February 2020, the Improvement Service issued to councils new 2018/19 data in April 2020 and this report contains the high-level analysis of the council's performance in the LGBF.

D.2 LGBF Overview Report 2018/19

The LGBF Overview Report 2018/19 was published by the Improvement Service in February 2020. The report compares Scottish councils' performance across 87 performance indicators, an increase on the 81 performance indicators used for 2017/18. The national process concludes in around April each year, when refreshed data is issued to councils, including some measures that are not available when the national report is published.

The LGBF performance indicators remain grouped under the following eight categories:

People Service categories

- Children's Services
- Adult Social Care
- Housing Services
- Culture and Leisure

Other Services categories

- Corporate Services
- Corporate Assets
- Environmental Services
- Economic Development

The dataset in each category generally focuses on how much councils have spent on particular services, service performance and how satisfied people are with the major services provided by councils.

LGBF Family Groups

LGBF performance is analysed to ensure the variation and causal impact in relation to local priorities and policy choices are understood. This is facilitated by councils working as part of 'family groups' to interrogate the data. These family groups also serve as a forum for learning and knowledge share amongst relevant comparators.

Councils are allocated to a family group of authorities with similar characteristics. The council is a member of family group 3, with the general characteristics set out in table 1:

Table 1: Family Group Allocation		
Categories	Characteristic	Family
People Service categories: <ul style="list-style-type: none"> • Children • Social Work • Housing 	Allocation based on deprivation / affluence	<ul style="list-style-type: none"> • Clackmannanshire • Dumfries and Galloway • Falkirk • Fife • Renfrewshire • South Ayrshire

		<ul style="list-style-type: none"> • South Lanarkshire • West Lothian Council
Categories	Characteristic	Family
Other Services categories: <ul style="list-style-type: none"> • Environmental • Culture and Leisure • Corporate • Property (Corporate) Assets 	Allocation based on population	<ul style="list-style-type: none"> • Angus • Clackmannanshire • Inverclyde • East Renfrewshire • Midlothian • Renfrewshire • South Lanarkshire • West Lothian Council

D.3 Analysis of LGBF 2018/19

The 2018/19 ranking performance of the council in the eight LGBF categories, in comparison to the 2017/18, is summarised in table 2:

Table 2: Summary Position of Performance 2017/18 to 2018/19				
Category	Total Number	Improvement	Decline	No change
Adult Social Care	11	6	4	1
Children's Services	*28	17	5	2
Corporate Services	8	4	4	0
Corporate Assets	2	1	1	0
Environmental Services	15	3	7	5
Housing Services	5	1	2	2
Economic Development	10	4	4	2
Culture and Leisure	8	1	6	1
West Lothian Council*	87	37	33	13

*4 new indicators added in 2018/19. There is no comparative information available for these indicators.

The council's actual performance and ranking in each indicator can be viewed on the council [website](#).

Average Ranking 2018/19

The council's average ranking and the top ranked local authority in the eight categories of LGBF have been summarised in table 3.

Table 3: Average Ranking Movement (Refresh 2018/19)			
Category	WLC Ranking 2017/18	WLC Ranking 2018/19	Top Ranked Authority
Adult Social Care	9	12	East Dunbartonshire
Children's Services	5	4	East Renfrewshire
Corporate Services	5	2	Stirling
Corporate Assets	1	1	West Lothian
Environmental Services	13	19	East Lothian
Housing Services	2	2	North Ayrshire
Economic Development	1	2	Aberdeenshire
Culture and Leisure	7	12	Shetland Islands
Overall	1	1	West Lothian

The council ranked an average of first in Scotland overall in 2018/19.

Appendix 1 contains the average ranking of the 32 local authorities in each category.

The top five ranking authorities in Scotland is set out in table 3b and is calculated based on an average of all indicators in the LGBF dataset and are as follows:

Table 3b: Overall top ranking authorities in Scotland		
Top Ranking Authority	Ranking 2017/18	Ranking 2018/19 Refresh
West Lothian	1	1
East Renfrewshire	2	2
East Dunbartonshire	5	3
Inverclyde	9	4
Stirling	6	5

Comparative Analysis

Table 4 provides a breakdown of the number of performance indicators the council has in each quartile in comparison to the position in February 2020. The council continues to have a large proportion of indicators in the top two quartiles.

Table 4: Quartile Ranking Movement (Refresh 2018/19)		
Quartile	2017/18 Number of Pls	2018/19 Number of Pls
Quartile 1	30	31
Quartile 2	22	27
Quartile 3	19	21
Quartile 4	6	8

E. CONCLUSION

The LGBF is intended to support councils to improve performance in key activities, inform strategic planning and forms a critical part of the sector's response to requirements for public performance reporting and benchmarking.

The council continues to perform well in the LGBF dataset and continues to be ranked an average of first overall in Scotland.

F. BACKGROUND REFERENCES

[LGBF 2018/19 overview report](#)

Appendices/Attachments: 1

Appendix 1: LGBF Average Category Ranking 2018/19

Contact Person: Rebecca.kelly@westlothian.gov.uk Phone 01506 281891

Julie Whitelaw
Head of Corporate Services
6 October September 2020

COUNCIL WIDE		
Local Authority	2018/19	Rank
West Lothian	12.6	1
East Renfrewshire	12.9	2
East Dunbartonshire	13.2	3
Inverclyde	14.1	4
Stirling	14.2	5
Renfrewshire	14.7	6
North Ayrshire	15.0	7
South Ayrshire	15.0	7
Orkney Islands	15.1	9
Aberdeenshire	15.3	10
Perth & Kinross	15.3	11
West Dunbartonshire	15.4	12
Falkirk	15.5	13
Edinburgh City	15.6	14
Shetland Islands	15.7	15
South Lanarkshire	15.9	16
Angus	16.3	17
North Lanarkshire	16.5	18
East Ayrshire	16.6	19
Dumfries & Galloway	16.8	20
Fife	16.8	21
Moray	16.8	22
East Lothian	16.8	23
Clackmannanshire	17.3	24
Glasgow City	17.5	25
Dundee City	17.6	26
Midlothian	17.8	27
Highland	18.3	28
Aberdeen City	18.4	29
Argyll & Bute	18.7	30
Scottish Borders	19.7	31
Eilean Siar	20.6	32

CHILDREN'S SERVICES		
Local Authority	2018/19	Rank
East Renfrewshire	6.1	1
East Dunbartonshire	7.3	2
Stirling	11.6	3
West Lothian	11.8	4
Renfrewshire	11.8	5
Inverclyde	12.1	6
South Ayrshire	12.3	7
South Lanarkshire	12.3	7
Falkirk	13.6	9
Edinburgh City	13.9	10
North Lanarkshire	14.2	11
Argyll & Bute	14.4	12
Orkney Islands	14.7	13
Angus	16.1	14
Dumfries & Galloway	16.5	15
East Lothian	16.6	16
Shetland Islands	16.9	17
West Dunbartonshire	17.1	18
Perth & Kinross	18.0	19
Glasgow City	18.1	20
East Ayrshire	18.4	21
North Ayrshire	18.4	22
Aberdeenshire	18.4	23
Fife	18.5	24
Scottish Borders	18.8	25
Moray	19.6	26
Eilean Siar	19.7	27
Midlothian	20.1	28
Clackmannanshire	20.2	29
Dundee City	21.9	30
Highland	22.7	31
Aberdeen City	23.8	32

CORPORATE SERVICES		
Local Authority	2018/19	Rank
Stirling	9.3	1
West Lothian	10.4	2
Falkirk	11.3	3
South Ayrshire	11.5	4
Perth & Kinross	11.8	5
Aberdeenshire	11.9	6
East Ayrshire	12.4	7
North Ayrshire	12.4	7
Edinburgh City	13.1	9
Inverclyde	14.0	10
Angus	14.1	11
Glasgow City	14.1	11
West Dunbartonshire	14.8	13
Fife	15.6	14
East Lothian	16.5	15
East Dunbartonshire	16.9	16
Aberdeen City	17.0	17
Midlothian	17.0	17
North Lanarkshire	17.6	19
East Renfrewshire	18.6	20
South Lanarkshire	18.6	20
Shetland Islands	19.3	22
Argyll & Bute	19.6	23
Dumfries & Galloway	19.6	23
Dundee City	20.1	25
Renfrewshire	20.1	25
Highland	20.3	27
Moray	20.3	27
Clackmannanshire	20.8	29
Scottish Borders	22.3	30
Eilean Siar	23.0	31
Orkney Islands	24.0	32

ADULT SOCIAL CARE		
Local Authority	2018/19	Rank
East Dunbartonshire	7.6	1
Dumfries & Galloway	7.9	2
Perth & Kinross	10.3	3
Orkney Islands	10.4	4
Aberdeenshire	11.7	5
Glasgow City	12.6	6
Stirling	13.5	7
West Dunbartonshire	13.5	7
Aberdeen City	14.3	9
Inverclyde	14.3	9
Shetland Islands	14.7	11
West Lothian	15.4	12
Highland	16.2	13
Scottish Borders	16.5	14
Renfrewshire	16.6	15
Moray	16.7	16
Clackmannanshire	16.8	17
Dundee City	17.0	18
North Ayrshire	17.1	19
Falkirk	17.5	20
East Renfrewshire	17.6	21
Fife	18.0	22
East Ayrshire	18.5	23
South Ayrshire	18.8	24
Argyll & Bute	18.9	25
South Lanarkshire	20.2	26
Edinburgh City	21.4	27
East Lothian	21.5	28
Midlothian	21.8	29
Angus	22.9	30
North Lanarkshire	23.0	31
Eilean Siar	24.4	32

CULTURE & LEISURE		
Local Authority	2018/19	Rank
Shetland Islands	7.0	1
Edinburgh City	8.9	2
Orkney Islands	9.3	3
South Ayrshire	12.1	4
Inverclyde	13.1	5
Stirling	13.3	6
East Ayrshire	13.5	7
Angus	14.0	8
North Ayrshire	14.0	8
Moray	14.1	10
Dundee City	14.3	11
Perth & Kinross	14.4	12
West Lothian	14.4	12
Clackmannanshire	14.6	14
Aberdeen City	14.6	15
Highland	14.6	15
West Dunbartonshire	14.6	15
Fife	16.6	18
North Lanarkshire	16.8	19
Renfrewshire	16.8	19
Midlothian	16.9	21
Aberdeenshire	17.3	22
Argyll & Bute	18.1	23
Glasgow City	18.6	24
East Lothian	19.8	25
South Lanarkshire	20.0	26
East Dunbartonshire	20.8	27
East Renfrewshire	22.0	28
Falkirk	22.8	29
Eilean Siar	23.6	30
Dumfries & Galloway	23.9	31
Scottish Borders	28.5	32

ENVIRONMENTAL SERVICES		
Local Authority	2018/19	Rank
East Lothian	12.2	1
Moray	12.3	2
Fife	13.1	3
Highland	13.7	4
Midlothian	13.7	5
Angus	13.8	6
East Renfrewshire	13.9	7
Dundee City	14.0	8
Clackmannanshire	14.1	9
Aberdeenshire	14.3	10
North Ayrshire	14.5	11
South Lanarkshire	14.7	12
Orkney Islands	14.7	13
West Dunbartonshire	14.7	13
Aberdeen City	15.5	15
Perth & Kinross	15.9	16
Shetland Islands	15.9	16
East Ayrshire	16.1	18
West Lothian	16.1	19
East Dunbartonshire	16.3	20
Renfrewshire	16.3	20
Inverclyde	17.2	22
North Lanarkshire	17.5	23
Scottish Borders	18.1	24
Dumfries & Galloway	18.5	25
Falkirk	18.6	26
South Ayrshire	19.9	27
Edinburgh City	20.5	28
Eilean Siar	21.1	29
Glasgow City	21.4	30
Stirling	22.6	31
Argyll & Bute	24.7	32

HOUSING SERVICES		
Local Authority	2018/19	Rank
North Ayrshire	3.6	1
West Lothian	7.2	2
East Renfrewshire	8.4	3
Clackmannanshire	10.6	4
South Ayrshire	11.2	5
East Ayrshire	11.6	6
Stirling	11.6	6
North Lanarkshire	11.8	8
West Dunbartonshire	11.8	8
Highland	12	10
Falkirk	12.8	11
Renfrewshire	13	12
Midlothian	13.2	13
Fife	13.4	14
Moray	13.4	14
Dundee City	14	16
Edinburgh City	14.8	17
Shetland Islands	14.8	17
South Lanarkshire	14.8	17
Perth & Kinross	15.8	20
East Lothian	16.4	21
Angus	17.2	22
Aberdeen City	17.6	23
Aberdeenshire	17.6	23
East Dunbartonshire	18.8	25
Orkney Islands	21.6	26
Argyll & Bute		
Dumfries & Galloway		
Eilean Siar		
Glasgow City		
Inverclyde		
Scottish Borders		

CORPORATE ASSET		
Local Authority	2018/19	Ranks
West Lothian	2.0	1
Angus	7.0	2
Stirling	7.0	2
East Ayrshire	7.5	4
Renfrewshire	8.0	5
North Ayrshire	8.5	6
Inverclyde	9.5	7
Orkney Islands	10.0	8
South Lanarkshire	10.0	8
Clackmannanshire	13.0	10
Falkirk	14.5	11
Glasgow City	14.5	11
Shetland Islands	14.5	11
Aberdeen City	16.0	14
East Lothian	16.0	14
Moray	16.5	16
West Dunbartonshire	16.5	16
East Dunbartonshire	17.0	18
Perth & Kinross	17.0	18
Argyll & Bute	18.0	20
North Lanarkshire	19.5	21
East Renfrewshire	20.0	22
South Ayrshire	20.5	23
Eilean Siar	23.5	24
Dumfries & Galloway	24.0	25
Dundee City	24.0	25
Fife	24.0	25
Scottish Borders	24.0	25
Aberdeenshire	24.5	29
Edinburgh City	25.5	30
Midlothian	27.5	31
Highland	28.0	32

ECONOMIC DEVELOPMENT		
Local Authority	2018/19	Rank
Aberdeenshire	10.3	1
West Lothian	12.2	2
Eilean Siar	12.2	3
Dundee City	12.6	4
Edinburgh City	12.6	4
Falkirk	13.1	6
North Ayrshire	13.9	7
Midlothian	14.9	8
Renfrewshire	14.9	8
North Lanarkshire	15.0	10
Dumfries & Galloway	15.1	11
East Renfrewshire	15.3	12
Perth & Kinross	15.6	13
Inverclyde	16.5	14
West Dunbartonshire	16.5	14
Stirling	16.9	16
South Ayrshire	17.1	17
Fife	17.2	18
Glasgow City	17.2	18
Moray	17.3	20
Aberdeen City	17.5	21
East Lothian	17.5	21
Orkney Islands	17.6	23
Clackmannanshire	17.9	24
Highland	17.9	24
Scottish Borders	17.9	24
East Dunbartonshire	18.5	27
Angus	18.6	28
Shetland Islands	19.3	29
South Lanarkshire	19.9	30
East Ayrshire	20.9	31
Argyll & Bute	21.9	32

MEETING: Council Executive

DATE: 6 October 2020

Note the action taken in terms of Standing
Order 31 (Urgent Business)

DATA LABEL: OFFICIAL



COUNCIL EXECUTIVE

FREE SCHOOL MEALS – HOLIDAY PROVISION

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To agree the provision for Free School Meals during the remaining school holidays (excluding the Public Holidays) within the current financial year.

B. RECOMMENDATION

That the Council Executive:

1. Notes the update on the uptake of free school meals provision during the summer holiday period.
2. Approves the proposal to provide all children entitled to free school meals with a packed lunch or pick-up a hot meal and a breakfast cereal bar/cereal during the remaining school holidays (excluding public holidays) within the current financial year 2020/21.
3. Approves the use of £254,000 of resources to fund the cost of the service during the current financial year 2020/21.
4. Notes that the free meals will be provided at 7 secondary schools and 34 primary schools, with an additional 5 primary schools continuing to distribute packed lunches only, and that delivery arrangements continue for Additional Support Needs (ASN) for Education during the remaining school holidays (excluding public holidays) as set out in Appendix 1.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; providing equality of opportunities and making best use of our resources
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Continued provision for children entitled to free school meals.
III	Implications for Scheme of Delegations to Officers	
IV	Impact on performance and performance	The proposals in the report will enable provision during September, October, Christmas and

	Indicators	February break.
V	Relevance to Single Outcome Agreement	Our children have the best start in life and are ready to succeed.
VI	Resources - (Financial, Staffing and Property)	The total cost of school meal provision over the period is estimated to be approximately £254,000 and this will be funded the contingency held within the 2020/21 General Fund revenue budget to cover potential food related costs.
VII	Other consultations	Finance, Education Services, Operational Services

D. TERMS OF REPORT

D.1 Background

- D 1.1 The council had previously agreed that all children entitled to free school meals would continue to receive a packed lunch or pick up a takeaway hot meal and a breakfast cereal bar/cereal during the summer holiday period.
- D.1.2 The service was accessible via 7 secondary schools and 34 primary schools, with an additional 5 primary schools continuing to distribute packed lunches only. Delivery arrangements continued for vulnerable children identified by Social Policy and Additional Support Needs (ASN) for Education.
- D.1.3 The uptake was 42% of those eligible and 2,400 meals were provided daily. In addition to this service, meal deliveries were made to Additional Support Needs (ASN) children with around 90 meals being delivered daily to 57 families.

D.2 Free Meal Provision during the remaining School Holiday Period 2020/21

- D 2.1 Further to the summer programme, it is now proposed that all children entitled to free school meals will be able to continue to receive a packed lunch or pick up a takeaway hot meal and a breakfast cereal bar/cereal at 7 secondary schools and 34 primary schools, with an additional 5 primary schools continuing to distribute packed lunches only, and that delivery arrangements continue for Additional Support Needs (ASN) for Education. The service will be extended to cover the remaining School Holiday period for 2020/21(excluding public holidays). This extension also takes account the Education Executive decision to allocate 4 additional holidays during its meeting on the 8 September 2020.
- D.2.2 The total cost of school meal provision during the remaining school holidays within the current financial year is approximately £254,000 excluding delivery on public holidays. This will be funded from the £505,000 balance held as a contingency to cover potential food related costs over the remainder of 2020/21, agreed by Council Executive on 18 August 2020.
- D.2.3 These arrangements will require sessional staff (cooks, cleaners and pupil support workers) to volunteer to work through their holiday period. Discussions with staff indicate that staffing resources should be available to meet this requirement. However to assist this Council Executive are being asked to agree the provision for the remainder of the financial year to give staff as much notice as possible of change in provision.

E. CONCLUSION

The proposal to extend the provision of free meals will enable the council to provide children entitled to free school meals with a packed lunch or pick up a takeaway hot meal and a breakfast cereal bar/cereal during the remaining school holiday periods (excluding public holidays) within the current financial year 2020/21.

F. BACKGROUND REFERENCES

Emergency actions taken under delegated powers and Standing Order 31 and reported to Council Executive on 26 May 2020

Council Executive, 26 May 2020 – COVID-19 Update on Estimated Financial Impact on the Council

Council Executive, 23 June 2020 – Re-opening of Schools and Early Learning and Childcare

Council Executive, 18 August 2020 – General Fund Revenue Budget Month 3 Monitoring Report

Education Executive, 8 September 2020 – Revised School Session Dates

Appendices/Attachments: Appendix 1 – Free School Meal Collection Points

Graeme Struthers
Depute Chief Executive
6 October 2020

APPENDIX I – FREE SCHOOL MEAL COLLECTION POINTS

Secondary schools open for takeaway hot meal or packed lunch:-

- Broxburn Academy
- Linlithgow Academy
- Inveralmond Community
- The James Young High School (to be replaced with Bankton Primary School)
- St Margaret's Academy
- St Kentigern's Academy
- Whitburn Academy

Primary schools open for takeaway hot meal or packed lunch:-

- Addiewell Primary School
- Armadale Primary School
- Balbardie Primary School
- Blackridge Primary School
- Boghall Primary School
- Bridgend Primary School
- Carmondean Primary School
- Deans Primary School
- East Calder Primary School
- Harrysmuir PS, Livingston
- Howden St Andrew's Primary School, Livingston
- Kirkhill Primary School, Broxburn
- Kirknewton Primary School
- Knightsridge PS, Livingston
- Letham Primary School
- Longridge Primary School
- Mid Calder Primary School
- Murrayfield Primary School, Blackburn
- Our Lady's Primary School, Stoneyburn
- Parkhead Primary School
- Polkemmet Primary School, Whitburn
- Pumpherston and Uphall Station Primary School
- Riverside Primary School, Livingston
- Simpson PS, Bathgate
- Springfield PS, Linlithgow
- St Anthony's, Armadale
- St John The Baptist Primary School, Fauldhouse
- St Mary's PS. Bathgate (to be replaced with Balbardie Primary School)
- St Mary's, Polbeth
- St Ninians PS, Livingston (to be replaced with Bankton Primary School, Livingston)
- Torphichen Primary School
- Westfield Primary School
- Winchburgh Primary School
- Woodmuir Primary School

Van collection points:-

- Bellsquarry Primary - layby in front of school
- Dechmont Infant School - main road in front of school
- Greenrigg Primary - main road in front of school
- Peel Primary - main school car park
- Seafeld Primary - Cousland Terrace (Behind School)

MEETING: Council Executive

DATE: 6 October 2020

Note the action taken in terms of Standing
Order 31 (Urgent Business)

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

LOCAL BUS PROVISION – BREICH VALLEY

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to advise Council Executive of the outcome of a tender process completed by Strathclyde Partnership for Transport (SPT) which has options for bus services within Breich and agree the council's response to a cross boundary contract request.

B. RECOMMENDATION

It is recommended that Council Executive;

1. Note the results of the tender exercise completed by SPT
2. Note the financial contribution required by the council;
3. Instruct officers to accept the cross-boundary contribution contract with SPT.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; developing employees; making best use of our resources; working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The council has a policy of supporting public transport services where resources permit. The Transport (Scotland) Act 1985 states that it is the duty of the council, in exercising their power, to conduct themselves as not to inhibit competition in the commercial market.
III Implications for Scheme of Delegations to Officers	None
IV Impact on performance and performance Indicators	The council has a target PI for Public Transport of having 90% of residents with access to an hourly or better daytime service Monday to Saturday. It is possible that changes in the commercial and subsidised network could impact this PI.
V Relevance to Single Outcome Agreement	The local bus network contributes to a number of outcomes by connecting communities with services and employment.

VI	Resources - (Financial, Staffing and Property)	The approved Public Transport budget for 2020/21 is £9.72 million. The budgeted cost for the previous LBS 71 is £86,452. The annual cost for the tendered LBS 34A service is £65,000.
VII	Consideration at PDSP	None
VIII	Other consultations	Financial Management Unit

D. TERMS OF REPORT

D.1 Background

Blue Bus Ltd, the operator for the LBS 71 Breich – Livingston bus service, has submitted a notice of termination on the LBS 71 contract. The contract had been temporarily suspended since the beginning of lockdown in March 2020 as the operator stated they were unable to fulfil the contract due to resource implications.

Officers continued to engage with Blue Bus throughout the various stages of lockdown to discuss options in accessing government grants which may help support them in returning to normal service levels. The most recent discussion however revealed that a loss of drivers following the lockdown restrictions has resulted in their inability to re-instate service 71 which has resulted in the formal termination.

The council is therefore required to consider public transport options, in particular relating to the Breich area, in order to tender and contract a replacement service.

D.2 Passenger Engagement Exercise

In order to ensure that Breich residents were not left without a local bus connection during the suspension of the LBS 71 service, the council extended the existing Demand-Responsive Taxibus service for Breich to mirror journeys provided by service 71. The taxibus journeys provided a connection between Breich and West Calder or Fauldhouse.

As part of the passenger engagement exercise, an online survey was published for Breich residents to provide feedback on both the LBS 71 service prior to lockdown as well as the DRT service which has been operating.

The survey closed on 7 September 2020 and responses have been analysed. The main theme from survey responses is that a bus service is the preferred option for travel within the area and that transport to Livingston is most utilised destination.

D.3 West Calder to Livingston Corridor

The council is only permitted to subsidise local bus services where it is not in competition with the commercial market.

Up until December 2019 the West Calder to Livingston section of the LBS 71 was operated on a commercial basis. In December 2019, there was a requirement to retender the service, and the council liaised with the commercial operators on this corridor to discuss the service provision within the area. There was no objection raised by the operators and a tender process progressed with a Livingston destination tender option. This then resulted in the council subsidising the entirety of the route from January 2020 including the previously commercial section.

Similarly, following the most recent cancellation the council has consulted with the commercial operators regarding the commercial elements of the route and any concern regarding commercial competition. Given the recent effect of COVID 19 on the local bus network and patronage both operators have expressed the view that the West Calder to Livingston corridor is well served commercially and any subsidy by the council would be in competition with the commercial market.

Therefore, the West Calder to Livingston section of the route cannot be included in any option tendering process however the council would continue to encourage commercial activity within the area.

D.4 Cross Boundary Tender with Strathclyde Partnership for Transport (SPT)

Separate to the LBS 71 cancellation the council has been notified by SPT that they are retendering the 34A service which currently is subsidised by SPT up to Forth and then runs commercially to Livingston via Whitburn.

SPT included an option in their tender welcoming additional bids which would connect to West Lothian and confirmed that a successful bid has been received providing a cross boundary service from Lanark to Livingston via Fauldhouse and Breich.

SPT have therefore offered a cross boundary contract agreement where SPT would provide subsidy for the Lanark to Shotts via Forth section of the route and West Lothian Council would subsidise the section from Fauldhouse to West Calder via Breich. The latter section of the route to Livingston would therefore be provided on a commercial basis ensuring that the council is not directly competing with the commercial market.

This contract option would provide the council with a public transport link for the Breich maintaining the service through to Livingston whilst also creating a new cross boundary link for Breich residents to South Lanarkshire which was not previously in place.

D.5 Resource and Financial Implications

The approved Public Transport budget for 2020/21 is £9.72 million. The budgeted cost for the previous LBS 71 is £86,452.

The cross-boundary contribution contract with SPT would be an annual cost of £65,000 which is approximately a £20,000 annual saving.

D.6 Next Steps

Should the council wish to accept the cross-boundary contribution contract formal confirmation to SPT is required by 16 September 2020.

SPT will then submit a short notice application to the Office of the Traffic Commissioner requesting a service start date of Monday 28 September 2020.

E. CONCLUSION

Blue Bus Ltd has submitted formal cancellation of the subsidised LBS 71 contract and therefore the council is required to seek an alternative service for the Breich area. SPT have completed a tender exercise which has resulted in an offer to West Lothian Council for a cross boundary contribution contract which would provide a service from Lanark to Livingston via Fauldhouse and Breich starting on Monday 28th September. This service provides an enhanced service within available budget.

F. BACKGROUND REFERENCES

None

Contact Person: Nicola Gill, Interim Public Transport Manager, Tel: 01506 282317,
Email: nicola.gill@westlothian.gov.uk

Jim Jack

Head of Operational Services

15 September 2020