



Corporate Policy and Resources Policy Development and Scrutiny Panel

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

3 February 2023

A hybrid meeting of the **Corporate Policy and Resources Policy Development and Scrutiny Panel** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre, Livingston** on **Monday 13 February 2023** at **11:00am**.

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Declarations of Interest - Members must declare any interests they have in the items of business for consideration at the meeting, identifying the relevant agenda items and the nature of their interests.
3. Order of Business, including notice of urgent business and declarations of interest in any urgent business
4. Minutes :-
 - (a) Confirm Draft Minutes of Meeting of Corporate Policy and Resources Policy Development and Scrutiny Panel held on Monday 12 December 2022 (herewith)
 - (b) Confirm Draft Minutes of Meeting of Corporate Policy and Resources Policy Development and Scrutiny Panel held on Thursday 26 January 2023 (herewith)
5. Statutory Officer Roles in the Scheme of Delegations - report by Chief Executive Manager (herewith)
6. Scottish Government Consultation - Electoral Reform - report by Chief

Executive (herewith)

7. Proposal to Rename the Beecraigs Field Archery Area in Memory of Jim Greig - report by Head of Operational Services (herewith)
8. Sickness Absence (1 April to 31 December 2022) - report by Head of Corporate Services (herewith)
9. Pensions Discretions - Shared Additional Voluntary Contributions - report by Head of Corporate Services (herewith)
10. Horizon Scan - joint report by Head of Finance and Property Services and Head of Planning, Economic Development and Regeneration (herewith)
11. Social Security, Benefits and Welfare Reform Update - report by Head of Finance and Property Services (herewith)
12. Non-Domestic Rates Empty Property Relief Policy - report by Head of Finance and Property Services (herewith)
13. Workplan (herewith)

NOTE **For further information please contact val Johnston, Tel No.01506 281604 or email val.johnston@westlothian.gov.uk**



CODE OF CONDUCT AND DECLARATIONS OF INTEREST (2021)

This form is a reminder and an aid. It is not a substitute for understanding the Code of Conduct and guidance.

Interests must be declared at the meeting, in public.

Look at every item of business and consider if there is a connection.

If you see a connection, decide if it amounts to an interest by applying the objective test.

The objective test is whether or not a member of the public with knowledge of the relevant facts would reasonably regard your connection to a particular matter as being so significant that it would be considered as being likely to influence your discussion or decision-making.

If the connection does not amount to an interest then you have nothing to declare and no reason to withdraw.

If the connection amounts to an interest, declare it as soon as possible and leave the meeting when the agenda item comes up.

When you declare an interest, identify the agenda item and give enough information so that the public understands what it is and why you are declaring it.

Even if the connection does not amount to an interest you can make a statement about it for the purposes of transparency.

More detailed information is on the next page.

Look at each item on the agenda, consider if there is a “connection”, take advice if necessary from appropriate officers in plenty of time. A connection is any link between the item of business and:-

- you
- a person you are associated with (e.g., employer, business partner, domestic partner, family member)
- a body or organisation you are associated with (e.g., outside body, community group, charity)

Anything in your Register of Interests is a connection unless one of the following exceptions applies.

A connection does not exist where:-

- you are a council tax payer, a rate payer, or a council house tenant, including at budget-setting meetings
- services delivered to the public are being considered, including at budget-setting meetings
- councillors’ remuneration, expenses, support services or pensions are being considered
- you are on an outside body through a council appointment or nomination unless it is for regulatory business or you have a personal conflict due to your connections, actions or legal obligations
- you hold a view in advance on a policy issue, have discussed that view, have expressed that view in public, or have asked for support for it

If you see a connection then you have to decide if it is an “interest” by applying the objective test. The objective test is whether or not a member of the public with knowledge of the relevant facts would reasonably regard your connection to a particular matter as being so significant that it would be considered as being likely to influence your discussion or decision-making.

If the connection amounts to an interest then:-

- declare the interest in enough detail that members of the public will understand what it is
- leave the meeting room (physical or online) when that item is being considered
- do not contact colleagues participating in the item of business

Even if decide your connection is not an interest you can voluntarily make a statement about it for the record and for the purposes of transparency.

The relevant documents are:-

- [Councillors’ Code of Conduct, part 5](#)
- [Standards Commission Guidance, paragraphs 129-166](#)
- [Advice note for councillors on how to declare interests](#)

If you require assistance, contact:-

- James Millar, Interim Monitoring Officer and Governance Manager, 01506 281613, james.millar@westlothian.gov.uk
- Carol Johnston, Chief Solicitor and Depute Monitoring Officer, 01506 281626, carol.johnston@westlothian.gov.uk
- Committee Services Team, 01506 281604, 01506 281621
committee.services@westlothian.gov.uk

January 2022

MINUTE of MEETING of the CORPORATE POLICY AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, on 12 DECEMBER 2022.

Present – Councillors Kirsteen Sullivan (Chair), Tony Boyle (substituting for Councillor Lawrence Fitzpatrick), Janet Campbell, Tom Conn, Damian Doran-Timson, Lynda Kenna and George Paul

Apologies – Councillor Lawrence Fitzpatrick (Chair); Malcolm Hill (Joint Forum of Community Councils)

1 DECLARATIONS OF INTEREST

Councillor Janet Campbell stated a connection as an NHS Lothian employee.

2 MINUTES

The Panel approved the minute of its meeting held on 23 September 2022. The minute was thereafter signed by the Chair.

3 INTRODUCTION OF TARIFFS FOR ELECTRIC VEHICLE CHARGING

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services presenting proposal for the introduction of tariffs for use of the electric vehicle (EV) public charging network from 1 February 2023.

It was recommended that the Panel:

1. Note the contents of the report and the attached appendices;
2. Note the context and rationale for introducing a tariff;
3. Consider and comment on the proposals to introduce tariffs for use of council operated EV charging facilities; and
4. Note that it was intended to submit the proposals to the Council Executive for approval on 20 December 2022 prior to the introduction of tariffs on 1 February 2023.

Decision

1. To note the content of the report; and
2. To agree that the report be presented to a future meeting of Council Executive for approval.

4 SCOTTISH WELFARE FUND BUDGET AND FUNDING REPORT

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an appraisal of the potential risk to the Scottish Welfare Fund Budget from 2023/24 onwards.

The Panel was asked to:

1. Note the potential impact on the available Scottish Welfare Fund budget in 2023/24 if there was no significant increase in Scottish Government funding;
2. Note the current Scottish Welfare Fund spend as outlined in D.3 of the report; and
3. Note the progress of the ongoing Scottish Government Scottish Welfare Fund review.

Decision

To note the content of the report.

5 UPDATE ON APPROACH TO ENHANCING SUPPORT FOR CUSTOMERS IN RELATION TO CORPORATE DEBTS DUE TO THE COUNCIL

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the council's Corporate Debt approach and progress relating to this.

It was recommended that the Panel note the progress made in implementing the approach and the plans for progressing with the approach.

Decision

To note the content of the report.

6 CORPORATE ASSET MANAGEMENT STRATEGY - ANNUAL PERFORMANCE UPDATE 2021/22

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing a review of the Corporate Asset Management Strategy for the financial year 2021/22, including progress against the planned actions and an overview of the performance to date.

It was recommended that the Panel:

1. Note the performance against the outcomes; and
2. Note the progress made in implementing the key activities and action.

Decision

To note the content of the report.

7 PROPERTY ASSET MANAGEMENT - PERFORMANCE UPDATE 2021/22

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the performance of the council's operational property assets during the 2021/22 financial year.

It was recommended that the Panel note:

3. The overall condition of operational property assets during 2021/22;
4. The overall suitability of operational property assets during 2021/22;
5. The overall performance of operational property assets during 2021/22; and
6. The projects that had contributed to delivery of the council's property asset management priorities.

Decision

To note the content of the report.

8 2022/23 FINANCIAL PERFORMANCE – MONTH 6 MONITORING REPORT

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the performance of the council's operational property assets during the 2021/22 financial year.

It was recommended that the Panel note:

1. The overall condition of operational property assets during 2021/22;
2. The overall suitability of operational property assets during 2021/22;
3. The overall performance of operational property assets during 2021/22; and
4. The projects that had contributed to delivery of the council's property asset management priorities.

Decision

To note the content of the report.

9 SCOTTISH PUBLIC SERVICES OMBUDSMAN: ANNUAL REPORT 2021-22

The Panel considered a report (copies of which had been circulated) by the Chief Executive providing an update on the Scottish Public Services Ombudsman's Annual Report 2021/2022.

The Panel was asked to:

1. Note the Scottish Public Services Ombudsman's (SPSO) Annual Report 2021/22;
2. Note West Lothian Council's performance in relation to the number of complaints received by the SPSO and the outcome; and
3. Note the learning from SPSO complaints which was appended to the report for information.

Decision

To note the content of the report.

10 LIBRARY AND MUSEUM SERVICES PERFORMANCE REPORT

The Panel considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services which provided an update on Library and Museum services performance and activities from April 2022 to September 2022.

The Panel was asked to note the performance and activities of the Library and Museum Service for the period April 2022 to September 2022 contained in Appendix 1 of the report.

Decision

To note the content of the report.

11 MUSEUMS ACCESS POLICY REPORT

The Panel considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services presenting a copy of the draft Museums Access Policy, 2022-2027.

It was recommended that the Panel consider and provide comment on the draft Museums Access Policy, 2022-2027, which would be presented to Council Executive for approval.

Decision

1. To note the content of the report and of the draft Museums Access Policy 2022-2027; and
2. To agree that the report be presented to a future meeting of Council Executive for approval.

12 ARMED FORCES ACT 2021 AND ARMED FORCES COVENANT DUTY STATUTORY GUIDANCE 2022

The Panel considered a report (copies of which had been circulated) by the Depute Chief Executive (Education, Planning and Economic Development) providing an update on the Armed Forces Act 2021, the Armed Forces Covenant Duty Statutory Guidance, outlining the implications for West Lothian Council and setting out what officers were doing to implement its obligations.

It was recommended that the Panel:

1. Note the publication of the Armed Forces Covenant Duty Statutory Guidance;
2. Note the key areas of focus of the Duty;
3. Note that the Duty had come into force on 22 November 2022; and
4. Note the process officers had put in place to implement the Duty locally.

Decision

To note the content of the report.

13 HORIZON SCAN

The Panel considered a joint report (copies of which had been circulated) by the Head of Finance and Property Services and the Head of Planning, Economic Development and Regeneration providing the Panel with a summary of the latest economic indicators and announcements for the UK, Scotland and West Lothian, particularly regarding the implications of the Covid-19 pandemic and the potential impact on the council.

It was recommended that the Panel note:

1. The results of the horizon scan for the UK, Scotland, West Lothian and West Lothian Council; and
2. The risks and uncertainties in relation to the council's budget model.

Decision

To note the content of the report.

14 QUARTERY PERFORMANCE REPORT – QUARTER TWO OF 2022/23

The Panel considered a report (copies of which had been circulated) by the Deputy Chief Executive (Corporate, Operational and Housing) providing the current level of performance for all indicators that supported the council's Corporate Plan and were the responsibility of the Corporate Policy and Resources Policy Development and Scrutiny Panel.

It was recommended that the Panel note the performance information and determine if further action or enquiry was necessary for any of the performance indicators in the report.

Decision

To note the content of the report.

15 WEST LOTHIAN COUNCIL GAELIC LANGUAGE PLAN MONITORING REPORT

The Panel considered a report (copies of which had been circulated) by the Head of Corporate Services providing a draft submission of the first monitoring report for West Lothian Council's Gaelic Language Plan, prior to its submission to the Bord na Gaidhlig.

It was recommended that the Panel note the first monitoring report which was appended to the report.

Decision

To note the content of the report.

16 SICKNESS ABSENCE (1 APRIL 2022 – 30 SEPTEMBER 2022)

The Panel considered a report (copies of which had been circulated) by Head of Corporate Services providing a report on sickness absence rates during the period 1 April 2022 to 30 September 2022 and providing an update on the ongoing application of the council's Policy & Procedure on Managing Supporting Attendance at Work.

The Panel was asked to note the content of the report.

Decision

To note the content of the report.

17 ICT ASSET MANAGEMENT PLAN (2019/20 to 2027/28) – ANNUAL REVIEW

The Panel considered a report (copies of which had been circulated) by the Head of Corporate Services providing a review of the ICT Asset Management Plan 2019/20 to 2027/28, including progress against planned outcomes and an overview of the performance to date.

It was recommended that the Panel:

1. Note the performance against the planned outcomes; and
2. Note the progress made in delivering the planned capital investment.

Decision

To note the content of the report.

18 WORKPLAN

A workplan had been circulated for information.

Decision

To note the workplan.

MINUTE of MEETING of the CORPORATE POLICY AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, on 26 JANUARY 2023.

Present – Councillors Lawrence Fitzpatrick (Chair), Kirsteen Sullivan, Tom Conn, Damian Doran-Timson, Lynda Kenna and George Paul

Apologies – Councillor Janet Campbell

In Attendance – Malcolm Hill (Joint Forum of Community Councils representative); Jane Ridgway and Steven Dunn (Joint Trade Union Representatives)

1. OPENING REMARKS

The Chair opened the meeting by outlining the budget savings measures that the council was having to implement in order to achieve a balanced budget and that all 32 local authorities found themselves in a similar position.

He continued by explaining the role of the Panel in scrutinising officer's proposals on where the Council could make potential budget savings; this was following an extensive consultation exercise undertaken in 2022. Any comments made by Panel Members would be noted and used in a section of the report going to the budget-setting meeting of Council at a later date.

2. DECLARATIONS OF INTEREST

Agenda Item 4 (Revenue Budget Strategy 2023/24 to 2027/28) – Councillor T Conn stated a connection as Convenor of the Lothian Valuation Joint Board.

3. REVENUE BUDGET STRATEGY 2023/24 TO 2027/28

The Panel considered a report (copies of which had been circulated) by Leader Officer for the Panel which provided an update on the council's medium term financial plan and summarises a number of potential saving options relevant to the remit of this Panel to address the council's budget gap over the three year period 2023/24 to 2025/26, including responses from the WL2028 Your Council, Your Say Phase 2 consultation.

It was recommended that the Panel :-

1. Notes the outcome of the WL2028 Your Council, Your Say Phase 2 consultation and comments, as set out in Appendices 1 and 2;
2. Notes the updated revenue budget gap of £47.6 million, demonstrating the hugely challenging financial position facing the council over the next five years;
3. Notes work undertaken to date by officers in developing the five

year revenue financial plan for the period 2023/24 to 2027/28;

4. Notes officer saving options, relevant to the remit of the Panel, as set out in Appendix 4 of the report;
5. Notes the Integrated Relevance Assessments for all proposed savings options and Integrated Impact Assessments (IIA) where the options are assessed as having a potential impact on a protected group or characteristic, as set out in Appendix
6. Notes that following conclusion of the PDSPs to consider potential saving options, the Head of Finance and Property Services will present a report to full Council on 21 February 2023 containing a five year revenue financial plan and a three year detailed revenue budget for 2023/24 to 2025/26

The Panel then asked a series of questions on some of those matters detailed in the committee report including community centres (including asset transfers), libraries, swimming pools, energy mitigation measures, demands on the councils Anti-Poverty Service, the Civic Centre café, Member Services and lone workers safety measures.

Decision

To note the content of the report

4. COUNCIL TAX SCENARIOS

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing members with an appraisal of potential future council tax increases to inform discussions on the approach to achieving a balanced revenue budget for 2023/24, which is the first year of the revenue strategy for the period 2023/24 to 2027/28, and to consider council tax scenarios for future years beyond 2023/24 to contribute to a sustainable budget strategy for these years.

It was recommended that the Panel :-

1. Notes that the budget model has been updated to assume a 4.5% increase in council tax each year from 2023/24 to 2027/28 as reported to Council Executive on 17 January 2023;
2. Notes that an annual 4.5% increase would raise £23.6 million over five years, constituting a key element in balancing the council's budget;
3. Notes that in 2023/24, a 4.5% increase for a Band D property would result in an additional cost of £4.93 per month or £1.14 per week;
4. Notes the current rate of collection and that officers will continue to monitor collection rates monthly and benchmarking information

annually;

5. Notes the significant mitigations in place to assist low income households in relation to council tax;
6. Notes the responses received in the WL2028 Your Council, Your Say Phase 2 consultation regarding council tax.

Decision

To note the content of the report

5. ASSET MANAGMENT STRATEGY AND TEN YEAR CAPITAL PROGRAMME

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing the members with an update on the approach to developing the council's ten year capital programme for the period 2023/24 to 2032/33, which meets the longer term approach to asset investment and planning agreed by West Lothian Council on 15 February 2022.

It was recommended that the Panel :-

1. Notes the work undertaken to date by officers to prepare an asset management strategy and a ten year capital programme for the period 2023/24 to 2032/33;
2. Notes that the Head of Finance and Property Services will present a report to West Lothian Council on 21 February 2023 on the capital asset management strategy and the capital
3. Notes that the report to Council in February 2023 will meet the requirements agreed by Council in February 2022 and the requirements of the Prudential Code

Decision

To note the content of the report

DATA LABEL: PUBLIC



CORPORATE POLICY & RESOURCES POLICY DEVELOPMENT & SCRUTINY PANEL

STATUTORY OFFICER ROLES IN THE SCHEME OF DELEGATIONS

REPORT BY CHIEF EXECUTIVE

A PURPOSE OF REPORT

To consider an updated set of role descriptions for significant statutory posts and related amendments to the Scheme of Delegations to Officers.

B RECOMMENDATIONS

To consider the following recommendations that will be reported to Council Executive for determination:-

1. To agree the updated and revised role descriptions in the appendix for the statutory officer posts of Head of Paid Service, Chief Financial Officer, Monitoring Officer, and Chief Social Work Officer, and a new role description for the Data Protection Officer
2. To amend the Scheme of Delegations by inserting those new descriptions in its Appendix 3 and by making the necessary additions and amendments elsewhere in the Scheme to reflect those new descriptions
3. To delegate authority to the Chief Executive to make temporary or interim appointments to the posts as and when required, and (except for the Monitoring Officer post) to appoint deputies in consultation, where practicable, with the relevant postholder
4. In light of current changes being implemented in relation to Information Governance responsibilities, to delegate authority to the Chief Executive to make a permanent new appointment to the post of Data Protection Officer
5. To appoint the Governance Manager to be Monitoring Officer on a permanent basis

C SUMMARY OF IMPLICATIONS

- | | |
|---|---|
| I Council Values | Being honest, open and accountable |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | Local Government (Scotland) Act 1973; Local Government & Housing Act 1989; Social Work (Scotland) Act 1968; Data Protection Act 2018; Scheme of Delegations to Officers |
| III Implications for Scheme of | The Scheme will be amended as set out in the |

	Delegations to Officers	report
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	Ongoing
VIII	Other consultations	Head of Finance & Property Services; Chief Solicitor; Head of Corporate Services; Head of Social Policy; Governance Manager

D TERMS OF REPORT

- 1 Scottish councils are empowered to employ or appoint the officers they determine are required to carry out their statutory functions and then to allocate duties and responsibilities as they see fit. However, there is a variety of posts that are required by statute, referred to as "Proper Officers". They are appointed to discharge statutory functions but may have other contractual and management duties which arise through contractual arrangements. The statutory role is assigned and attached to a substantive post in the council's management structure.
- 2 A small number of those Proper Officer posts carry substantial responsibilities and are significant in terms of corporate governance and legal compliance. Those posts are as follows:-
 - Head of Paid Service, to co-ordinate the discharge of the council's functions and to organise and employ staff
 - Chief Financial Officer, to have responsibility for the arrangements the council makes for the proper administration of its financial affairs
 - Chief Social Work Officer, to ensure the provision of appropriate professional advice in relation to specified social work and social care functions
 - Monitoring Officer, to ensure legal compliance and prevent unlawful action by the council
 - Data Protection Officer, to provide professional advice and secure the council's compliance with all aspects of data protection
- 3 There are role descriptions for the first four of those positions in Appendix 3 to the Scheme of Delegations to Officers. Those are due to be reviewed. Draft revised role descriptions for them are in the appendix. A role description for the Data Protection Officer has not been included before. A draft role description for that post is also in the appendix.
- 4 The five descriptions follow the same format. They include only the statutory aspects. Any additional corporate or management duties will be specified either in the contract of employment or services for the substantive positions held by the postholders, or through delegation from senior management.

- 5 Vacancies occur from time to time in these posts. To allow gaps to be filled quickly, authority is sought to allow the Chief Executive to make temporary or interim appointments. Permanent appointments will require approval by full council or Council Executive.
- 6 Of the five posts, only the Monitoring Officer requires a depute to be appointed. Legislation says that is for the Monitoring Officer to do. A depute for the other four position may be required from time to time, for example, during prolonged periods of absence. Authority is sought to allow that to be done by the Chief Executive. There would be prior consultation with the postholder where that is practicable.
- 7 There is work ongoing in relation to responsibility in the council for Information Governance. That covers not just data protection but also other regimes such as freedom of information and records management. To enable a fresh appointment to be made promptly it is recommended that committee delegates authority to the Chief Executive to do so. The post is currently attached to the post of Head of Corporate Services and that will remain the case until the Chief Executive makes a new appointment.
- 8 On 18 January 2022 Council Executive appointed the Governance Manager to be Monitoring Officer on an interim basis as a result of temporary changes at Head of Service level. It is recommended that appointment is now made permanent.
- 9 Approval of the recommendations in the report will require a small number of adjustments in the Scheme to complement the new role descriptions in its Appendix 3, for example, to reflect the new authority delegated to the Chief Executive. Those changes will be made as a matter of routine by the Governance Manager when the quarterly update is made to the Scheme to catch council and committee decisions and management changes.

E CONCLUSION

Approval of the five role descriptions in the appendix will ensure the council's arrangements for those statutory positions are complete and up-to-date. The changes recommended to the Scheme of Delegations will properly record where those statutory responsibilities lie.

F BACKGROUND REFERENCES

- 1 [Scheme of Delegations to Officers](#)
- 2 Council Executive, 22 January 2022

Appendices/Attachments: 1. Draft role descriptions

Contact Person: James Millar, Governance Manager, Chief Executive's 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: 13 February 2023

APPENDIX

ROLE DESCRIPTIONS

HEAD OF PAID SERVICE	
1	Legislation and guidance
1.1	The Head of Paid Service is a statutory appointment by virtue of section 4 of the Local Government and Housing Act 1989 (the 1989 Act).
1.2	There is no statutory or other recognised guidance about the post.
1.3	By virtue of section 2(1)(a) of the 1989 Act, the Head of Paid Service is a politically restricted post.
2	Appointment
2.1	Permanent appointments must be made by full council or a committee with appropriate powers. Temporary or interim appointments may be made by the Chief Executive (Council Executive, 18 January 2022).
2.2	The appointment is identified in the council's Scheme of Delegations to Officers in the entries relating to the substantive post held. It is also included in the list of Proper Officer appointments in Appendix 2 to the Scheme. The officer appointed will have corporate and management responsibilities and employment duties, not included here, arising from their substantive post.
3	Qualifications
3.1	The law does not require the Head of Paid Service to hold any specific qualifications. However, they are expected to have appropriate standing, leadership, communication and interpersonal skills, and qualities of integrity and impartiality in order to deliver the objectives of the post.
3.2	The statutory responsibilities and duties of the post point to the post-holder being at the highest level of senior management. Typically, councils appoint their Chief Executives to the post. That is a matter of practice only.
4	Duties and powers
4.1	The statutory duties of the post are:-
	<ul style="list-style-type: none"> to co-ordinate the discharge of the council's different functions
	<ul style="list-style-type: none"> to determine the number and grades of staff required for the discharge of the council's functions
	<ul style="list-style-type: none"> to organise the council's staff
	<ul style="list-style-type: none"> to appoint and properly manage the council's staff
4.2	The Head of Paid Service has both a power and a duty to make a statutory report to full council where considered appropriate in respect of the four duties above.

4.3	The council's Scheme of Delegations describes decisions and actions that may be taken without reference to elected members and so those where committee or council decisions are required. It may be necessary or advisable to seek approval from members in certain circumstances. The Scheme also permits sub-delegation of authority to other council officers to act in their name and on their behalf.
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CHIEF FINANCIAL OFFICER	
1	Legislation and guidance
1.1	The Chief Financial Officer is a statutory appointment by virtue of section 95 of the Local Government (Scotland) Act 1973 (the 1973 Act). It is sometimes referred to as "the Section 95 Officer". The post is established under different legislation to its equivalent in England and Wales where the legislation is more prescriptive and expansive about the role, powers and responsibilities.
1.2	There is no statutory guidance about the post. The Chartered Institute of Public Finance and Accountancy's "Statement on the Role of the Chief Financial Officer in Local Government" (2016) provides well-regarded advice and assistance (CIPFA Statement).
1.3	By virtue of section 2(1)(b) and (6)(d) of the Local Government and Housing Act 1989 (the 1989 Act), the Chief Financial Officer is a politically restricted post.
2	Appointment
2.1	Permanent appointments must be made by full council or a committee with appropriate powers. Temporary or interim appointments may be made by the Chief Executive (Council Executive, 18 January 2022).
2.2	The same person cannot hold the statutory post of Monitoring Officer (section 5(1) of the 1989 Act).
2.3	The appointment is identified in the council's Scheme of Delegations to Officers in the entries relating to the substantive post held. It is also included in the list of Proper Officer appointments in Appendix 2 to the Scheme. The officer appointed will have corporate and management responsibilities and employment duties, not included here, arising from their substantive post. The CIPFA Statement is a useful source for identifying what those related, but non-statutory, duties should comprise.
3	Qualifications
3.1	The law does not require the Chief Financial Officer to hold any specific qualifications. Legislation for the English and Welsh equivalents requires membership of a specified accountancy body. The CIPFA Statement recognises that as widely-acknowledged good practice.
3.2	The statutory responsibilities and duties of the post point to the post-holder being at the highest level of senior management, holding accountancy qualifications and relevant professional body membership.
4	Duties and powers

4.1	The principal statutory duty of the post is to have responsibility for the administration of the arrangements that must be made by the council for the proper administration of its financial affairs (section 95 of the 1973 Act). The Chief Financial Officer must therefore ensure those arrangements are made and then take responsibility for their administration.
4.2	“Proper administration” is not defined in law. Drawing on the CIPFA Statement, it comprises:-
4.3	<ul style="list-style-type: none"> ensuring compliance with statutory requirements for accounting and internal audit
	<ul style="list-style-type: none"> ensuring corporate responsibility for securing proper administration of the council’s financial affairs, including observing proper accounting practices
	<ul style="list-style-type: none"> managing the council’s financial affairs in all its dealings
	<ul style="list-style-type: none"> recognising the fiduciary responsibility owed by the council to local taxpayers
4.4	“Financial affairs” is not defined in law either. Its components (for example, funds and accounts, investments, borrowing, council tax setting and collection) are found in a wide range of primary and secondary legislation (not listed here).
4.5	In one area of financial administration, statutory duties are imposed directly on the Chief Financial Officer rather than on the council as a corporate body. Those relate to audit of the council’s accounts and are found in the Local Authority Accounts (Scotland) Regulations 2014. They require the Chief Financial Officer to:-
	<ul style="list-style-type: none"> set up and maintain accounting control systems, and accounting records and supporting accounting records, ensuring the accounting control systems are observed and that accounting records are kept up to date - regulation 6(6) and 6(7)
	<ul style="list-style-type: none"> ensure the statement of responsibilities in the annual accounts accurately reflects the Chief Financial Officer’s responsibilities – regulation 8(5)
	<ul style="list-style-type: none"> ensure the financial statements in the annual accounts give a true and fair view of the council and its group’s financial position at the end of the financial year and of their transactions for that year – regulation 8(5)
	<ul style="list-style-type: none"> certify those matters by signing and dating the statement of responsibilities and the balance sheets in the annual accounts – regulation 8(6)
	<ul style="list-style-type: none"> submit the annual accounts to the auditor no later than 30th June each year – regulation 8(6) and (7)
	<ul style="list-style-type: none"> advise the council as to whether the audited annual accounts should be signed – regulation 10(2)
	<ul style="list-style-type: none"> after approval of the annual accounts for signature, sign the statement of responsibilities and the balance sheets in the annual accounts – regulation 10(3)
	<ul style="list-style-type: none"> certify that the financial statements give a true and fair view of the council and its group’s financial position at the end of the financial year and of their transactions for that year – regulation 10(6)

	<ul style="list-style-type: none"> • after signature of the annual accounts, provide the Annual Accounts, including the signed statements, to the auditor – regulation 10(7)
4.6	The council's Scheme of Delegations describes decisions and actions that may be taken without reference to elected members and so those where committee or council decisions are required. It may be necessary or advisable to seek approval from members in certain circumstances. The Scheme also permits sub-delegation of authority to other council officers to act in their name and on their behalf.

CHIEF SOCIAL WORK OFFICER	
1	Legislation and guidance
1.1	The Chief Social Work Officer is a statutory appointment by virtue of section 3 of the Social Work (Scotland) Act 1968 (the 1968 Act). The Chief Social Work Officer role was established to ensure the provision of appropriate professional advice in the discharge of specified statutory functions.
1.2	The council must carry out its social work functions under the general guidance of the Scottish Ministers (section 5(1) of the 1968 Act). The Ministers have issued guidance to councils in relation to the Chief Social Work Officer post. It describes and summarises the competencies expected and the duties, rights and responsibilities attaching to the post.
1.3	Further information on the skills and competencies required of the Chief Social Work Officer is in the Standard for Chief Social Work Officers (issued by the Scottish Social Services Council in July 2015) .
1.4	The Chief Social Work Officer is <i>ex officio</i> a non-voting member of the West Lothian Integration Joint Board (regulation 3(1)(c) of the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014). The board is responsible for carrying out older people's and adult health and social care services. The Chief Social Work Officer performs a similar role there, in relation to the functions delegated to the Integration Joint Board..
1.5	The post is a politically restricted post by virtue of section 2(1)(b) and (6)(c) of the 1989 Act.
2	Appointment
2.1	Permanent appointments must be made by full council or a committee with appropriate powers. Temporary or interim appointments may be made by the Chief Executive (Council Executive, 18 January 2022).
2.2	The appointment is identified in the council's Scheme of Delegations to Officers in the entries relating to the substantive post held. It is also included in the list of Proper Officer appointments in Appendix 2 to the Scheme. The officer appointed will have corporate and management responsibilities and employment duties, not included here, arising from their substantive post.
2.3	The Chief Social Work Officer should have direct access to people and information across the local authority, including the Chief Executive, elected members,

	managers and frontline practitioners. They must be able to bring matters covered by legislation and guidance to the attention of the Chief Executive and elected members to ensure that professional standards and values are maintained, that personal freedoms are not unnecessarily and disproportionality curtailed, that individuals and the general public are protected, that services are delivered lawfully, competently and in accordance with professional standards, and that significant case reviews and learning reviews are carried out and improvements made following incidents that resulted in or may have resulted in death or serious harm.
2.4	The Chief Social Work Officer may be a member of the senior management team. If not, they must be guaranteed appropriate access and influence at the most senior level and given adequate support. Although they may be line-managed in administrative and employment terms, their statutory rights and responsibilities require that they are not subject to direction in relation to the Chief Social Work Officer's statutory role.
3	Qualifications
3.1	The 1968 Act allows the Scottish Ministers to prescribe the qualifications required of the Chief Social Work Officer. That has been done through the Qualifications of Chief Social Work Officers (Scotland) Regulations 1996. In short, the post-holder must be a qualified social worker. The regulations require the possession of a certificate or diploma awarded under UK legislation or their equivalent from further of the UK.
3.2	The Chief Social Work Officer should have extensive experience at a senior level of both operational and strategic management of social work and social care services. They should have the competence and confidence to provide effective professional advice at all levels within the organisation and with the full range of partner organisations.
4	Duties and powers
4.1	The statutory functions covered by the Chief Social Work Officer post are those contained in the 1968 Act itself and those listed in section 5(1B) of the Act. That list is updated from time to time as and when legislation creates new functions. In addition, there are a small number of areas of decision-making where legislation confers functions directly on the Chief Social Work Officer. Those arise where individual freedom may be curtailed and where the protection of both individuals and the public is concerned. Such decisions may be delegated to a suitably qualified, experienced and senior social worker. The Chief Social Work Officer retains overall responsibility for ensuring quality and oversight of the decisions.
4.2	The Chief Social Work Officer is responsible for providing professional leadership and support for social workers, social work students and staff in social work services, promoting values and standards of professional practice, and ensuring adherence with the relevant Codes of Practice and other professional requirements and standards. They should be visible and available to any social services worker requiring professional advice and practice guidance, and must provide professional advice to senior managers across the authority and its partners in support of strategic and corporate agendas. They should seek to enhance professional leadership and accountability to support the quality of service and delivery. The Chief Social Work Officer also has a contribution to make at a strategic level, in advising on specification and standards for commissioned services, in workforce planning, in supporting overall performance improvement, and in the management of corporate risk.

4.3	The Chief Social Work Officer should promote partnership working across professions and agencies to support the delivery of integrated services. They should assist partner organisations in understanding the complexities and cross-cutting nature of social work service delivery and the key role social work plays in contributing to the achievement of a wide range of national and local outcomes.
4.4	The Chief Social Work Officer should also produce and publish an annual report, in accordance with a national template, on the functions of the Chief Social Work Officer role and delivery of the council's social work services functions.
4.5	The council's Scheme of Delegations describes decisions and actions that may be taken without reference to elected members and so those where committee or council decisions are required. It may be necessary or advisable to seek approval from members in certain circumstances. The Scheme also permits sub-delegation of authority to other council officers to act in their name and on their behalf. The Scheme also provides that they are not subject to direction from more senior management in relation to the Chief Social Work Officer's statutory role.

MONITORING OFFICER	
1	Legislation and guidance
1.1	The Monitoring Officer is a statutory appointment by virtue of section 5 of the Local Government and Housing Act 1989 (the 1989 Act). The terms of section 5 are different for councils in England and Wales and the statutory role there is more expansive.
1.2	There is no statutory guidance in Scotland about the post. The Standards Commission for Scotland has produced a non-statutory Advice Note on the Role of the Monitoring Officer , but only in relation to the ethical standards framework and the Councillors' Code of Conduct (see 2.2, below).
1.3	By virtue of section 2(1)(e) of the 1989 Act, the Monitoring Officer is a politically restricted post.
2	Appointment
2.1	Permanent appointments must be made by full council or a committee with appropriate powers. Temporary or interim appointments may be made by the Chief Executive (Council Executive, 18 January 2022).
2.2	The appointment is identified in the council's Scheme of Delegations to Officers in the entries relating to the substantive post held. It is also included in the list of Proper Officer appointments in Appendix 2 to the Scheme. The officer appointed will have corporate and management responsibilities and employment duties, not included here, arising from their substantive post. Those duties may include the roles expected of the Monitoring Officer by the Standards Commission for Scotland and in relation to the investigation and determination of complaints against councillors made internally.
2.3	By virtue of section 5(7) of the 1989 Act, the duties of the Monitoring Officer must be carried out personally by them or, where they are unable to act owing to

	absence or illness, personally by an officer nominated by them as their deputy. The Scheme of Delegations gives the post-holder the power to appoint a Depute Monitoring Officer (see 4.5, below).
2.4	Section 5(1) allows the Monitoring Officer to also hold the statutory post of Head of Paid Service, but prevents the Monitoring Officer from being appointed as Chief Finance Officer under section 95 of the Local Government (Scotland) Act 1973.
3	Qualifications
3.1	The law does not require the Monitoring Officer to hold any specific qualifications. In particular, they do not require to be a solicitor or advocate. They are expected to have appropriate seniority, standing, leadership, communication and interpersonal skills, and qualities of integrity and impartiality in order to fulfil the post's statutory responsibilities.
3.2	The statutory responsibilities and duties of the post point to the post-holder being at least at Corporate Management Team level, or in a relevant post such as Chief Solicitor with guaranteed access to senior managers and elected members. It makes sense for the post-holder to have complementary responsibilities in relation to democratic services, legal services or corporate governance.
4	Duties and powers
4.1	The statutory function of the Monitoring Officer is to take action (see 4.2, below) where:-
	<ul style="list-style-type: none"> • it appears to the Monitoring Officer • that a proposal, decision or omission • by the council, a committee, a sub-committee, a joint committee or a council officer • has given rise to, or is likely to give rise to, or would give rise to • a contravention of legislation or other rule of law (see 4.4, below), or • maladministration or injustice under Part II of the Local Government (Scotland) Act 1995 (see 4.5, below)
4.2	The action to be taken by the Monitoring Officer in those circumstances, where prevention or remedial action fails, is:-
	<ul style="list-style-type: none"> • first to consult the head of Paid Service and the Chief Finance Officer • then to prepare a report to full council on the proposal, decision or omission • and to send a copy to all councillors
4.3	The consequences of such action are that :-
	<ul style="list-style-type: none"> • implementation is suspended until the day after the report is considered • full council must consider the report within 21 days of it going to all members • the council must ensure nothing is done to implement it while it is suspended
4.4	In practice, the Monitoring Officer does not act in all cases of breach of the law. Some are too routine, common and trivial to justify the activation of the Monitoring Officer's statutory duty (e.g., every late response to a freedom of information request is a breach of the law; every minor accidental breach of procurement

	legislation is a breach of the law). Instead, a higher non-statutory test is applied. Locally that has been to refrain from deploying the statutory powers unless the proposal, decision or omission:-
	<ul style="list-style-type: none"> • is itself material or significant, and/or
	<ul style="list-style-type: none"> • presents a significant risk to the continuing operation and effective delivery of council services and control, and/or
	<ul style="list-style-type: none"> • will have a material or significant impact on the operations or finances of the council
4.5	The reference to maladministration and injustice in Part II of the Local Government (Scotland) Act 1975 is now redundant. That entire Part was repealed by the Scottish Public Services Ombudsman Act 2002 and a new maladministration regime introduced. The reference in section 5(2)(b) of the 1989 Act not having been repealed, and references to the new regime not having been substituted into the 1975 Act, the maladministration aspect of the Monitoring Officer's statutory duties lapsed.
4.6	The council's Scheme of Delegations describes decisions and actions that may be taken without reference to elected members and so those where committee or council decisions are required. It may be necessary or advisable to seek approval from members in certain circumstances. The Scheme also permits sub-delegation of authority to other council officers to act in their name and on their behalf. In the case of the Monitoring Officer that will be subject to the statutory provision in relation to the personal performance of duties and appointment of a deputy (see 2.3, above).

DATA PROTECTION OFFICER	
1	Legislation and guidance
1.1	The Data Protection Officer is a statutory appointment by virtue of section 69 of the Data Protection Act 2018 (the 2018 Act) and Article 37 of the UK General Data Protection Regulation (UKGDPR). The post is regulated by UK-wide legislation. Compliance with the legislation is regulated by the Information Commissioner's Office (ICO). The role is concerned with personal data and not, in terms of law and guidance, with complementary information governance regimes, such as freedom of information.
1.2	The ICO has issued statutory guidance for organisations on the role - Data Protection Officer for Organisations . It has issued other guidance relevant to the role, for example, Guide to UK GDPR: Accountability and governance .
1.3	The post is not automatically a politically restricted post. The council has designated it as such under section 2(1)(g) and (2) of the Local Government & Housing Act 1989.
2	Appointment
2.1	Permanent appointments must be made by full council or by a committee with appropriate powers. Temporary or interim appointments may be made by the Chief Executive (Council Executive, TBC 2023).
2.2	In making the appointment, council must by law have regard to the professional

	qualities of the postholder, especially their expert knowledge of data protection law and practice and their ability to perform the statutory tasks set out in section 71 of the 2018 Act.
2.3	The appointment is identified in the council's Scheme of Delegations to Officers in the entries relating to the substantive post held. It is also included in the list of Proper Officer appointments in Appendix 2 to the Scheme. The officer appointed will have corporate and management responsibilities and employment duties, not included here, arising from their substantive post.
2.4	The Data Protection Officer must be provided with resources and support to enable them to perform their role and to maintain their expert knowledge. They must be involved in a proper and timely manner with all issues concerning the protection of personal data and provided with full access to personal data and processing operations. They are not required to be, but may be, part of the Corporate or Executive Management Team. Regardless, the Data Protection Officer is entitled to report to the highest level of management in the council and to elected members on matters within their statutory role.
2.5	Although they may be line-managed in administrative and employment terms, the Data Protection Officer's statutory rights and responsibilities require that they are not subject to direction in relation to their statutory role. They may have other roles and responsibilities in the council but they must not be asked to carry out other tasks which give rise to any conflict with their statutory role. They may not be penalised or dismissed for carrying out the tasks listed in section 71 of the 2018 Act (see below).
3	Qualifications
3.1	The post-holder must have the professional qualities required by legislation and to which the council must have regard in making the appointment, especially expert knowledge of data protection law and practice and ability to perform the statutory tasks set out in section 71 of the 2018 Act (see below).
3.2	There is no requirement for the Data Protection Officer to have a legal or any other specific professional or academic qualification.
4	Duties and powers
4.1	The statutory tasks, proactive and reactive, of the Data Protection Officer are listed in section 71 of the 2018 Act. In summary:-
	<ul style="list-style-type: none"> Informing and advising the council and its staff of their data protection obligations
	<ul style="list-style-type: none"> Providing advice on carrying out data protection impact assessments and monitoring compliance
	<ul style="list-style-type: none"> Co-operating with the ICO, acting as the ICO contact point, and consulting the ICO when appropriate
	<ul style="list-style-type: none"> Monitoring compliance with relevant council policies, including assigning responsibilities, raising awareness of policies, training staff involved in processing, and conducting audits required under the policies
	<ul style="list-style-type: none"> Monitoring compliance by the council with the law

4.2	In performing these statutory tasks, the Data Protection Officer must:-
	<ul style="list-style-type: none"> • have regard to the risks associated with processing
	<ul style="list-style-type: none"> • take into account the nature, scope, context and purposes of the processing
4.3	The council's Scheme of Delegations describes decisions and actions that may be taken without reference to elected members and so those where committee or council decisions are required. It may be necessary or advisable to seek approval from members in certain circumstances. The Scheme also permits sub-delegation of authority to other council officers to act in their name and on their behalf. The Scheme also provides that they are not subject to direction from more senior management in relation to the statutory role.

DATA LABEL: PUBLIC



CORPORATE POLICY & RESOURCES POLICY DEVELOPMENT & SCRUTINY PANEL

SCOTTISH GOVERNMENT CONSULTATION – ELECTORAL REFORM

REPORT BY CHIEF EXECUTIVE

A PURPOSE OF REPORT

To consider a proposed response to the Scottish Government's Electoral Reform Consultation

B RECOMMENDATIONS

To consider the following recommendation that will be reported to Council Executive for determination:-

- To agree a council response to the Scottish Government's consultation on Electoral Reform

C SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Various primary and secondary legislation affecting elections devolved to the Scottish Parliament
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	N/a
VI Resources - (Financial, Staffing and Property)	N/a
VII Consideration at PDSP	Ongoing
VIII Other consultations	Operational Elections Team

D TERMS OF REPORT

- 1 The Scottish Government is consulting on a package of proposals to reform aspects of the law relating to elections to the Scottish Parliament and to councils in Scotland. The consultation started on 14 December 2022. The full document has not been appended to this report but there is a hyperlink to it in Part F. Responses are invited before 15 March 2023. The intention is for amended legislation to be in place for the Scottish Parliament elections scheduled for May 2026.
- 2 The consultation is divided into five parts:-
 1. Candidates – expansion of candidacy rights; intimidatory/abusive behaviour; free elections mailshot; publication of home addresses; showing candidates' location on ballot papers
 2. Voting – increasing registration; improving accessibility of voting; undue influence; absent voting; proxy voting; postal voting; voting rights; implications of the Elections Act 2022
 3. Scheduling of elections – postponement of Scottish Parliament elections; postponement of local government elections
 4. Campaigning – campaigning and finance; digital imprints
 5. Administration and governance – electoral boundary reviews; the Electoral Commission's role in Scotland; the Electoral management Board's role
- 3 There is a total of 46 questions available to be answered. The appendix contains those questions, a summary of the issues, some comments and, where officers have felt able, a proposed response. The questions where officers have not done that have been left unanswered and members may wish to consider whether those should be answered and in what way.

E CONCLUSION

Consideration of the consultation questions and the proposed council response will inform the Council Executive's decision on how to respond before the deadline on 15 March 2023.

F BACKGROUND REFERENCES

- 1 [Scottish Government consultation document](#)

Appendices/Attachments: 1. Proposed consultation response

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Graham Hope, Chief Executive

Date of meeting: 13 February 2023

APPENDIX

SCOTTISH GOVERNMENT ELECTORAL REFORM CONSULTATION
DRAFT RESPONSE

[Electoral reform consultation - Scottish Government - Citizen Space](#)

CHAPTER 1 – CANDIDATES
(a) Expansion of candidacy rights
<p>Question 1: Do you think that 16- and 17-year-olds should be able to stand for election in:</p> <ul style="list-style-type: none"> • Both Scottish Parliament and Local Government elections • Scottish Parliament elections only • Local Government elections only • Neither Scottish Parliament nor Local Government elections
<p>Question 2: Do you think that foreign nationals resident in Scotland with limited rights to remain in the UK should be able to stand for election in:</p> <ul style="list-style-type: none"> • Both Scottish Parliament and Local Government elections • Scottish Parliament elections only • Local Government elections only • Neither Scottish Parliament nor Local Government elections
<p>Question 3: Do you have any additional comments on candidacy rights for 16- and 17-year-olds, or foreign nationals with limited rights to remain in the UK?</p>
Summary of issues
<p>There are two main groups of people who can vote but who are not able to stand as candidates in devolved Scottish elections. These are people aged under 18 and foreign nationals with limited leave to remain.</p>
Comments
<p>From the perspective of electoral administration, there may be a requirement for additional or tailored support through the processes of standing for election, but this is available for any new or inexperienced candidates already.</p>
Recommendation
<p>Officers have no specific proposals or recommendations in relation to Questions 1, 2 or 3.</p>
(b) Disqualification for intimidatory or abusive behaviour
<p>Question 4: Do you think that anyone found guilty of an offence involving the harassment or intimidation of politicians, candidates or campaigners should be subject to an additional sanction of losing the right to stand for election for 5 years?</p>
<p>Question 5: If not, would you suggest another electoral sanction or approach?</p>
Summary of issues
<p>Elections are increasingly characterised by intimidatory behaviour towards candidates and campaigners. The Electoral Commission reports that 44% of 2022 Scottish local government election candidates who responded to a survey experienced some kind of a</p>

problem, with 11% reporting a serious problem. There is no existing criminal offence or sanction in Scotland aimed specifically at such conduct. The proposal is not to create a new stand-alone offence but to add an electoral aggravation to existing offences. Conviction would lead to a five-year disqualification from standing in Scottish elections. It matches a 2022 change by Westminster for non-Scottish elections and so would result in a uniform UK-wide regime.
Comments
There is a problem which should be tackled in the interests of public policy and discourse and the safety of those engaged in electoral activity. Adding an aggravating factor to existing criminal offences and a five-year disqualification are reasonable and proportionate proposals.
Recommendation
To support the proposal and answer Question 4 in the positive, with no response therefore being required to Question 5.
(c) Sending of free letters or leaflets by candidates and political parties at elections
Question 6: Do you think that the option of sending a freepost letter or leaflet should be extended to candidates at Scottish Local Government elections?
Question 7: Do you think that the right for candidates to send a free mailing should be limited to one free mailing to each household, rather than to each voter?
Question 8: Do you have any other comments on the issue of candidate mailings to voters?
Summary of issues
There is an existing right for candidates in Scottish Parliament elections to send every voter an electoral communication by freepost, which gives parity with Westminster elections. Candidates at Scottish local government elections have never been entitled to a free letter or leaflet. The Scottish Government view is that a free mailing is an important function which helps in getting candidates messages across to the electorate, but notes that the cost across Scotland would likely be higher than the £11 million cost of free mailings at the 2021 Scottish Parliament elections.
The consultation advises that costs could be reduced by unaddressed mailings to households rather than individuals. One option identified in the consultation would be to change the law to allow individual councils to authorise and cover the cost of a free mailing for each candidate.
Comments
From an electoral administration perspective, the council does get a small number of enquiries regarding the policies of candidates at local government elections. The cost should not be borne by the local authority. If it is important enough to be funded centrally at other types of poll, then the same should apply at local government level.
Recommendation
Officers have no specific proposals or recommendations on whether the proposal should be supported. However, if it is to be introduced then it should not be at the cost of the local

authority.
(d) Publication of home addresses
Question 9: Should candidates who are acting as their own agents be able to use a correspondence address for communications?
Summary of issues
Candidates in Scottish elections may choose not to have their home addresses disclosed in election notices or on the ballot paper. That option was introduced quite recently to address issues about candidates' personal safety where home addresses are widely available. That option is undermined for candidates who act as their own election agent by the requirement for an agent's address to be published. The proposal is to allow candidates who choose not to appoint someone else as their agent to provide a correspondence address which is made public, with their home address being separately held by the Returning Officer.
Comments
The changes to the rules about publishing candidates' home addresses have been welcomed in providing a degree of personal protection for candidates. The current rules do undermine that intention. In terms of electoral administration, there would be no issues caused by the change.
Recommendation
To support the proposal and answer Question 9 in the positive.
(e) How a candidate's location is shown on the ballot paper
Question 10: Currently ballot papers show either the candidate's home address or council area. Do you think that the ballot paper should also show the ward in which the candidate lives, if they request it?
Question 11: Do you have any further comments on the topic of candidate addresses?
Summary of issues
Candidates in Scottish local government elections may choose not to have their home addresses disclosed in election notices or on the ballot paper. Instead, notices and the ballot paper will typically show the local government area in which their address is situated. That option was introduced very recently to address issues about candidates' personal safety where home addresses are widely available. It is proposed that a third choice be made available, whereby candidates may choose to have the relevant electoral ward included as well.
Comments
The changes to the rules about publishing candidates' home addresses have been welcomed in providing a degree of personal protection for candidates. Allowing the relevant electoral ward to be included as well as the local government area will expand the choices open to candidates and allow them to better demonstrate their local connections without compromising their personal safety. In terms of electoral administration, there would be no issues caused by the change.

Recommendation

To support the proposal and answer Question 10 in the positive, making no additional comment in response to Question 11.

CHAPTER 2 – VOTING**(a) Increasing registration**

Question 12: What do you think could be done nationally or locally to improve registration levels, especially among under-represented groups such as younger people and foreign nationals?

Summary of issues

Research suggests that low engagement in the democratic process, which is demonstrated in falling levels of voter registration and voter turnout, is linked to political disengagement and dissatisfaction, a belief that their vote will not change anything if they do vote, and concerns about where power lies. While there are limited actions that the Returning Officer can take in respect of those issues, some groups do face barriers to participating in democracy that the general population do not, and it is in these areas that the Returning Officer can take steps to remove or minimise those barriers.

Comments

More research on the reasons why people do not vote and what would be effective in getting people to vote would be useful. Resources needed to do this effectively are beyond what is available to the Returning Officer or in the council.

Recommendation

It is proposed that the following information is used to inform a response to Question 12.

Actions can be taken to target awareness raising activities at groups which research shows are underrepresented in the democratic process. The following activities can be taken at local level (and already happen here) to supplement those happening nationally – perhaps it would be useful to have consistency in approach across constituencies / council areas – with actions being coordinated by a dedicated sub-group of key representatives that are best placed to facilitate and assist in awareness raising activities. Examples of activity include news releases to traditional media outlets, web banners for council websites, regular messaging on all social media channels and platforms, use of video animation demonstrating how to register to vote/voter experience on polling day, use of plasma screens/smart boards in public buildings, FAQs on council websites, emailing to various community, local third sector and equality groups, emailing to Social Policy colleagues to share with Looked After young people, and other relevant teams/groups, briefings for candidates and election agents, and the Democracy Challenge initiative – aimed at S4/5 in all secondary schools.

There are also a number of other organisations with a shared interest in voter awareness raising who produce resources targeted at specific under-represented groups. Partners and other organisations include, but are not limited to Youth Action Project, Lothian and Borders Elections Working Group, Electoral Commission, Electoral Management Board, Armed Forces Covenant, Advice and Support West Lothian – Capability Scotland, CELCIS (Care Inspectorate and Foster Care Associates), Shelter Scotland and Simon Community Scotland, CEMVO Scotland and BEMIS, Enable Scotland, Mental Welfare

Commission for Scotland, NUS Scotland, COSLA/Improvement Service, Addiewell Prison, Members of the Scottish Youth Parliament, Voluntary Sector Gateway West Lothian, West Lothian Community Race Forum, West Lothian Faith Group.

(b) Improving the accessibility of voting

Question 13: The Scottish Government intends to amend the rule requiring only a specific form of Tactile Voting Device to be provided in polling stations, to allow more flexibility and ensure the accessibility support offered can be adapted to take account of future innovations. It also intends to place a duty on the Electoral Commission to provide guidance that includes minimum standards. Which of the following options would you prefer?

- The current legal requirement for a specific Tactile Voting Device is replaced by a general requirement on Returning Officers to provide appropriate support.
- The current legal requirement for a specific Tactile Voting Device is replaced with a requirement to provide a non-specific form of tactile support.
- No change to current legislation
- Other

Question 14: Should the limit to the number of times one companion can support voters in casting their votes:

- Remain at two people per election
- Rise to five people per election
- Be changed to another number

Question 15: Should there be an option in the future to request a digital poll card instead of a paper poll card for Scottish elections?

Question 16: What more could be done to improve the voting experience for individuals with particular accessibility needs or requirements?

Summary of issues

A move away from the prescribed provision of the traditional tactile device to assist disabled voters is suggested, and options are presented for comment. Still in relation to disabled voters, opinion is sought as to whether the current limit of two on voters being assisted by one companion should stand, or be changed. There is an invitation for general comments about what more can be done to assist voters with particular accessibility needs or requirements. A move away from a paper poll card is mooted, with it being left as a choice for voters to make for themselves.

Comments

Litigation in England led to a decision that the traditional UK-wide approach to disabled voting, through a tactile device, was unlawful under equalities legislation. Statutory change is inevitable and should be welcomed to better meet the needs of those with disabilities. Options are presented for consideration. The limit of two on the number of voters who can be assisted by the same companion may in a small number of cases be too restrictive, where a family has several disabled family members. Increasing the number slightly does not seem likely to increase the risk of electoral fraud and existing controls, through polling place record-keeping, would continue to be adequate. The move to a digital poll card does seem inevitable in the electronic age. There will be cost savings (printing and postage) and it will be a choice for voters to make for themselves. Some will find it more suitable than others. There is no need to show a polling card at a polling station so a digital form will not affect the conduct of the poll in the polling station, nor increase the risk of electoral fraud if IT systems and security are adequate.

Recommendation
Question 13 - the tactile voting device is out-dated and the recommendation is to support the proposal for the imposition of a general duty on Returning Officers to provide the support they deem to be reasonable, in accordance with Electoral Commission guidance.
Question 14 - officers' recommendation is to support an increase to a maximum of five.
Question 15 - the move to digital poll cards can be supported, subject to it being the voter's choice to opt in and there being adequate technology in place before its introduction and the costs for EROS being met centrally.
Question 16 – To ensure consistency in approach, the Electoral Commission should have a role in providing advice to Returning Officers to identify what kind of support to provide, with input from disability charities and organisations. The Electoral Commission consulted last year on what that guidance might look like in relation to non-devolved elections. Not subject to consultation are some big ticket measures that are unlikely to be implemented at present and in isolation from voting rights universally (e.g., the right to vote electronically, the right to vote in advance from home; the provision of access to a telephone or online recording of candidates with the ability to vote remotely). Guidance should in the short-term focus on less costly and more easily provided facilities (many already provided) such as chair/seating, resting areas, magnifiers, tactile voting devices, polling booths at wheelchair level, badges identifying polling station staff, pencil grips, ramps, alerters or temporary doorbells, appropriate lighting, reserved parking spaces. It will also be important to make sure there is proper funding so that this support has the right impact for voters with disabilities.
(c) Clarification of undue influence of a voter
Question 17: Do you agree that the offence of "undue influence" should be made easier to understand and enforce?
Summary of issues
Existing prohibitions on exerting undue influence on a voter stem from the 19 th century and were designed and worded to address problems that existed at that time. Clarification has been proposed for some time and in 2020 the UK Law Commissions jointly recommended a restatement of the law. The existing components of the offence would be restated to be intimidation, deception and improper pressure. On page 26 the consultation document lists examples of conduct intended to be caught. The offence would still be a "corrupt practice". Conviction would continue to carry electoral as well as criminal consequences, including a five-year disqualification period. This will match measures introduced south of the border in 2022.
Comments
Modernisation of electoral law is something long-called for by the electoral community and by the UK Law Commissions collectively. This comparatively narrow clarification and update in accordance with the Law Commission's joint recommendation should be welcomed.
Recommendation
To support the proposal and answer Question 17 in the positive.

(d) Absent Voting
Question 18: Do you think that we should extend the right to emergency proxies to the companions of anyone who has to attend an unexpected medical appointment or treatment which would prevent them from voting at their normal voting place?
Summary of issues
Currently those who have to accompany someone to a medical appointment are not eligible for an emergency proxy and the proposal in the consultation is that they should be.
Comments
From the perspective of electoral administration, accommodating this would be unlikely to cause any issues. The number of emergency proxies for medical reasons is historically low.
Recommendation
Question 18 should be answered in the positive.
(e) Acting as a proxy
Question 19: Do you have any comments on changes to proxy voting in Scottish Parliament or Local Government elections?
Summary of issues
The current position is that, at a devolved election in Scotland, an individual cannot vote as proxy on behalf of more than two voters unless they are the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the voter. The intention of this restriction is to avoid a single person being in the position of being able to vote as a proxy for a large number of people. The Elections Act 2022 introduces a new limit of four on the total number of electors for whom a person may act as proxy in UK Parliamentary elections or Local Government elections in England. Of these four voters, no more than two can be voters who are normally resident in the UK. The Elections Act changes remove the exemption for close relatives. The Scottish Government is proposing that the position will remain that an individual can only act as a proxy for two voters who are not a close relative.
Comments
From an electoral administration perspective, the current arrangements have not led to any issues, or been viewed as adversely impacting on electoral integrity. Different rules for different polls, whilst sometimes inconvenient, can and are accommodated. Whether accepting that the Election Act 2022 will mean that different rules are in place for a UK Parliamentary poll, or that consistency across all polls is preferable is a matter for political parties.
Recommendation
Officers have no specific proposals or recommendations in relation to Question 19.
(f) Postal voting
Question 20: Do you have any comments on the handing in of postal ballots?

Summary of issues
Anyone who has a postal ballot can either return the completed postal ballot pack to the Returning Officer by post or they can hand it in to a polling station either in person or by asking someone to hand it in on their behalf. There is currently no restriction on the number of postal ballot packs which any individual can hand in to a polling station. The Elections Act 2022 makes provision for regulations to be made which will require the rejection of postal ballots handed in on behalf of more than a maximum number of electors. This provision will only apply to UK Parliamentary elections in Scotland. It will not apply to devolved Scottish elections. The Scottish Government has not been made aware that the handing in of bundles of postal ballots is an issue in Scotland. The Elections Act makes it an offence for political campaigners to handle postal voting documents unless it forms part of their employment, such as a postman delivering postal ballot papers, or they are the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild or carer of the person who is voting by post.
Comments
From an electoral administration perspective, the current arrangements have not led to any issues, or been viewed as adversely impacting on electoral integrity. Different rules for different polls, whilst sometimes inconvenient, can and are accommodated. Whether accepting that the Election Act 2022 will mean that different rules are in place for a UK Parliamentary poll, or that consistency across all polls is preferable is a matter for political parties.
Recommendation
Officers have no specific proposals or recommendations in relation to Question 20.
(g) Voting rights
Question 21: Should voting rights in Scottish Parliament and Local Government elections be extended to some or all persons detained on mental health grounds related to criminal justice?
Question 22: Do you have any additional comments on voting rights for persons detained on mental health grounds related to criminal justice?
Question 23: Should voting rights in Scottish Parliament and Local Government elections be extended to all people seeking asylum in Scotland?
Summary of issues
There is a small number of people who live in Scotland who do not have voting rights, including under 16s, some persons detained under mental health legislation, persons subject to a disqualification, such as prisoners serving sentences of more than 12 months, and those seeking asylum.
Comments
The consultation seeks views on whether certain persons detained in hospital in connection with offending behaviour should continue to be denied voting rights in Scottish Parliament and Local Government elections. It also seeks any other views on voting rights, including in relation to persons seeking asylum.

In February 2019, in response to a previous Scottish Government consultation on voting rights for prisoners, the Council Executive:
<ul style="list-style-type: none"> • Noted the Scottish Government's proposal for ensuring compliance with the European Commission on Human Rights on the matter of prisoner's voting
<ul style="list-style-type: none"> • Recognised that voting rights extended to prisoners on remand, parole or home detention curfew
<ul style="list-style-type: none"> • Acknowledged that the UK Parliament legislates on voting rights for UK elections
<ul style="list-style-type: none"> • Agreed that there should be total consistency on voting rights for prisoners between UK Parliament, Scottish Parliament and local government elections in Scotland.
Recommendation
From an electoral administration perspective officers have no specific proposals or recommendations in relation to these three questions.
(h) Implications of UK Elections Act 2022 changes
Question 24: What issues do you think that the changes in the Elections Act 2022 to introduce voter ID and change postal vote renewals raise for elections held in Scotland?
Question 25: Should there be a presumption against a Scottish devolved election being held on the same day as a UK Parliament election (for example, a UK Parliament by-election on the same day as a national Scottish Parliament election)?
Summary of issues
The UK Elections Act 2022 makes a number of changes to elections across the UK in the following policy areas. In summary, the Act:-
<ul style="list-style-type: none"> • Requires voters to show photo ID at polling stations before a ballot paper is issued.
<ul style="list-style-type: none"> • Requires Electoral Registration Officers to issue free electoral identification documents to eligible electors who apply for one.
<ul style="list-style-type: none"> • Requires postal voters to reapply for a postal vote every three years, replacing current rules of refreshing their signature every five years.
<ul style="list-style-type: none"> • Restricts the handling of postal votes, including limiting the number of postal votes an individual can hand in at a polling station or council office.
<ul style="list-style-type: none"> • Further limits the number of people someone may act as proxy for.
<ul style="list-style-type: none"> • Extends accessibility to elections including requiring Returning Officers to take all reasonable steps to provide support for those with a disability in polling stations.
<ul style="list-style-type: none"> • Simplifies and clarifies the offence of undue influence.
<ul style="list-style-type: none"> • Changes the voting and candidacy arrangements for EU voters.
<ul style="list-style-type: none"> • Allows all British citizens living overseas to vote in UK Parliamentary elections, regardless of when they left the UK.
Comments
Many of the Act's changes will only apply in Scotland for elections to the UK Parliament. The Scottish Government is opposed to those changes and does not wish to see them adopted for devolved Scottish elections. Other changes will relate to Scottish Parliament and Local Government elections, such as those relating to digital imprint requirements, financial information to be provided by political parties and prohibiting entities from being registered political parties and recognised third parties at same time.

The divergences between the law, guidance, processes and procedures for devolved contests and those legislated for by UK Government will be challenging to manage for electoral administrators and there will be an increased risk of elector confusion as to the requirements for each poll. These issues would be further compounded in the event that these types of polls needed to be combined for delivery on the same date, in the same areas.

Implementing the changes required under the Act will have financial implications for local authorities, and although the UK Government has committed to providing funding in line with new burdens principles, there could be unforeseen cost implications going forward. There is also an increased operational burden on core election staff within the authority to timeously review and update specific processes, procedures, staff training programmes and voter awareness raising activity to ensure that risks associated with implementing the necessary changes can be mitigated.

All stakeholders, including elected members, political parties, candidates, agents and campaigners, are encouraged to support and relay communications from the Returning Officer and election team about changes, and any related issues, which are relevant to voters.

Recommendation

In response to Question 24, to note the absence of evidence to underpin many of the provisions of the Elections Act 2022, and the challenges, issues and risks related to implementing the changes required under the Elections Act 2022.

To answer Question 25 in the positive and agree that, as far as is reasonably practicable and consistent with the principle of 'decoupling' established following the Gould Report in 2007, different types of poll should not be combined for delivery on the same day.

CHAPTER 3 - SCHEDULING OF ELECTIONS

(a) Date of elections to the Scottish Parliament

Question 26: Do you think that the maximum period by which the Presiding Officer can propose the postponement of a Scottish Parliament election should be extended beyond 1 month?

Question 27: Do you think that the date of dissolution of the Scottish Parliament in the run up to a general election should be changed to the day before the election, allowing MSPs to continue to hold office in case of emergency?

Summary of issues

Scottish Parliament elections take place on the first Thursday in May every five years, unless there is to be a UK Parliament election on that date or the Scottish Parliament's Presiding Officer uses a restricted power to move the date one month either way. The Parliament must be dissolved approximately six weeks before the election date meaning the Parliament cannot sit or legislate. Experience from the 2021 elections during the pandemic is felt to indicate that some modernisation and greater flexibility are required. It is suggested that the Presiding Officer's power should be widened to extend the window during which a new polling day can be fixed, and that Parliament should go into recess six weeks before election day instead of being dissolved.

Comments

<p>The now widely accepted principle that different types of polls should not take place on the same day should continue to be recognised. It can confuse voters and blur campaigning and campaign issues. The leeway of one month either way for a re-arranged polling day is narrow and could mean an overlap of campaign periods even if polling days are separated. Dissolving Parliament means it cannot sit and so cannot legislate, even in emergency circumstances. Although the executive branch remains in place and empowered (the Ministers) the legislature does not, denying MSPs their democratic role and restricting the action that may be taken, especially in unforeseen and urgent circumstances.</p>
<p>Recommendation</p>
<p>It is proposed that questions 26 and 27 are answered in the positive, subject to the period being changed to three months either way, the power only being used after consultation with the Electoral Commission and the Convener of the Electoral Management Board, and dissolution date being moved to the day before polling day.</p>
<p>(b) Postponement of Scottish Parliament by-elections</p>
<p>Question 28: Do you think that the Presiding Officer should have the power to change the date of a Scottish Parliament by-election, if it is no longer possible to hold the election on the originally selected date?</p>
<p>Question 29: Do you have any other comments on changing the date of a Scottish Parliament by-election?</p>
<p>Summary of issues</p>
<p>The same issues arise here as in the previous section, on the rescheduling of (national) elections to the Scottish Parliament.</p>
<p>Comments</p>
<p>The same comments apply here as in the previous section, on the rescheduling of (national) elections to the Scottish Parliament.</p>
<p>Recommendation</p>
<p>It is proposed that questions 28 and 29 are answered in the positive, subject to the period being changed to three months, the power only being used after consultation with the Electoral Commission, the Convener of the Electoral Management Board and the relevant Returning Officer.</p>
<p>(c) Postponement of scheduled Local Government elections</p>
<p>Question 30: Do you think that the Convener of the Electoral Management Board should be given the power to postpone national Local Government elections in consultation with the Electoral Commission and the Scottish Government?</p>
<p>Question 31: Should the law allow a Local Government by-election to be postponed, and if yes, who should make the decision to postpone?</p> <ul style="list-style-type: none"> • No • Yes, Returning Officer • Yes, EMB Convener • Yes, other

Question 32: Do you have any other comments on rescheduling of elections?
Summary of issues
<p>Scottish local government elections must take place on the first Thursday in May in every fifth year. Polling day can only be changed in two narrow sets of circumstances. The pandemic raised awareness of the lack of flexibility to allow the date to be changed without primary legislation. It is proposed that such a power be given to the Convener of the Electoral Management Board, with its scope being fairly short (one month), reflecting that the Scottish Parliament can legislate for changes to dates further away than that. The same flexibility is proposed for local government by-elections and views are sought on where that power should sit.</p>
Comments
<p>Experience during the pandemic does show that it makes sense to introduce the flexibility and room for manoeuvre proposed, subject to suitable limits and safeguards. For by-elections, there is no justification for centralising the power to make changes for a local contest in the hands of the EMB Convener or anyone other than the relevant Returning Officer.</p>
Recommendation
<p>It is proposed to answer Question 30 in the positive, subject to the period being confined to one month and the Convener first consulting the Electoral Commission and the Scottish Government. It is proposed that Question 31 is also answered in the positive, subject to the period of postponement being three months and subject to the power being given to the relevant Returning Officer after consulting the EMB Convener. The Returning Officer is entrusted by law to set the by-election date and so should be trusted and empowered to change it where necessary. That is the provision that was made during the pandemic and it worked very well. For Question 32 it is proposed to stress the value in not holding different types of poll on the same date and in retaining responsibility for local polls at a local level.</p>

CHAPTER 4 – CAMPAIGNING
(a) Campaigning and Finance
Question 33: Do you think that the language clarifying the definition of notional spending adopted in the UK Elections Act 2022 should also apply to Scottish devolved elections?
<p>Question 34: Do you think that third party campaigners should have to register with the Electoral Commission if they spend more than £10,000 across the whole of the UK, even if they spend less than £10,000 in Scotland?</p> <ul style="list-style-type: none"> • The £10,000 registration threshold should apply to devolved elections across the UK • The £10,000 registration threshold should apply to Scottish devolved elections only • I have another view on the registration threshold
<p>Question 35: Do you think that the spending limit should be reduced to £700 for overseas based third parties that are ineligible to register with the Electoral Commission?</p> <ul style="list-style-type: none"> • The spending limit should be reduced to £700 • The spending limit should remain the same (£10,000)

<ul style="list-style-type: none"> I have another view of the spending limit
<p>Question 36: Do you think that an order-making power for Scottish Ministers should be introduced which allows them to add, change, or remove categories of third-party campaigners? A recommendation by the Electoral Commission would be required before a category of third-party campaigners could be changed or removed.</p>
<p>Question 37: Do you think that the Electoral Commission should be able to provide a code of practice on third party expenditure in Scottish devolved elections?</p>
<p>Question 38: Do you think the maximum fine the Electoral Commission should be able to impose for breaches of electoral law in Scottish elections should:</p> <ul style="list-style-type: none"> A – Rise to £500,000, so it is in line with the maximum fine for referendums B – Be set at another amount (please specify the amount below) C – Remain unchanged at £10,000
<p>Summary of issues</p>
<p>The consultation contains a range of proposals in relation to notional campaign expenditure, restrictions on spending limits, creating a power for Ministers to regulate eligibility as third-party campaign groups, extending an Electoral Commission Code of Practice to devolved Scottish elections, and increasing the level of fines that can be imposed by the Electoral Commission.</p>
<p>Comments</p>
<p>Neither council nor Returning Officer has an advisory or quasi-judicial role in relation to campaign spending. These are largely issues for the Electoral Commission and political parties to respond to.</p>
<p>Recommendation</p>
<p>Officers have no specific proposals or recommendations in relation to Questions 33 to 38.</p>
<p>(b) Digital imprints</p>
<p>Question 39: Do you think that the Scottish Government should revoke its own regulations for digital imprints and rely on the provisions of the Elections Act 2022?</p>
<p>Question 40: Do you have any further comments on digital imprints?</p>
<p>Summary of issues</p>
<p>The UK Elections Act 2022 contains digital campaigning measures which apply to all elections and referendums in the UK, including Scottish Parliament and Scottish Local Government elections. The Act introduces a new digital imprints regime requiring anyone paying for digital political material to be advertised to explicitly show who they are and on whose behalf they are promoting the material. The content must also meet one of the statutory purposes, which include influencing members of the public to support or withhold support from a political party, parties who advocate particular policies, candidates, future candidates, elected officeholders and the holding or outcome of a referendum in any area of the United Kingdom. Certain campaigners are also required to include an imprint on their other electronic material if it constitutes digital election, referendum or recall petition material. Aspects of this requirement apply at all times, unlike the legislation for devolved Scottish elections which is most relevant when there is an election or referendum in progress.</p>

The proposals are to either revoke the existing Scottish regulations and rely solely on the Elections Act 2022 or revoke the existing Scottish regulations and replace them with a new set of regulations to preserve any specific aspects of the current regime considered to serve a useful purpose.
Comments
From an electoral administration perspective, the Returning Officers will make candidates and agents at any poll aware of the rules regarding digital imprints and where to find additional information. Whether a consistent approach across all polls is desirable is an issue for political parties. Neither council nor Returning Officer has an advisory or quasi-judicial role in relation to campaign spending. These are largely issues for the Electoral Commission and political parties to respond to.
Recommendation
Officers have no specific proposals or recommendations in relation to Questions 39 and 40.

CHAPTER 5 – ADMINISTRATION AND GOVERNANCE
(a) Reviews of electoral boundaries
<p>Question 41: Do you think the process for approving boundary changes should be changed, and which of the options set out above would you prefer?</p> <ul style="list-style-type: none"> • No change • Option 1 • Option 2 • Option 3 • Other option
Question 42: Do you have any further comments on this topic?
Summary of issues
The Scottish Government is considering ways of preventing political influence affecting the boundary setting process, by removing the requirement for Boundaries Scotland to review proposals if they are rejected by the Scottish Parliament, only allowing the Scottish Parliament to reject or change proposals if Boundaries Scotland has not followed their duties as set out in law, and making legislation implementing proposals made by Boundaries Scotland come into effect automatically without the Scottish Parliament or Scottish Ministers having the final say.
Comments
From an electoral administration perspective only, Option 3 (automatic implementation of legislation) would give more certainty as to what boundaries would apply and when and allow for easier planning to accommodate changes. The other proposals are for political comment.
Recommendation
Officers propose to answer Question 41 by choosing Option 3, but from the electoral

administration perspective only. Officers have no specific proposals or recommendations in relation to the other aspects of Question 41 and Question 42.
(b) Governance - the Electoral Commission in Scotland
Question 43: Should the Scottish Parliament take a greater role in oversight of the Electoral Commission's devolved activities? For example, the Electoral Commission's devolved activities, including their spending plans, being scrutinised by a Scottish Parliamentary Committee.
Question 44: Do you have any additional comments on the oversight of the Electoral Commission's activities in relation to Scottish Parliament and Local Government elections?
Summary of issues
The Electoral Commission has a UK-wide remit and, for its work on Scottish Parliament and Scottish Local Government elections, is also accountable to the Scottish Parliament. Such work includes providing guidance to Electoral Registration Officers and Returning Officers, setting performance standards and measuring performance against those standards.
The consultation document highlights that there are different oversight arrangements in place for the Electoral Commission's UK-wide activities, as well as those it undertakes for devolved contests in Wales and Scotland. Views are sought on whether the Scottish Parliament's oversight role should be expanded.
Comments
The consultation document does not appear to identify any specific issues or concerns with the existing scrutiny arrangements, nor give any supporting rationale for the one potential option referenced – i.e. for a subject Committee of the Scottish Parliament to be established to consider the Electoral Commission's activities in relation to devolved Scottish elections and referendums.
Increased powers given through the Elections Act 2022 to the UK Parliament over the Electoral Commission attracted widespread concern over the risk of political interference.
Recommendation
From an electoral administration perspective officers have no specific proposals or recommendations in relation to Questions 44 and 45.
(c) Developing the role of the Electoral Management Board
Question 45: Do you have any views on the role and structure of the EMB?
Question 46: Should a Deputy Convener post be established, with power to exercise the functions of the Convener of the EMB if they are unable to act?
Summary of issues
The EMB is made up of Returning Officers (ROs) and Electoral Registration Officers (EROs) from across Scotland and is supported by a range of advisors from relevant organisations.

Whilst responsibility for the planning and delivery of elections and electoral registration rests with individual ROs and EROs respectively, the EMB has the general function of co-ordinating the administration of local government elections in Scotland. It does this by assisting local authorities and other persons in carrying out their functions in and promoting best practice by providing information, advice and training. The EMB Convenor can issue directions to ROs and EROs in relation to their local government elections duties, but wherever possible, generally seeks to operate by consensus rather than formal direction.

In a 2021 electoral administrator survey, most respondents welcomed the EMB's support and guidance and the consultation summarises the contribution of the EMB in recent years to the planning, preparation and delivery of elections in Scotland. It played a significant and helpful part in the arrangements for the Scottish Parliament elections in May 2021 during the pandemic. The Electoral Commission's report on the Scottish parliament election that year concluded that it and the Scottish Government should work with the EMB to support its development and to ensure effective alignment of responsibilities and activities across the different organisations.

The consultation highlights that there is currently no provision for the Deputy Convener of the EMB to have the power to issue directions in the event, for example, of the Convener being incapacitated.

Comments

The consultation document acknowledges that a wider review of the role and status of the EMB has not occurred. Such a review would be sensible. That should be carried out before there is any expansion of its role so that the views of the electoral community are known about any expansion.

Recommendation

In response to Question 45, that future decisions around the role and structure of the EMB, and its resourcing, must be informed by a wider review of its role to date and a more detailed appraisal of relevant options for its potential future development.

To support the proposal in Question 46 for the Deputy Convener of the EMB to have the power to issue directions in the event that the Convener is unable to do so, in the interest of business continuity.

DATA LABEL: PUBLIC



CORPORATE POLICY & RESOURCES DEVELOPMENT AND SCRUTINY PANEL

PROPOSAL TO NAME THE BEECRAIGS FIELD ARCHERY AREA IN MEMORY OF JIM GREIG

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

This report is to update the PDSP on the survey undertaken to gauge support for the renaming of the Beecraigs field archery area in memory of Jim Greig.

B. RECOMMENDATION

To note that there was overwhelming support for the proposal to rename the field archery area.

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)	Protocol for the renaming of Council Buildings / Public Spaces
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)	Cost associated with signage from Property Maintenance Budget
VII	Consideration at PDSP	

VIII Other consultations Family, Park Users Group, Political Group
Leaders, Ward members, Legal Services

D. TERMS OF REPORT

Background

This report is being presented, in response to a formal request from Cllr Pattle to West Lothian Councils' Chief Executive to consider renaming the Beecraigs Field Archery Area in Memory of Jim Grieg, in line with the Councils protocol on the Naming of Existing Council Buildings or Public Spaces. Jim was instrumental in establishing the archery field and worked at Beecraigs for many years. In addition to being the Secretary of Beecraigs Archers, he was Head Coach for the Scottish Field Archery Association and his efforts helped bring field archery to new generations of participants, as well as bringing hundreds of families to Beecraigs Country Park.

The request was determined to be valid by the Chief Executive and following the protocol, a survey was sent to the various stakeholders consulting them on the proposal.

Consultation Outcome

There were 49 participants from the various stakeholder groups (Family, Park User Group, Political Group Leaders, Ward Members and Legal Services).

There was 98% support for the proposal with very many supporting statements from those surveyed. The 2% not in favour reflect one vote. The full results of the survey can be found in Appendix 1 (the 'Political Group Leaders' grouping clearly has some of the other participants who have selected the wrong category).

Assessment

The consultation supports the renaming of the Beecraigs Field Archery Area in memory of Jim Grieg. The Panel is asked to note and provide comment on the proposal to rename the Beecraigs field archery area in memory of Jim Grieg, which will be submitted to Council Executive for determination.

Resource

The funding required to erect a sign at the Field Archery Range is to be obtained via the existing property maintenance budget (as outlined in the policy). It is anticipated that this will be no more than £500.

E. CONCLUSION

The survey showed overwhelming support for the renaming of the Beecraigs Field Archery area.

F. BACKGROUND REFERENCES

[Link to Committee Report regarding the Naming of New or existing Council Buildings or Public Spaces Protocol](#)

Appendices/Attachments: Appendix 1 survey results

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Date of meeting: 13 February 2023

APPENDIX 1. SURVEY RESULTS

Beecraigs Field Archery Range - Name Change Proposal

1. Please tell us who you represent

Number of participants: 49

8 (16.3%): Political
Group Leader

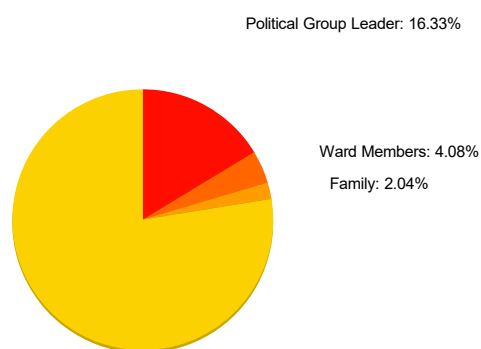
2 (4.1%): Ward
Members

- (0.0%): Legal

Services 1 (2.0%):

Family

38 (77.6%): Park
User Group



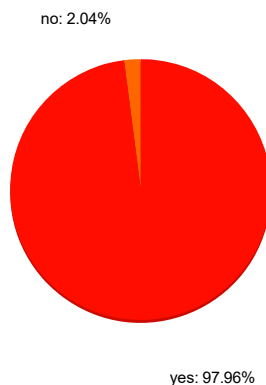
2. Would you support this proposal?

Number of

participants: 49 48

(98.0%): yes

1 (2.0%): no



3. Could you explain why you have made this choice?

Number of participants: 42

- I am a member of Beecraigs archery club and it will be a great for all concerned that it is only right thing to do change the name of the archery range to Honour such a great man as Jim Greig was I whole heartedly support the name change
- No issue with it being changed.
- Jim spent most of his life dedicated to the sport of archery and would always take time to assist new and developing archers without hesitation.
- Jim was responsible for bringing and promoting field archery in Scotland. He has helped many archers achieve their goals and dedicated his life to archery.
- I knew Jim through my membership of Beecraigs Archers and West Lothian Archers over the last 10 years. His enthusiasm, support and advice were critical in encouraging so many archers not only in the local area but also throughout Scotland. Knowing how much Jim did for the sport of archery over a much longer period than I was aware clearly shows how completed committed he was to the sport and his influence in promoting it should be recognised. Renaming the course in honour of Jim would be an appropriate recognition of his significant impact in the sport of archery in Scotland.
- We meet Jim in October 1988 at the Old Beecraigs Field Course and joined the club. He was an outstanding coach and had time for everyone. We became friends and Jim was part of our lives for 32 years. He was also secretary off West Lothian Archers and area coach. Jim was highly regarded by everyone who knew him. Just recently we had a man aged 48 who joined us for a 6 week beginners course and we mentioned Jim and he said " Jim coached me when I was 12 at Beecraigs " Absolutely honoured to be part of this.
- Jim Grieg was instrumental in my son's archery journey and feel it would be a fitting tribute to rename the course in his honour
- Na
- Jim was and forever will be the heart of archery.
- Jim had been a stalwart archer, coach and committee member at local, national and international level and a promoter of archery at all levels for a great number of years.
- As he was fundamental on creation of this facility there could not be a more fitting memorial for him in a place loved
- Was introduced to field archery competitions here and abroad and encouraged by Jim to become a Scottish,UK, European champion as well as a World Indoor Champion and record holder.
- I was lucky enough to have known Jim through archery. People often say how wonderful people are once there dead but Jim was honestly a living legend. Any time you went to the field course he was always there and would be the first to help people who needed help. He dedicated his life to the love of archery. He was responsible for 1000s of people getting to enjoy the sport so he really would deserve this honour
- Jim Greg's key role in establishing and promoting field archery in Scotland is worthy of recognition by associating his name with the archery course where he was so influential.
- I fully support West Lothian Council regarding a request to rename the course in honour of Jim Greig. For his work and support.
- Jim was my first instructor in Scotland, so I can support the renaming.

- I think it would be a fitting tribute to someone who was instrumental in the creation of a sustainable and well-loved part of Beecraigs Country Park. I fully support the renaming of the Archery Field and look forward to hearing the outcome of the process.
- I would love to see this park renamed after Mr Grieg he was a major contributor to the Archery club's and his fantastic knowledge of the sport he gladly shared with all who wanted to learn how to use a bow safely and coach you to competition level.
- Jim Greig is really most deserving of the honour of having the course named after him
- Jim Greig dedicated a great deal of time to both teaching Archery and the upkeep of the outdoor courses.
- A fantastic gentleman sadly missed and what better way to remember him than this
- Jim was a lovely man and a real inspiration to archers in Scotland. He helped coach my son and myself when we first took up the sport. I cannot think of a more fitting tribute to Jim.
- I knew Jim for a number of years and he was an inspiration to so many. He was dedicated to archery and beecraigs was one of HIS courses, both times it existed.
- It feels right that he be remembered in this way. As a member of West Lothian field archers, I was taught to shoot by Jim from an early age and feel he has helped so many in the sport that it is only fitting that such a tribute be made.
- Cause Jim
- As a member of the archery community and having met and known Jim I can think of no better way to honour his achievements in archery than to name a Scottish course after him. Given the time spent as part of Beecraigs archery club it is the perfect club to name in his honour.
- After the years of dedicated support to the sport of Field Archery and to both the Beecraigs and the West Lothian clubs, this would be a fitting tribute.
- I spent time with Jim chatting and shooting at our outdoor field, swinging back and forth on the rocking chairs, and learned of his years of dedication to archery and particularly his local clubs. It would be a very fitting tribute to him.
- As a member of Beecraigs Archers I have seen and heard about Jim's impact on the archery scene also his enthusiasm for the sport. I think it would be fitting to name the course after him.
- I have known Jim since 1973 he was a very good friend and always there to help in anyway his personality shone through a great archer and deserves this proposal I am very honoured to have known him.
- Well regarded fellow
- I knew Jim and it would a fantastic idea to name the course after him
- I think it's important to give meaning to the site and by changing the name in honor of Jim it reminds people of the history and the difference one person can make.
- Jim's long association with both beecraigs and archery would make the renaming a fitting memorial to his memory and his achievements.
- Yes I fully support giving full and ongoing recognition to the life and work of Jim Greig. He was a wonderful man and for decades was Archery in West Lothian. What is available today wouldn't be here without him.
- Because Jim was the man who basically brought Field Archery to Scotland
- It is in recognition of a local man to West Lothian who shared and developed his art with others

4. Do you have any comments with regards to this proposal?

Number of participants: 24

- As the current president of Beecraigs Archer's I think it's a fitting memorial for Jim Greig
- Excellent idea
- It should be granted.
- Jim Greig is field archery in Scotland so it's only fitting that the range should have his name on it So say all of us. Kind regards
- This proposal will be a fitting tribute to a man who spent most of his time at the Archery Range and who I classed as a good friend.
- I wholeheartedly support this proposal and feel it is completely appropriate to recognise Jim's impact on Scottish archery.
- Outstanding tribute to Jim who gave 50 years off his life to archery.
- Na
- I think it's a great idea in recognition off Jim's devotion to our sport and 50 years of dedication.
- Only my wholehearted support.
- Full support.
- No
- Jim was a true gentleman who had time for everyone, young, old, beginner and experienced archer alike. Jim loved archery and had the most wonderful way of sharing his extensive knowledge of the sport. Jim loved to see individuals improve and I'm sure he enjoyed seeing his advice and tutoring assist in this. Jim was a hard worker in making constant improvements and repairs to the course. The best ambassador for archery
- As above
- Yes. Please do it.
- A very fitting tribute to an outstanding member of the area.
- No it the right thing to do
- 100% back this proposal.
- I am so happy for this proposal he would be very honoured by this.
- There is nothing on this page to indicate what the new name would be. I'd be in favour of any option that included both his name and the location. For example, I'd support a new name of "The Jim Greig Field Archery Course at Beecraigs", but wouldn't support "The Jim Greig Field Archery Course"
- None
- No further comment at this time.
- See above
- Beecraigs as the name of the course just trips off the tongue and says it all. You immediately know where it is. Whilst I am supportive of including Jim's name I think that this needs to be done sensitively so that the name 'Beecraigs' is not lost

eg Beecraigs (Jim Greig) Archery Course

An alternative could be to mount a stylish silver plaque in a prominent position saying something like

JIM GREIG

In recognition of his major contribution to the pursuit of local and international archery Dates to be added

Data Label: Public



CORPORATE POLICY AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL

SICKNESS ABSENCE (1 APRIL 2022 – 31 DECEMBER 2022)

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To report on sickness absence rates during the period 1 April 2022 to 31 December 2022 and to provide an update on the ongoing application of the council's Policy & Procedure on Managing Supporting Attendance at Work.

B. RECOMMENDATION

That the Panel notes the content of the report.

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) | Council policy seeks to strike a balance between effective management of sickness absence and the promotion of a healthy workforce taking into account the council's obligations under Equality legislation. |
| III Implications for Scheme of Delegations to Officers | None |
| IV Impact on performance and performance Indicators | The sickness absence SPI for 2022/23 commenced at higher rates compared to previous years and has continued to rise during the quarter. |
| V Relevance to Single Outcome Agreement | National Outcome 15: Our Public Services are high quality, continually improving and responsive to local people's needs. Reduced |

sickness absence levels increase the efficiency and productivity of the council.

VI Resources - (Financial, Staffing and Property)	Sickness absence is managed within service budgets.
VII Consideration at PDSP	None
VIII Other consultations	None

D. TERMS OF REPORT

D.1 BACKGROUND

The council's Policy and Procedure for Supporting Attendance at Work, which was approved by Council Executive on 26 June 2018, requires sickness absence levels to be reported to Council Executive on a quarterly basis.

This report relates to absence rates for the period from 1 April 2022 to 31 December 2022.

D.2 SICKNESS ABSENCE RATES

Standard Performance Indicator – Council Wide

The sickness absence Standard Performance Indicator (SPI) for the cumulative period from 1 April 2022 to 31 December 2022 is 6.29%. A total of 4,686 employees were absent from work for one or more days in this reporting period.

The SPI absence rate is higher than the same period in the previous year, 2021/22, which was 5.63%. However, this lower rate was impacted by reduced absence rates during the later stages of the COVID-19 pandemic.

Appendix 1 of this report provides an overview of the SPI performance indicators for the full years 2017/18 to 2022/23.

Standard Performance Indicators – Services

The sickness absence SPI for each service area (figures for teaching and non-teaching staff shown separately), for the period 1 April 2022 to 31 December 2022 is set out at **Appendix 2**.

Of the seven council service areas, all reported sickness absence rates above the council target of 3.6%. Education Service is counted as one service although the chart reflects teaching and non-teaching figures separately.

Long –Term Absence (1 April 2022 – 31 December 2022)

Of the days lost due to sickness absence during this period, a significant proportion of those absences are attributable to long term absence which is defined in the policy as a period of continuous absence 'in excess of 4 weeks.'

A further breakdown of days lost for the seven services with rates above the council sickness absence target indicates the following:

- Of the total number of 2,488 days lost in CEO, Finance & Property Services, 1,753 (70.46%) of those days were due to long-term absence and were accounted for by 27 employees.

- Of the total number of 1,719 days lost in Corporate Services, 1,359 (79.06%) of those days were due to long-term absence and were accounted for by 19 employees.
- Of the total number of 29,885 days lost in Education Services, 17,987 (60.19%) of those days were due to long-term absence and were accounted for by 313 employees.
- Of the total number of 12,920 days lost in Housing, Customer & Building Services, 9,933 (76.88%) of those days were due to long-term absence and were accounted for by 159 employees.
- Of the total number of 25,043 days lost in Operational Services, 19,786 (79.01%) of those days were due to long-term absence and were accounted for by 291 employees.
- Of the total number of 1,255 days lost in Planning, Economic Development and Regeneration, 1,075 (85.66%) of those days were due to long-term absence and were accounted for by 11 employees.
- Of the total number of 19,203 days lost in Social Policy, 15,688 (81.70%) of those days were due to long-term absence and were accounted for by 229 employees.

The average percentage of days lost from long term absence across the full council is 73.05%.

The average length of long-term absence during the period was 64 days with the longest absence lasting 196 days.

Analysis of Categories of Absence (1 April 2022 – 31 December 2022)

Top four reported reasons for all absences across the council, split by long term are as follows:

Table 1

Level 1 Reasons	Days	Long Term %	All Absence%
Mental & Behavioural	29,033	37.29%	31.38%
Musculoskeletal	11,557	14.40%	12.49%
Infectious	15,581	11.04%	16.84%
Accidents, Injuries, Poisoning	6,529	7.81%	7.06%
Total	62,700	70.54%	67.77%

Mental & Behavioural Level 2 Category

The main category for absences is Mental and Behavioural. A breakdown of all mental and behavioural absences recorded is set out below:

Table 2

Mental & Behavioural	Days	Long Term %	All M&B Absences%
Stress (Work & Personal)	9,124	32.71%	31.43%
Stress (Personal Only)	6,462	21.53%	22.26%
Anxiety	5,577	19.10%	19.21%
Depression	3,504	12.61%	12.07%

Not specified	2,313	7.49%	7.97%
Stress (Work only)	1,435	4.65%	4.94%
Panic attacks	300	1.02%	1.03%
Other psychiatric illnesses	144	0.44%	0.50%
Self-harm	71	0.22%	0.24%
Eating disorder	56	0.22%	0.19%
Alcoholism	24	0.00%	0.08%
Insomnia	13	0.00%	0.04%
Psychosis	10	0.00%	0.03%
Total	29,033	88.74%	100.00%

D.3 MANAGEMENT OF SICKNESS ABSENCE

i) Sickness Absence Case Management

The HR Services team continue to work closely with managers across the council, providing advice and guidance on the monitoring and management of sickness. Table 3 below shows the number of employees at each stage of the Policy & Procedure as at 31 December 2022, compared to the previously reported positions.

Table 3

	Counselling/ Informal Review Meeting	Stage 1	Stage 2	Total
Total at 31 December 2022	584	436	224	1244
Total at 31 December 2021	740	283	158	1181
Total at 31 December 2020	565	340	182	1087

A breakdown of live cases as at 31 December 2022 is set out in Table 4.

Table 4

	Counselling/ Informal Review Meeting	Stage 1	Stage 2	Total
Cases on going from 30 September 2022	287	265	188	740
New cases since 30 September 2022	297	171	36	504
Total	584	436	224	1244

ii) Other Support Initiatives

HR Adviser Input – Management Meetings

During 2022/23, the following functional areas were targeted for input and support from Human Resources Advisers;

- Education (Teaching & Non-Teaching)
- Care Homes
- Facilities & Support Services

- Recycling Waste & Fleet Services
- NETS, Lands & Countryside
- Roads & Transportation
- Building Services

Within the level of advisory resource available, Human Resources continue to provide as much ongoing support as possible to a number of Service Managers across those functional areas to develop action plans to address issues and to help line managers manage staff absences in line with policy.

In Quarter 3 Care Homes (14.40%) reported a decrease in absence rates by 0.79%, as did Recycling Waste and Fleet Services (11.02%) who reported a 0.15% decrease. NETS Lands & Countryside (6.63%) are the only service to report a decrease from April 2022 by 0.22% and are currently reporting a decrease of 0.90% from the same period in December 2021.

Employee Assistance Programme

Since 1 November 2018, a telephone-based counselling service (Help EAP) has been in operation provided by our occupational health provider, Optima Health.

Statistics from Quarter 3 (2022/23) show that 23 employees received mental health assessment during this period which is an increase from last quarter where 22 employees were assessed. Of the 23 assessed, 14 employees were referred for counselling services, 1 provided legal advice, 4 signposted to GP/NHS, 2 referred to voluntary sector support and 2 employees were provided onward referral and guidance.

Of the 14 employees who were referred for counselling, 7 received structured telephone counselling sessions, 5 provided with video counselling sessions and 2 provided with CBT.

Contact reasons indicate that 9.30% of calls in Quarter 3 were in relation to solely work-related issues, 41.86% in relation to personal issues and 48.84% due to a combination of work and personal related issues.

Further analysis of contact reasons identified the following categories:

Table 5

Personal Categories	Percentage
Addiction	5.41%
Bereavement	16.22%
Carer responsibilities	18.92%
Debt/Finance	0.00%
Domestic Violence	8.11%
Housing/Accommodation	2.70%
Mental Health	0.00%
Relationships (personal)	27.03%
Physical Health	13.51%
Total	100.00%

Table 6

Work Categories	Percentage
Change	6.82%
Control	9.09%
Demands	13.64%

Relationships	18.18%
Role	34.09%
Support	18.18%
Total	100.00%

The work categories are the HSE Management Standards which cover the six key areas of work design, that if not properly managed, are associated with poor health and wellbeing, lower productivity and increased sickness absence.

As this is a confidential service we are unable to canvas employees directly for specific feedback on their experiences, although anecdotally, services have reported a mainly positive response from staff who have accessed these services.

HR Advisers will continue to promote the use of this service and the trade unions have been asked to promote these services to their members.

D.4 APPLICATION OF MANAGEMENT DISCRETION (1 April 2022 – 31 December 2022)

The Policy and Procedure for Supporting Attendance at Work has the provision for the relevant manager, in consultation with Human Resources, to exercise discretion not to progress an employee through a stage of the procedure to take account of extenuating circumstances.

Since April 2022, Human Resources have been consulted in regard to 236 requests for management discretion to be considered. Of those 236 requests, 226 (95.76%) have resulted in discretion being applied to suspend application of the trigger level for a limited period considering the circumstances of the individual case.

A breakdown of the general categories in respect of which requests for discretion have been considered are as follows:

Table 7

Main Category	Discretion Applied	Discretion Not Applied
Bereavement	66	0
Carer Responsibilities	4	2
Industrial Injury	10	0
Medical Treatment	49	4
Personal Difficulties	25	3
Surgery	72	1
Trauma	0	0
Total	226	10

The policy provides for management decisions not to apply discretion to be reviewed by a more senior manager if requested by the employee concerned. No requests for review have been requested during this quarter.

D.5 ABSENCE AS A RESULT OF COVID-19

Effective from 1 July 2022 absences in relation to COVID, including the need to self-isolate, are being treated as sickness absence. Staff absent due to COVID symptoms and Long COVID accounted for 9.73% of all sickness absences since April 2022.

In Quarter 3, the council had 31 employees reported as being absent due to Long COVID/extended COVID symptoms of which 14 returned to work during the period.

D.6 ACTIONS TO IMPROVE EMPLOYEE WELLBEING

The HSE stress action pilot in Anti-poverty Services is underway. A steering group comprising of staff, management, trade unions, HR and health and safety has been agreed with the view of providing a comprehensive action plan on how to deal with stressors that may be present in the workplace. Details will follow as the programme develops.

During Quarter 3 the bi-annual reminder for managers to complete the Supporting Attendance at Work Policy and Mentally Healthy Workplace for Managers e-learning was distributed. In addition, two workshops were hosted for managers on supporting attendance at work was also provide. All staff were invited to sign up to one of the four employee self-care events, which provides advice on ways to look after employee's physical and mental wellbeing.

The campaign of offering staff not covered by the NHS winter immunisation programme the opportunity of getting the flu vaccine was concluded with 354 vouchers purchased to be utilised at local pharmacies.

E. CONCLUSION

Absence rates for the Council in 2022/23 have seen an increase in comparison to 2021/22.

Stress continues to be the highest contributor to levels of sickness absence across the council and the focus will continue to be on targeting additional support at those service areas that are reporting high levels of stress related absence.

The council continues to have a focus on employee health and wellbeing and a range of actions are being progressed to raise the profile and importance of good employee wellbeing.

F. BACKGROUND REFERENCES

- Policy & Procedure for Supporting Attendance at Work

Appendices/Attachments: 2

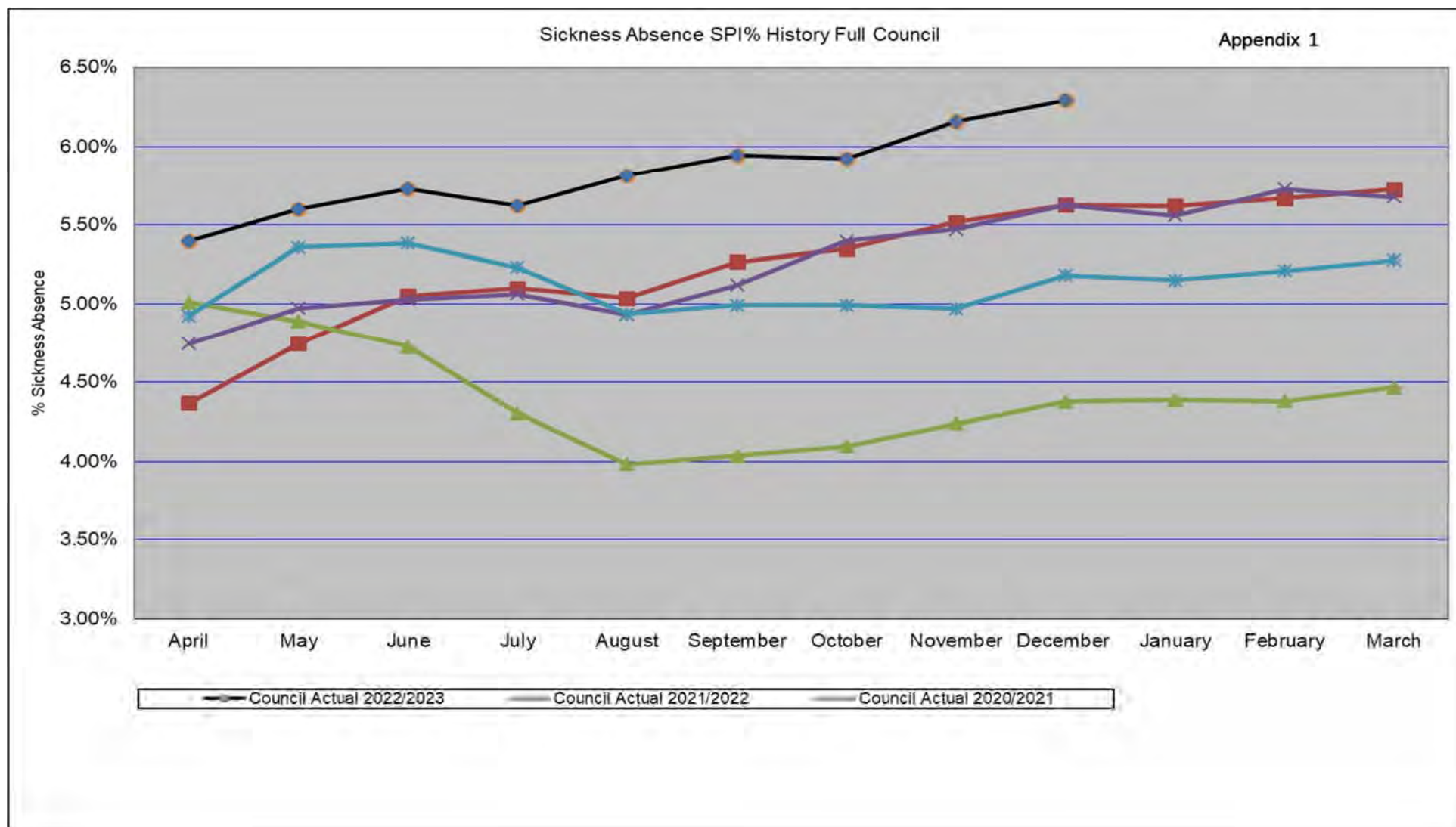
1. Sickness Absence SPI% History – Full Council
2. Sickness Absence SPI% all services – 2022/23

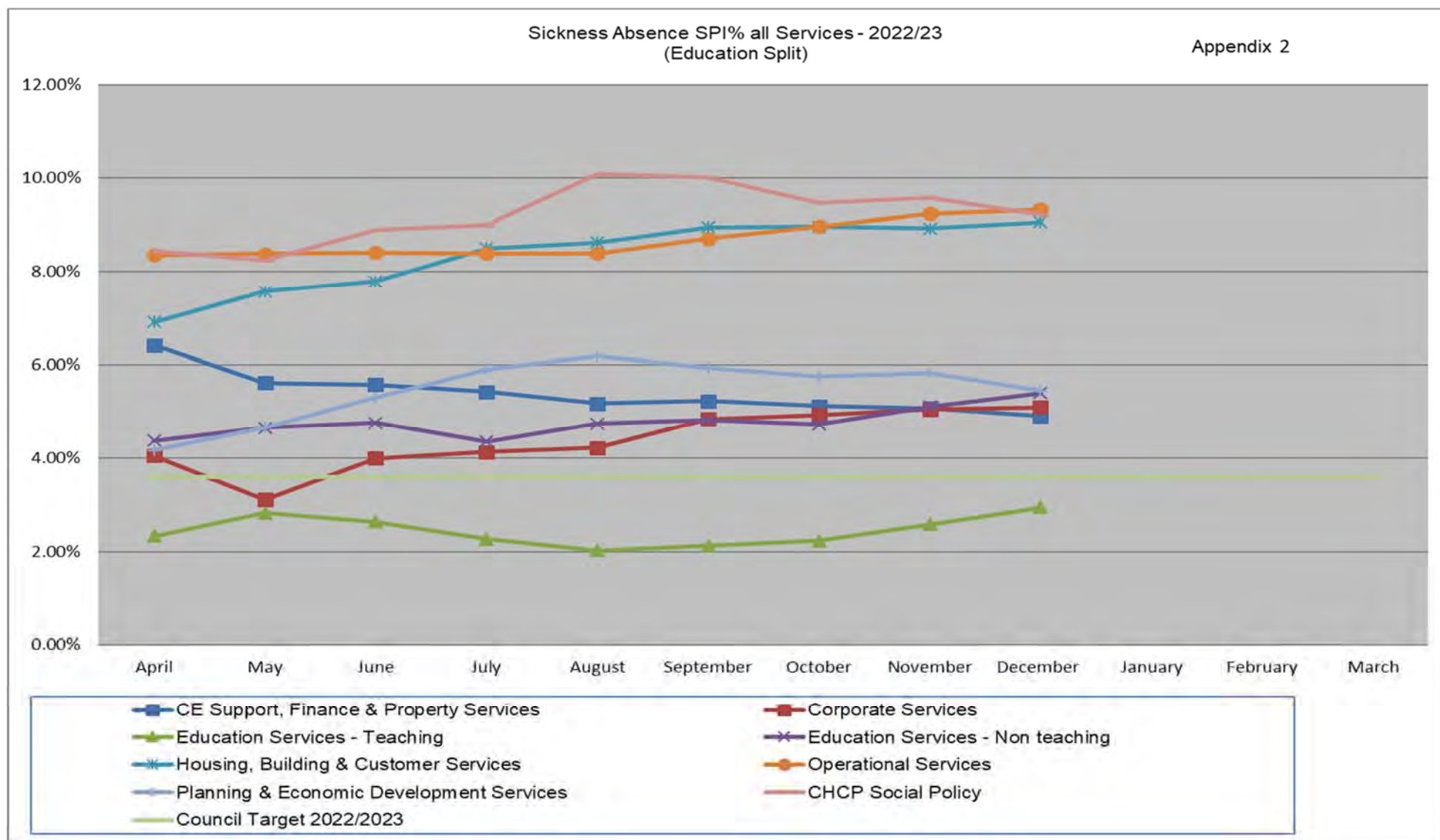
Contact Person: Claire Wallace, Interim HR Services Manager

Lesley Henderson

Interim Head of Corporate Services

13 February 2022





DATA LABEL: PUBLIC



POLICY DEVELOPMENT AND SCRUTINY PANEL

PENSIONS DISCRETIONS - SHARED ADDITIONAL VOLUNTARY CONTRIBUTIONS

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To advise the panel of the requirement to amend the council's Policy Statement on Local Government Pension Scheme Discretionary Provisions in relation to the introduction of shared cost Additional Voluntary Contributions (AVCs) as part of the Council's Employee Benefits Scheme.

B. RECOMMENDATION

It is recommended that the panel;

1. Note the required changes to the Policy Statement; and
2. Refer the Policy Statement for consideration and approval by Council Executive.

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 is obliged under the terms of the Local Government Pension Scheme to maintain a Policy Statement concerning the exercise of certain discretions under the relevant pension regulations.
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III Implications for Scheme of Delegations to Officers	None
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IV Impact on performance and performance Indicators	None
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V	Relevance to Single Outcome Agreement	None
VI	Resources - (Financial, Staffing and Property)	Decisions to apply discretionary pension and compensatory benefits are informed by the demonstrable benefits to the council both in terms of cost and service implications and also taking into account the interests of the employee(s) concerned.
VII	Other consultations	None.

D. TERMS OF REPORT

D.1 Background

The Council is required under Regulation 58 of the Local Government Pensions Scheme (Scotland) Regulations 2014 to formulate, publish and keep under review its policy in relation to certain discretions contained within the regulations.

As part of the new Employee Benefits package, the council will introduce a shared cost AVC scheme. Employees will have the opportunity to enter into a shared cost AVC through a salary sacrifice arrangement with benefits to both the employee and the council. The introduction of this scheme allows employees to make tax and national insurance savings on their contributions while saving for retirement. In addition the Council makes savings through reduced national insurance contributions on the amount of salary sacrificed.

Shared cost AVCs are a discretionary provision under the terms of the Local Government Pension Scheme and application of this provision requires that the council amend its Policy Statement on Local Government Pension Scheme Discretionary Provisions.

D.2 Policy Statement on Local Government Pension Scheme Discretionary Provisions

Regulation 17(1) of the Local Government Pension Scheme allows the council to set up an Additional Voluntary Contributions (AVC) scheme requiring a contribution from the council.

The council's revised Policy Statement on shared cost AVCs will be:

'The council will pay shared cost AVCs where an employee has elected to pay AVCs by salary sacrifice. The amount of an employer shared cost AVC will not exceed the amount of salary sacrificed by the employee.

Payment of shared cost AVCs is at the council's discretion and subject to the employee meeting conditions for acceptance into the salary sacrifice shared cost AVC scheme and may be withdrawn or changed at any time'.

The statement above is contained in Part 1, Section 7 of a revised Policy Statement as attached at Appendix 1.

E. CONCLUSION

In support of the shared cost AVC scheme to be introduced as part of the council's package of Employee Benefits, the council is required to amend its Policy Statement on Local Government Pension Scheme Discretionary Provisions.

The panel are therefore requested to note the required changes to the Policy Statement and refer the Policy Statement for consideration and approval by Council Executive.

F. BACKGROUND REFERENCES

- None

Appendices/Attachments: Policy Statement on Local Government Pension Scheme Discretionary Provisions

Contact Person: Sophie McKinney, Senior HR Adviser – 01506 284132
Sophie.mckinney@westlothian.gov.uk

Lesley Henderson
Interim Head of Corporate Services
13 February 2023



LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND) REGULATIONS 2018

POLICY STATEMENT

DISCRETIONARY PROVISIONS

Approved Council Executive: 15 September 2015

Last Revised February 2023



DOCUMENT CONTROL

Policy

Title:	Local Government Pension Scheme – Discretionary Provisions
Owner:	Human Resources

History

Version	Revision Date	Summary of Changes	Future Review Date
1.1	November 2019	Routine review required by Lothian Pension Fund	November 2024
2.0	February 2023	Revised Discretionary Provisions to support the introduction of Shared AVCs as part of the council's Employee Benefits Scheme.	February 2028

Committee Approval

Version	Committee	Committee Date
1.0	Council Executive	15 September 2015
2.0	Council Executive	TBC

POLICY STATEMENT

Regulation 58 of the Local Government Pension Scheme (Scotland) Regulations 2018 requires the council to publish a policy relating to the exercise of certain discretionary powers within the regulations. In determining its policy, the council has taken account of the need to maintain public confidence in the manner it exercises the discretionary powers available to it.

SCOPE

The general discretionary powers stipulated within Part 1 of this policy statement apply to employees who are eligible to be members of the Local Government Pension Scheme.

The discretions set out in provisions 1 to 8 are mandatory elements for inclusion in an Employer's published Policy Statement. Provisions 9 to 14 are non-mandatory elements.

The specific discretionary powers stipulated within Part 2 of this policy statement apply to employees who are eligible to be members of the Local Government Pension Scheme and the Scottish Teachers Superannuation Scheme.

PART 1: DISCRETIONARY PROVISIONS - GENERAL

1. ADDITIONAL PENSION CONTRIBUTIONS

Regulation 16 (2)(e) & 16(4)(d) of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

The council does not have a general policy of entering into an Additional Pension Contributions contract with a scheme member, but will consider individual cases on their merits.

Statutory Guidance

The council may voluntarily enter into an APC contract with a Scheme member who is contributing to the MAIN section of the scheme in order to purchase additional pension of not more than the additional pension limit (currently £6,761 and subject to annual increase in line with the Pensions (Increase) Act 1971).

The council may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with Regulation 16(2)(e), or by way of a lump sum in accordance with Regulation 16(4)(d).

The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Government Actuaries Department.

2. FLEXIBLE RETIREMENT

Regulation 29(7) of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

The council will not have a general policy of agreeing to requests for early payment of retirement benefits from a member who has attained age 55 and who with the council's consent, has also reduced his or her hours and/or grade. However, where the council considers that it can be demonstrated as being to their advantage or in its operational interests, it will consider such requests.

In considering requests for flexible retirement, the council will normally expect at least a 20% reduction in the employee's contractual weekly hours or alternatively, a minimum reduction of at least one full salary grade.

Should the council agree to the early payment of benefits under this regulation in any case, it will not have a general policy of waiving any reduction, which would normally be applied to the benefits.

Statutory Guidance

Where certain conditions are met, the Scheme Regulations allow members to draw

some or their entire scheme benefits while still in employment. The conditions are:

- The member must apply for early payment in writing and be at least age 55
- The member, with the council's consent, reduces the hours they work or their grade of employment and,
- The council agrees to the early payment of their benefits

On flexible retirement, members must take all benefits in respect of membership before 1 April 2009. With regards to the following benefits, the member has the option to request payment as follows:

- All, part or none of the benefits in respect of membership between 1 April 2009 and 31 March 2015
- All, part or none of the benefits in respect of membership from 1 April 2015 onwards
- Any additional benefits such as added years contracts, additional pension contracts (APCs), additional voluntary contributions (AVCs) or additional pension or membership awarded by the council.

The council must confirm whether or not it agrees to the member's request. The benefits would be subject to the same level of reduction which would apply had the member retired from employment, but the council may, at their cost, waive the reduction.

Note that for members who have reached age 60, employer consent to early payment is not required.

3. **WAIVING ACTUARIAL REDUCTION ON EARLY RETIREMENT BETWEEN 55 AND 60**

Regulation 29(9) of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

Any active scheme member who has not attained Normal Pensionable Age (NPA) but has attained age 55 may elect to receive immediate payment of their benefits, providing they have left employment, but these benefits may be reduced for early payment.

The council will not have a general policy of agreeing to waive any reduction which would normally be applied to the member's benefits.

Statutory Guidance

The council can agree to waive the reduction which would apply. To do so would mean the council would be liable for strain on fund costs to cover the cost of early retirement.

4. TRANSITIONAL PROVISIONS

Schedule 2 – Paragraphs 2 & 3 of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

Policy Statement

The council will not have a general policy of agreeing to requests to apply the rule of 85 from a member who has attained age 55 and has elected for early payment. However, where the council considers it can be demonstrated as being to their advantage or in their operational interests to apply the rule of 85, it will consider such requests.

Statutory Guidance

Other than on flexible retirement, the Rule of 85 does not automatically apply to members who would otherwise be subject to this and have chosen to voluntarily draw their benefits on or after age 55. As a result, the member's benefits will be actuarially reduced. To avoid the member incurring the full reduction to their benefits the council can 'switch on' the rule of 85 protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the council paying a strain (capital) cost to the Pension Fund.

A further option would be for the council not to apply the Rule of 85 but to agree to waive part of the actuarial reduction which would apply. In these cases, the council would meet part of the cost for early payment by paying a strain cost, and the member would meet the balance of the cost by a reduction to their benefits.

5. AWARD OF ADDITIONAL PENSION

Regulation 30 of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

The council will not have a general policy of awarding additional pension in this way, but will consider individual cases on their merits. The council may exercise this discretion in an individual case by written resolution where financial or operational advantages can be demonstrated.

Statutory Guidance

The council may award a member additional pension which would become payable from the same date as the member's normal pension. The maximum extra pension which can be awarded is £5,200. Such awards can be made to active members, or within 6 months of leaving to members whose employment was terminated on the grounds of redundancy or the interest of efficiency. The employer must make an appropriate payment into the fund within one month of making a resolution.

The figure of £5,200 will be increased annually each April under the Pension (Increase) Act 1971.

6. VOLUNTARY EARLY RETIREMENT BETWEEN THE AGES OF 55 AND 60

Regulation 30 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2018

Policy Statement

Any former scheme member who left prior to 1 April 2015 and is aged 55 or over, providing they are no longer in local government employment, may request unreduced payment of their deferred benefits on compassionate grounds.

The council will only exercise their discretion to waive the actuarial reduction in exceptional cases of hardship.

Statutory Guidance

This discretion applies to former employees with deferred benefits who left the Scheme before 1 April 2015. The Scheme Regulations allow former members to obtain access to their deferred benefits early; provided they are at least 55 years old. Benefits would be reduced for early payment and pension.

The reduction is calculated in accordance with guidance issued by the Government Actuary's department.

The council may resolve to waive any actuarial reduction applied to the member's benefits where there are compelling compassionate grounds for doing so. It should be borne in mind that decisions to waive any actuarial reduction under this regulation will put a strain on the pension fund, a cost which is passed on to the council.

7. SHARED COST ADDITIONAL VOLUNTARY CONTRIBUTIONS

Regulation 17(1) of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

The council will pay shared cost AVCs where an employee has elected to pay AVCs by salary sacrifice. The amount of an employer shared cost AVC will not exceed the amount of salary sacrificed by the employee.

Payment of shared cost AVCs is at the council's discretion and subject to the employee meeting conditions for acceptance into the salary sacrifice shared cost AVC scheme and may be withdrawn or changed at any time.

Statutory Guidance

This regulation allows the council to set up an Additional Voluntary Contributions (AVC) scheme requiring a contribution from the council.

8. **FORFEITURE OF PENSION RIGHTS AFTER CONVICTION FOR EMPLOYMENT RELATED OFFENCES**

Regulation 86 of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

In the interests of maintaining confidence in the public service, the council reserves the right to apply to the Scottish Ministers to forfeit all or part of a scheme member's pension benefits in the event that the member has been convicted of a serious offence which were either '*gravely injurious to the State or liable to lead to a serious loss of confidence in the public service*'.

9. **RECOVERY OR RETENTION WHERE FORMER MEMBER HAS MISCONDUCT OBLIGATION**

Regulation 87 of the Local Government Pension Scheme ((Scotland) Regulations 2018

Policy Statement

Providing that all other efforts to recover monetary obligations have been exhausted, in the interests of maintaining confidence in public service, the council reserves the right to recover any loss arising from a criminal, negligent or fraudulent act by a former employee from his/her pension benefits should the need arise.

Statutory Guidance

This provision allows the council to recover monies from pension benefits (for example, the theft of a substantial sum of money could be recovered from a scheme member's total benefits in respect of acts of theft or fraud carried out by an employee. This provision can also apply to former employees (for example, the theft of a substantial sum of money could be recovered by deducting this amount from a member's transfer value and only the reduced benefit deferred until retirement age).

10. **INWARD TRANSFER OF PENSION RIGHTS**

Regulation 95 of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

The council will not have a general policy of allowing a late transfer of previous pension rights into the Local Government Pension Scheme to proceed. Instead it will consider individual applications on their merits and may, in agreement with Lothian Pension Fund, exercise discretion to allow a late transfer to proceed where there is no financial impact on the council and Lothian Pension Fund.

Statutory Guidance

The Scheme Regulations allow members to transfer previous pension rights into the Local Government Pension Scheme. The Regulations state that all transfers must be requested within 12 months of the member joining the scheme. However, the council in conjunction with Lothian Pension Fund has the discretion to allow transfers to proceed after this time-limit has expired.

In considering whether a late transfer of pension rights is to be accepted, the council may consider any extenuating circumstances put forward as to why the transfer was not requested previously. In these circumstances the potential pension liabilities that could arise from future early retirement in terms of increased Strain on the Fund Costs will be a particular consideration.

11. MEMBER CONTRIBUTIONS

Regulation 9(4) of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

Subject to ensuring that a consistent approach is taken and in the interests of maintaining confidence in the public service, the council reserves the right to adjust a member's contribution rate should a change in pay move them into a different pension contribution band during the financial year should the need arise.

Statutory Guidance

Where an employee's salary increases or decreases during the financial year, the council will make any adjustments to contribution rates effective from 1 April following the change in salary. However, where an employee's salary decreases during the financial year they may request to have their contribution rate amended accordingly at the time of the change in salary.

12. ADDITIONAL PENSION CONTRIBUTIONS

Regulation 16 (16) of the Local Government Pension Scheme (Scotland) Regulations 2018

Policy Statement

The council will not generally agree to extend the time limit of 30 days for members to make an election to buy back lost pension following a period of approved unpaid absence, but will do so exceptionally, where a member provides evidence of extenuating circumstances.

Statutory Guidance

Following a period of approved unpaid absence of more than 30 days, the member can elect to buy back the lost pension. If they make such an election within 30 days of their return to work, then the cost of buying back the lost pension can be shared with the employer. Elections made after 30 days would require the member to bear the full costs of the additional pension contract unless the council chose to extend the 30 day time limit.

PART 2: DISCRETIONARY PROVISIONS – EARLY RETIREMENT & VOLUNTARY SEVERANCE

1. GENERAL

Decisions to award discretionary added years or enhanced lump sum compensation are delegated to the Chief Executive, in consultation with the Leader of the Council, and will be informed by the:

- demonstrable benefit(s) to the council, both in terms of total cost and service implications, based on a full assessment of these implications in each case;
- quality and relevance of the business case made, taking all relevant service and cost implications into account;
- the interests of the employee(s) concerned, balanced with the interests of the council.

2. AWARD OF ADDED YEARS

Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 1998

Policy Statement

It is the policy of the council to exercise discretion as appropriate under the relevant regulations to award added years or purchase additional pension within the limits of affordability.

Statutory Provision – Local Government Pension Scheme

Under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 1998, members of the Local Government Pension Scheme have immediate payment of pension if they are:

- aged 55* or over
- have two or more years membership; and
- their employer certifies that they are no longer in local government employment due to redundancy or in the interests of business efficiency.

Additionally, the employer has discretion to enhance such pensions for employees with at least five years scheme membership, by up to 10 'added years'.

* Employees who were active members of the scheme before 6 April 2006 and have been in continuous membership since that date retain a minimum pension age of 50.

Spouses are entitled to survivor benefits in respect of credited 'added years' (benefits based on membership accrued after 5 April 1988). The Local Government Pension etc (Civil Partnership) (Scotland) Amendment Regulations 2005 similarly provide for the payment of survivor benefits to civil partners where the former employee ceased employment after 5 April 1988

Statutory Provision – Scottish Teachers Superannuation Scheme

Under the Teachers Superannuation (Scotland) Regulations 2005 (as amended), an employer may apply two early retirement options.

In accordance with the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996 (as amended), an employer may at its discretion, credit a member of the Teachers Superannuation Scheme with an additional period of service (discretionary compensation) provided that the member has:

- attained age 55;
- completed qualifying service amounting to not less than 5 years; and
- their employer certifies that they are no longer in local government employment due to redundancy or in the interests of business efficiency

Alternatively, an employer may grant an Actuarially Reduced Pension (ARP) provided that a member is aged 55 to 59 and has completed qualifying service of not less than 2 years.

It is further open to an employer to compensate for an actuarial reduction in pension benefits by opting to purchase additional pension on behalf of a teacher.

Spouses', civil partners' and surviving nominated partners' compensation pensions that are payable in respect of scheme members whose premature retirement benefits commenced on or after 1 April 2007 are payable for the lifetime of the recipient.

3. ILL HEALTH GRATUITIES

Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2009.

Policy Statement

The council has resolved not to exercise discretion to award third tier ill-health gratuities under Regulation 49B of the 2009 Regulations on the grounds of affordability.

4. PAYMENT OF ENHANCED LUMP SUM COMPENSATION

Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2006 and the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1997 (as amended)

Policy Statement

The council will consider the award of enhanced lump sum compensation up to a maximum of 40 week's pay to eligible employees who have at least 2 years continuous service and who cease employment with the council on the grounds of voluntary redundancy or in the interests of business efficiency.

The amount of enhanced lump sum compensation payable in any individual case will be determined with reference to the formula for calculating statutory

redundancy payments, proportionately enhanced to provide for up to a maximum of 40 week's pay.

The council will apply discretion to disregard the statutory maximum limit and calculate redundancy payments with reference to an employee's actual week's pay.

On request the council will consider a reduction in the enhanced lump sum compensation due to an eligible employee calculated under the terms of the policy, subject to the reduced enhanced lump sum compensation being no less than the appropriate amount of statutory redundancy payment to which an employee is entitled under the Employment Rights Act 1996 calculated at an employee's actual week's pay.

Enhanced lump sum compensation will not be payable where additional pension benefits are being awarded under Paragraph 2 of this policy.

The council has further resolved that payment of compensation to a widow/widower or registered civil partner should continue to be paid after remarriage or co-habitation where the original retirement took place before 1 April 1998.

Statutory Provision

Under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2006 and the Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1997 (as amended), discretionary lump sum compensation can be paid to certain local government employees who cease to hold employment on grounds of redundancy or in the interests of business efficiency.

The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2009 and the Teachers' Superannuation (Scotland) Amendment Regulations 2008 provide for compensation in these circumstances of up to a maximum of 104 week's pay. This limit is inclusive of any statutory redundancy payment to which the employee is entitled under the Employment Rights Act 1996 and any additional compensation paid in connection with the statutory redundancy payment under Part II of the 1998 Regulations.

Under Regulation 4 of Part II of the 1998 Discretionary Payments Regulations, authorities have discretion to disregard the statutory maximum limit and calculate redundancy payments with reference to an employee's actual week's pay.

Administrative Arrangements

The discretionary award of added years or enhanced lump sum compensation will be implemented through an agreed procedure, which will adhere to the following principles:

- all cases of proposed early retirement and voluntary severance will, in the first instance, be submitted through the appropriate Depute Chief Executive;
- the Depute Chief Executive will ensure that all relevant details, including full costs, net savings and any service implications are provided in each case;

- the Chief Executive, in consultation with the Leader of the Council will consider each case in the context of the requirements of the policy;
- full monitoring information on numbers and costs of early retirements and severance payments will be submitted on a six-monthly basis to the Council Executive.

5. POLICY REVIEW

In formulating this policy the council has referred to the relevant statutory provisions and to advice from the City of Edinburgh Council as the Pension Scheme administering authority and the Scottish Public Pensions Agency (SPPA).

This policy statement will be kept under review and will be revised as and when necessary to reflect any changes in regulations or policy. Any changes to this policy will be advised to the administering authority and scheme members in writing within one month of the change taking effect.

Authorised Signature 	Date: 13 February 2023
Designation: Head of Corporate Services 	



CORPORATE POLICY AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL

HORIZON SCAN

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES AND HEAD OF PLANNING, ECONOMIC DEVELOPMENT AND REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to provide the Panel with a summary of the latest economic indicators and announcements for the UK, Scotland and West Lothian and the potential impact on the council.

B. RECOMMENDATIONS

It is recommended that Panel notes:

1. The results of the horizon scan for the UK, Scotland, West Lothian and West Lothian Council;
2. The risks and uncertainties in relation to the council's budget model.

C. SUMMARY OF IMPLICATIONS

- | | |
|--|--|
| I. Council Values | Being honest, open and accountable, focusing on our customers' needs, making the best use of our resources, working in partnership |
| II. Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | <p>The council is required to approve a balanced revenue budget for each financial year. Audit Scotland and CIPFA best practice guidance recommends medium term financial plans are prepared a five-year period, with detailed revenue budget for three years.</p> <p>The Covid-19 pandemic, the Russian invasion of Ukraine and the UK exit from the EU have significant implications for West Lothian, the local economy, communities and the council.</p> |
| III. Implications for Scheme of Delegations to Officers | No implications at this stage. |
| IV. Impact on performance and performance indicators | Various programmes support business development, community regeneration and employment projects. Ongoing government restraint has implications for the council's budget and performance. |
| V. Relevance to Single Outcome Agreement | The revenue budget provides the 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) | Scottish Government grant funding is not sufficient to meet increasing costs and demand for services, meaning savings have to be found on an ongoing basis. |

- | | |
|-----------------------------------|---|
| VII. Consideration at PDSP | This report is part of the regular horizon scan updates to the Panel. |
| VIII. Other consultations | Heads of Service and Depute Chief Executives. |

D. TERMS OF REPORT

D.1 BACKGROUND

Horizon scan and budget model updates are provided to the Panel on a quarterly basis and set out latest information on the UK, Scottish, West Lothian and council economic position, and the potential impact on the council's medium-term financial strategy.

This report provides an update on the latest UK economic indicators and announcements, including the implications of Russia's invasion of Ukraine and the Covid-19 pandemic. It also includes key implications following the UK exit from the EU and the latest update on economic factors that could influence the council's financial strategy. The report also provides an update on the council's approved revenue financial plan for the period as well as setting out the budget model risks and uncertainties.

The report includes an update on the 2023/24 Scottish Budget which was presented to the Scottish Parliament on 15 December 2022, and the local government finance settlement for 2023/24, as published in Finance Circular 11/2022 dated 21 December 2022 and revised on 10 January 2023, and an update on the council's latest revenue budget position.

D.2 HORIZON SCAN – UK

The War in Ukraine

The Russian invasion of Ukraine which started on 24 February 2022, continues to powerfully destabilise the global economy. It has led to a severe energy crisis in Europe that is sharply increasing costs of living and hampering economic activity. Gas prices in Europe have increased more than four-fold since 2021, with Russia cutting deliveries to less than 20 percent of their 2021 levels, raising the prospect of energy shortages over the next winter and beyond. The conflict has also pushed up food prices on world markets, causing serious hardship for low-income households worldwide. The IMF has cut its global forecast and also downgraded its outlook for the UK. The UK will no longer be the fastest growing economy in the G7 group of leading Western nations, and will be the slowest in 2023.

Food and energy prices were already being hiked by the supply bottlenecks after the Covid-19 pandemic, before one of the world's biggest energy suppliers invaded one of the world's biggest food exporters. With Russia being a major energy producer and key supplier of staples such as wheat and corn alongside Ukraine, the consequences will ripple far beyond their borders, the IMF warned. There have been two acute shocks to the world economy in quick succession, the pandemic and the Ukraine war. The latter is building on the problems created by the former, adversely impacting on what had been a healthy recovery, and sending prices rising at an even faster rate. Rising raw material costs and the impact of Russia's invasion of Ukraine are projected to keep UK inflation higher for longer.

Covid-19 Pandemic

The pandemic was the largest shock to the UK economy in a century. While successful vaccines have enabled much of the UK economy to return to normal, the emergence of new vaccine-escaping Covid-19 variants remains a key downside risk.

The UK Exit from the EU

The EU and UK reached a post-Brexit trade deal on 24 December 2020. The £668 billion a year agreement enabled UK goods to be sold without tariffs and quotas in the EU market. There remain ongoing uncertainties around the Northern Ireland protocol and any implication this may have for the wider trade agreement.

Since the UK left the EU in January 2021, there has been an impact on people and businesses, although it has sometimes been challenging to distinguish the effect of the EU exit from the overwhelming impact of Covid-19. The UK economy is currently around the same size as it was in early 2015. The main effects of leaving the EU include:

- British imports from and exports to the EU have been impacted by new border formalities.
- British manufacturers reported a near-record increase in supply chain disruption which appears to be continuing, and rising costs, attributed to the exit from the EU and Covid-19.
- The deal on EU exit contained vague commitments on services and left financial services to a separate process. The UK and the EU have now reached a “memorandum of understanding on future cooperation for financial services. It is thought it could help City of London firms regain some access to the EU that was lost when the UK left the EU’s single market.

UK Economic Update

Debt and Borrowing

The most recent forecast from the Office for Budget Responsibility (OBR) on 17 November 2022 provided updated UK borrowing figures. The OBR forecast public sector net borrowing rises sharply from £133.3 billion last year to £177 billion in 2022/23, £140 billion in 2023/24, £84.3 billion in 2024/25, £76.9 billion in 2025/26, £80.3 billion in 2026/27 and then reduces to £69.2 billion in 2027/28.

The public sector net debt is to rise to 89.9% of GDP in 2022/23. Public Sector Net Debt is expected to increase further to 95.9% in 2023/24, 97.2% in 2024/25, 97.6% in 2025/26 and 2026/27 and then reduce slightly to 97.3% in 2027/28.

Economic Growth

The most recent update from the International Monetary Fund (IMF) in October 2022 was the World Economic Outlook. Growth estimates have been revised downwards for the UK, with the IMF expecting growth to decrease from 7.4% in 2021 to 3.6% in 2022 and then 0.3% in 2023.

The Office for National Statistics (ONS) released economic growth figures on 13 January 2023. UK gross domestic product (GDP) is estimated to have grown by 0.1% in November 2022 following growth of 0.5% in October 2022. UK GDP decreased by 0.3% in the three months to November 2022, compared with the three months to August 2022. Monthly GDP is now estimated to be 0.3% below its pre-coronavirus pandemic levels (February 2020).

In November 2022, production decreased by 0.2%, after a fall of 0.1% in October 2022. Manufacturing was the main driver of negative production growth in November 2022, partially offset by a positive contribution from mining and quarrying. Services grew by 0.2% in November 2022, following growth of 0.7% in September 2022. The largest contributions came from administrative and support service activities, which grew by 2.0%, and 1.7% growth in information and communication. Output in consumer-facing services grew by 0.4% in November 2022, following a growth of 1.5% in October 2022.

In the Bank of England’s quarterly monetary policy report published on 3 November 2022, following growth of 0.2% in quarter 2 2022, it is expected to have contracted by 0.5% in quarter 3, and is projected to fall by 0.3% in quarter 4. The weakness in GDP partly reflects the squeeze on real incomes from higher global energy and tradable goods prices. The fall in activity around

the end of this year is expected to be less marked than in the August Report, however, reflecting support from the Government's energy price guarantee for households.

GDP is projected to continue to fall throughout 2023 and 2024, as high energy prices and materially tighter financial conditions weigh on spending. In the Committee's central projection, calendar-year GDP growth is -1½% in 2023 and -1% in 2024. Four-quarter GDP growth picks up to around ¾% by the end of the projection, although GDP growth is expected to remain well below pre-pandemic rates.

The British Chamber of Commerce (BCC) published its latest Quarterly Economic Forecast for 2022 in December 2022. The BCC's quarter four 2022 economic forecast now expects a recession for 2023 as it downgrades its expectations for UK GDP growth for 2023 to -1.3%, from 0.2% in its previous forecast. The BCC is forecasting a recession for the UK economy with five consecutive quarters of contraction between quarter three 2022 and quarter three in 2023. The BCC expects the economy to grow in 2024, albeit at a low 0.7%. A key contributor to the 2023 economic contraction is a sharp fall in household spending as consumers face up to rising energy costs, falling real wages, increasing taxes and higher mortgage payments. Exports are also likely to fall, although they will be outstripped by a sharper decline in imports. Business confidence has fallen significantly, with the BCC's Q3 2022 Quarterly Economic Survey showing around four-in-ten businesses expecting a decline in profitability.

Exports and Inward Investment

In the immediate wake of the EU referendum, sterling fell sharply making the goods the UK buys from abroad more expensive, affecting the cost of living, but also potentially helping to support UK exports. The pound has been making a very slow recovery against the dollar and, on 18 January 2023, the pound was \$1.23 against the dollar and €1.14 against the euro.

The Quarterly Economic Survey for quarter four 2022 provides further confirmation that business conditions deteriorated significantly in the second half of 2022. The situation remains critical for the majority of Small Medium Enterprises (SMEs) who find themselves cut adrift by monumental inflationary pressures, often driving triple-digit percentage cost increases, particularly on energy. Business confidence remains worryingly low, with only a third of firms reporting improvements to sales, and less than a quarter reporting increased investment.

Inflation

Consumer Prices Index (CPI) inflation rose by 10.5% in the 12 months to December 2022, down from 10.7% in November. On a monthly basis, CPI rose by 0.4% in December 2022, compared with a rise of 0.5% in December 2021.

The Bank of England November 2022 Monetary Policy Report stated that CPI inflation has been above the 2% target since May 2021 and averaged 10% in 2022 quarter three. That rise in inflation mainly reflects large increases in global energy and other tradable goods prices, though services inflation has also increased. CPI inflation is projected to increase to 10.9% in October, reflecting the increase in energy bills from Ofgem's April 2022 cap to the level of the Government's Energy Price Guarantee. CPI inflation is expected to remain close to 11% through the remainder of quarter four. It then eases towards 10% in 2023 quarter one, before falling further in subsequent quarters to some way below the 2% target in years two and three of the projection.

Interest Rates

The Bank of England Monetary Policy Committee (MPC) voted by a majority of seven to two to increase the Bank Rate by 0.75% to 3% on 2 November 2022. At this meeting the MPC sets monetary policy to meet the 2% inflation target, which is intended to assist in sustaining growth and employment. The majority of the Committee judges that, should the economy evolve broadly in line with the latest Monetary Policy Report projections, further increases in Bank Rate may be required for a sustainable return of inflation to target, albeit to a peak lower than priced into financial markets. There are, however, considerable uncertainties around the outlook. The

Committee continues to judge that, if the outlook suggests more persistent inflationary pressures, it will respond forcefully, as necessary.

Unemployment

The latest figures published in January 2023 show the UK unemployment rate was estimated at 3.7% over the period September to November 2022. There were an estimated 32.781 million people in employment from September to November 2022, 27,000 more than last quarter.

House Prices

The latest ONS House Price Index published on 18 January 2023 showed that, over the year to November 2022, average house prices in the UK increased by 12.4%, down from 12.4% in October 2022. The average UK house price was £295,000 in November 2022, which is £28,000 higher than this time last year.

D.3 HORIZON SCAN – SCOTLAND

The War in Ukraine

The Russian invasion of Ukraine has increased the level of uncertainty in the economic outlook and presented a new downside risk to growth at a time when the economy is still in recovery from the economic shock of the pandemic. Scotland's direct trade links with Russia and Ukraine are small and, as such, the direct impacts of the situation are expected to be limited. However, the recent surge and volatility in the price of global commodities such as oil and gas, grains and metals in which Russia and Ukraine are key global producers, means the indirect impacts of higher inflationary pressures is something that all importing economies, including Scotland, will be exposed to.

Covid-19 Pandemic

Scotland's economy experienced a significant shock due to the impact of Covid-19 restrictions. GDP in Scotland fell by record amounts and although GDP is gradually recovering, and is now above pre-pandemic levels after two years. At its peak, around one in three jobs in Scotland was supported by a combination of the Coronavirus Job Retention Scheme and business grants. The extent of impact and pace of recovery has varied. Customer facing businesses, such as retail, hospitality, tourism and the culture sector, have been most affected for longest by restrictions.

EU Implications

The Scottish economy is being affected by the UK's exit from the EU, in a similar way to that of the UK in general terms, however changes to the tax system now means that Scotland's own economic performance will have a more direct impact on the Scottish Budget.

Scottish Economic Update

Economic Growth

The latest update from 30 November 2022 stated that Scotland's GDP fell by 0.2% in real terms during the third quarter of 2022 (July to September) and is still 1.1% below pre-pandemic levels. Over the same period, GDP in the UK as a whole fell by 0.2% and is now 0.4% below pre-pandemic levels. Compared to the same quarter last year, Scotland's GDP grew by 2.9%. In 2022 quarter three, output in the construction sector decreased by 0.3%, output in the production sector decreased by -1.0% and Services sector output remained flat at 0.0% growth. Over the same period, the UK as a whole grew by 2.4%. The largest contributor to change this quarter came from the growth in business services and finances, offset by a fall in electricity and gas supply.

Unemployment

The Scottish Government's latest Labour Market Briefing was published in January 2023. This showed that between September and November 2022, the unemployment rate was 3.3%, with 92,000 people unemployed. There were 2.725 million people employed, meaning the rate of employment is 76.1%.

House Prices

The ONS publication for House Price Index showed that the average house price in Scotland increased by 5.5% over the year to November 2022 to stand at £191,000.

D.4 HORIZON SCAN – WEST LoTHIAN

Covid-19 Pandemic

West Lothian's key economic strengths are located in several sectors such as biotechnology, logistics/distribution, food and drink, electronics, retail, engineering and construction. Around 70% of West Lothian's young dynamic workforce are employed in these fast-growing sectors and that percentage looked set to grow as more companies relocate to West Lothian.

However, the Covid-19 pandemic has impacted on businesses and employment throughout Scotland and West Lothian. KPMG's UK Economic outlook report that was published in June 2020 projected the impact of Covid-19 on Gross Value Added (GVA), for 2021 at 3.6% in West Lothian compared to Scotland at 3.4% (-5% and -6.5% respectively for 2020).

West Lothian Economic Update

House Completions

House Completions for October to December 2022 (quarter three) were 390 compared to 247 for the same period in 2021. Compared to the comparative period in 2021, the 2022 quarter three figures are higher levels compared to quarter three in 2021.

Unemployment

Unemployment at local authority level is measured by the proportion of working age people not in work. In West Lothian this is 2.6% for December 2022, which is lower than the Scottish rate (3.3%) and the UK rate (3.7%).

The data in the table on the following page was published on 17 January 2023 / 13 December 2022 by Office for National Statistics. It looks at the position across Scotland based on the claimant count across the region.

Table 1: Claimant Count Across the Region

Councils		Working Age People Not in Work				% Change	
		Pre-Covid baseline (Feb-20)	Dec-21	Nov-22	Dec-22	Year Change (Dec 22 - Dec 21)	Month change (Nov 22 - Dec 22)
Edinburgh	Count	7,105	11,665	8,620	8,690	-25.50%	0.81%
	Rate	1.90%	3.20%	2.30%	2.40%		
East Lothian	Count	1,765	2,290	1,455	1,465	-36.03%	0.69%
	Rate	2.70%	3.50%	2.20%	2.20%		
Fife	Count	8,765	10,335	7,870	7,980	-22.79%	1.40%
	Rate	3.80%	4.50%	3.40%	3.40%		
Midlothian	Count	1,470	1,805	1,265	1,275	-29.36%	0.79%
	Rate	2.60%	3.10%	2.20%	2.20%		
Scottish Borders	Count	1,860	2,445	2,005	2,030	-16.97%	1.25%
	Rate	2.80%	3.60%	3.00%	3.00%		
West Lothian	Count	3,425	4,100	3,055	3,030	-26.10%	-0.82%
	Rate	2.90%	3.50%	2.60%	2.60%		
South East	Count	24,385	32,640	24,270	24,470	-25.03%	0.82%
	Rate	2.70%	3.57%	2.62%	2.63%		

D.5 HORIZON SCAN – WEST LoTHIAN COUNCIL

The economy has recently been subject to a succession of very large shocks. The economy has been recovering from the effects of Covid-19, however inflationary pressures have intensified following Russia's invasion of Ukraine. Economic implications from Covid-19 and the war in Ukraine still remain uncertain and may not be clear for some time.

The council has an approved revenue budget for 2022/23, and proactive financial planning has provided as strong as possible a position in the current climate to address ongoing challenges in public sector funding. Economic and budget announcements will continue to be reviewed and taken into consideration to ensure that financial planning assumptions remain reflective of the current position. In particular officers will continue to monitor key announcements in relation to public spending, interest rates, inflation and economic risks, in order to assess the likely impact on the council's future budget position.

D.6 SCOTTISH BUDGET 2023/24

The Deputy First Minister, in a statement to the Scottish Parliament on 15 December 2022, announced the Scottish Draft Budget for 2023/24, the tax and spending plans were accompanied by the Scottish Fiscal Commission's (SFC) economic and fiscal forecasts. The Scottish Government published Local Government Finance Circular 11/2022 on 21 December 2022 which was to be read in conjunction with the Minister's letter of 15 December 2022. A revised version of the circular was received on 10 January 2023. The draft Scottish Budget will be considered by the Scottish Parliament at readings of the Bill, dates are still to be confirmed, but they are expected to be in the last week of January 2023, first week in February 2023 and after February 2023 recess.

The total local government settlement is £13.229 billion with core revenue grant funding for 2023/24 being increased by £155.4 million and capital funding increased by £15.3 million. The original finance circular that was issued on 21 December 2022 contained some errors, the updated finance circular for 2023/24 was issued on 10 January 2023.

For West Lothian, the comparable increase in core funding compared to 2022/23 is £3.489 million. COSLA have expressed disappointment at the revenue funding package proposed by the government to local government and stated that the essential services that local government delivers have not been prioritised. COSLA's Resources Spokesperson said council services will now be at absolute breaking point and some may have to stop altogether.

The outcome of the detailed local government finance settlement has been assessed, taking account of further confirmation required and the further funding streams to be clarified. Based on a review of the figures and forecasts contained in the local government finance settlement and associated documents, the Head of Finance and Property Services will update the revenue and capital budgets for 2023/24 for reporting to Council in February 2023.

D.7 BUDGET PLANNING SCENARIO AND CHANGES TO THE BUDGET MODEL

The council budget position was reported to Council Executive on 6 December 2022, and set out an estimated budget gap of £57.7 million for the period 2023/24 to 2027/28. This reflected updated movements in pay, energy, homelessness and NDR cost forecasts which increased the previous gap by over £10 million. Taking account of this, a number of urgent actions were agreed by Council Executive to help mitigate the increased budget gap assumption.

In line with the actions agreed by Council Executive, the budget model has been updated to include an assumption of annual increases in council tax and fees and charges of 4.5%. The model has also been updated to include the 2023/24 local government finance settlement and other minor adjustments to expenditure (e.g. incorporating the NDR poundage freeze). Other changes made to the budget model since 6 December 2022 include:

- Update of inflation for Landfill Tax based on the Scottish Government announcement from 15 December 2022;
- Indexation and Demographics updated for Living Wage within Health and Social Care;
- The base budget has been updated for the Pay Award;
- Living Wage supplement removed;
- Water inflation updated following announcement of increase from Business Stream;
- Pressure for Green Waste;
- PPP inflation figure for 23/24 has been updated with Decembers 2022 RPI.

Following the report to Council Executive on 6 December 2022, which highlighted the adverse movements in the projected budget position since the commencement of Phase 2 of the public consultation and agreed actions required to ensure the continued financial sustainability of the council, the council has received the LGFS for 2023/24. A report on the outcome of the LGFS and the council's updated financial planning position for the five years 2023/24 to 2027/28 was presented to Council Executive on 17 January 2023. The revised budget gap for 2023/24 to 2027/28 is estimated to be £47.6 million.

The forecast budget gap reflects the outcome of the 2023/24 finance settlement and latest budget model assumptions. Officers continually keep the assumptions in the budget model under review to ensure, as far as possible, they reflect current circumstances and information. The nature of long-term forecasting means it is challenging to identify expenditure pressures and income for future years. There are always risks and uncertainties associated with long term financial planning and assumptions. The ongoing cost of living crisis and the remaining effects of the pandemic and the UK leaving the EU continue to provide considerable uncertainty. In addition, the National Care Service (Scotland) Bill could result in changes to service delivery models which will have an impact on local government services, funding and financial and planning assumptions. There are significant risks and uncertainties associated with the long-term financial assumptions underlying the budget model.

Officers have developed budget saving options for the three years 2023/24 to 2025/26. At this stage the estimated budget gap over the three-year period 2023/24 to 2025/26 is £35.8 million with officer savings options of £37.4 million for 2023/24 to 2025/26, leaving an estimated surplus of £1.583 million at this time. As agreed by Council Executive on 6 December 2022, officers will develop additional savings to address any remaining gaps. Reports were presented across all PDSPs in January 2023 which summarise a number of potential saving options to address the council's budget gap over the three-year period 2023/24 to 2025/26, including responses from the WL2028 Your Council, Your Say Phase 2 consultation.

D.8 HORIZON SCAN BUDGET MODEL RISKS AND UNCERTAINTIES

There are a number of risks and uncertainties in the long-term financial assumptions underlying the budget model, which have intensified with the war and the pandemic. These include the risk that the increase in costs associated with demand led services, such as social care, is greater than assumed and the increased incidence of ring-fenced funding and the new policy or legislative changes by the UK or Scottish governments which restrict the council's flexibility to decide how to deliver services locally.

The nature of forecasting means it is challenging to identify with any certainty expenditure pressures and income. In addition, there are more general risks and uncertainties which will continue to be monitored. Some of the more general risks and uncertainties are:

- Economic growth being less than forecast, with high uncertainty around future economic growth due to war in Ukraine and the recovery from the pandemic.
- Funding not being provided to fully cover the costs of introducing new legislation.
- Policy changes by the UK or Scottish governments which restrict the council's flexibility to decide how to deliver services locally.
- Ring fencing of grant funding, constraining how local authorities allocate resources.
- Changes to local government remits with uncertainty for service provision and funding.

In addition, there continues to be a high degree of uncertainty around the impact of the war in Ukraine. At this point it is difficult to assess what impact the various permutations could have for the council specifically and for public funding more widely, however the council will continue to monitor. Updates on how the war in Ukraine may impact on the council's financial strategy will continue to be provided as part of the quarterly horizon scan update to the Panel.

D.8 WL2028 YOUR COUNCIL, YOUR SAY CONSULTATION

On 24 June 2022, the Council Executive approved the three stage West Lothian (WL) 2028 Your Council Your Say public consultation approach. Phase 1 of the consultation commenced on 24 June 2022 and closed on 31 July 2022. A report providing an update on the feedback received from respondents to Phase 1 of the WL2028 Your Council Your Say public consultation, and an update on the key dates and activities associated with Phase 2 of the public consultation was reported to Council Executive on 4 October 2022.

The second phase of the consultation opened for a six-week period from 7 October to 20 November 2022. The results of the Phase 2 consultation were reported to Council Executive on 20 December 2022, with Special PDSPs scheduled at the end of January 2023 to allow elected members to consider the responses received at the Phase 2 stage.

The Council budget setting meeting on 21 February 2023 will set the Corporate Plan and five year financial plan 2023/24 to 2027/28, a three year detailed revenue budget 2023/24 to 2025/26 and taxation levels for 2023/24 to 2027/28.

The Phase 3 consultation on the 2026/27 and 2028/29 budget proposals will be progressed during 2023/24 prior to the Council budget setting meeting in February 2024.

E. CONCLUSION

The report provides a high-level overview of the latest economic indicators and other announcements likely to have a financial impact on the council, predominantly as a result of the war in Ukraine, cost of living crisis and the Covid-19 pandemic. Economic implications resulting from the war in Ukraine and covid-19 remain uncertain and the UK, Scottish, West Lothian and council position will continue to be reported on a quarterly basis as part of the horizon scanning of factors that could have an impact on the council's medium-term financial strategy. In view of the challenges, the council is responding pro-actively and the consultation process in relation to future plans and budget is ongoing. The deterioration in the financial position facing the council means that urgent action is necessary to ensure the ongoing financial sustainability of the council.

F. BACKGROUND REFERENCES

Scottish Budget, Local Government Finance Settlement and Revenue Budget Update - Report by Head of Finance and Property Services to Council Executive on 17 January 2023.

WL2028 Your Council Your Say - Public Consultation - Report by Depute Chief Executive on 20 December 2022

Appendices/Attachments: None

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Date of Meeting: 13 February 2023

DATA LABEL: PUBLIC



CORPORATE POLICY AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL

SOCIAL SECURITY, BENEFITS AND WELFARE REFORM UPDATE

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To inform the Panel of recent developments in, and the continuing implications of, the ongoing programme of welfare changes.

B. RECOMMENDATION

It is recommended that the Panel:

1. Notes the impacts of the welfare changes in West Lothian and the actions which the council and community planning partners are taking in response;
2. Notes the availability of financial support both nationally and locally; and,
3. Notes the benefits available through Social Security Scotland

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)	The Welfare Reform Act 2012 provided for significant changes to Housing Benefit, a Benefit Cap, and the introduction of the Council Tax Reduction scheme and the Scottish Welfare Fund, both administered by local authorities in Scotland. In addition, further Department for Work and Pensions (DWP) led welfare changes are continuing to be introduced. The Scotland Act 2016 also devolved certain aspects of welfare in Scotland to the Scottish Parliament which are being implemented on an ongoing basis.
III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	Corporate and service performance indicators are being reviewed as implications of the reforms become clear.
V Relevance to Single Outcome Agreement	<ul style="list-style-type: none"> • Our children have the best start in life and are ready to succeed.

- We live in resilient, cohesive and safe communities.
- People most at risk are protected and supported to achieve improved life chances.
- We live longer, healthier lives and have reduced health inequalities.

VI Resources - (Financial, Staffing and Property)

Officers will continue to assess the ongoing financial and staffing implications for the council.

VII Consideration at PDSP

Regular updates on welfare reform have been reported to the Panel since 2012.

VIII Other consultations

With services, and ongoing consultations with the voluntary sector and other partners.

D. TERMS OF REPORT

D.1 Overview

The Welfare Reform Act 2012 introduced several major changes to the welfare system including the introduction of Universal Credit (UC). The full UK wide roll out of Universal Credit has an estimated completion date of December 2024.

In addition to the continued welfare reform agenda, the cost of living crisis has put significant pressure on household budgets. Additional one-off payments and support schemes have been introduced to mitigate some of this impact in addition to established schemes such as Discretionary Housing Payment, the Scottish Welfare Fund and the Council Tax Reduction Scheme. The roll out of benefits devolved to Scotland is continuing.

D.2 Universal Credit

Universal Credit (UC) is delivered by the DWP and integrated six core benefits and tax credits into a single payment. These are, income-based (means-tested) Job Seekers' Allowance; income-based Employment Support Allowance; Income Support; Housing Benefit; Child Tax Credit and Working Tax Credit.

Local authorities do not administer Universal Credit (UC) but UC does impact on the administration of those benefits that are administered by local authorities, including the Council Tax Reduction Scheme (CTRS), Discretionary Housing Payment (DHP), and Scottish Welfare Fund (SWF). West Lothian went live with UC full service on 16 May 2018 and full-service UC is now in place with a completion date of December 2024 across the UK.

The latest UC Official Statistics published by the DWP state, as at April 2022, a total of 14,956 people in West Lothian are on UC. 8,969 of these UC claimants are not in employment with 5,982 in employment.

Move to Universal Credit Strategy 2022-24

The DWP has three ways in which they will move claimants onto Universal Credit, natural, voluntary and managed migration.

When a legacy claimant experiences a change in circumstances (for example, a change in employment status or family situation), they need to make a new claim for a benefit that UC has replaced and they will “naturally” migrate to UC.

Voluntary migration is when legacy claimants choose themselves to voluntarily move to UC, this is mainly because legacy claimants will be financially better off claiming UC.

For those claimants who do not choose to migrate voluntarily nor have migrated naturally, they will be moved across to UC through the managed migration process, this is where DWP/HMRC move claimants from Housing Benefit (and other legacy benefits) across to Universal Credit (UC) under a formal exercise.

DWP have said that the migration exercise is scheduled to be completed by the end of 2024. DWP restarted work on the migration process from May 2022 with the first migration notices being issued to customers.

Universal Credit Hardship Payment Scheme Refunds

This new scheme is for people who received a hardship payment from Universal Credit between 1 January 2014 and 11 January 2021 and have paid it back. If the UC claimant asked DWP to waive repayments, and DWP refused this request, claimants may be able to apply for a refund.

Hardship payments were paid if UC was reduced due to a sanction or fraud penalty, allowing claimants to get emergency money in the form of a loan to help cover household expenses like food and bills. The deadline to apply to this scheme is the 19 June 2023.

D.3 Discretionary Housing Payment Fund

The Discretionary Housing Payment (DHP) fund provides additional support to households where a tenant is entitled to Housing Benefit or the housing cost element paid as part of their UC award, and who require further assistance to pay their rent.

DHP can be paid to alleviate short term hardship, or to assist those most affected by welfare changes, particularly those affected by the size criteria restrictions (also termed the spare room subsidy or bedroom tax) in the social rented sector. The Scottish Government reimburse councils for the full amount of expenditure incurred to mitigate the impact of the bedroom tax.

Initial funding arrangements for DHP for 2022/23 consisted of three main categories, ‘bedroom tax mitigation’, ‘other DHPs’ and ‘DHP administration’. From January 2023 any Benefit Cap cases will be fully mitigated and additional payments will be made by the Scottish Government for this purpose. This additional funding will be ring-fenced specifically for payments made between January 2023 and March 2023.

As is normal for DHP funding, the payments will be made in two tranches. Initial funding of £51,270 which covers 80% of the expected payments, will be made in the last two weeks of March 2023. The balance will be calculated after the year end monitoring returns are submitted. West Lothian will also receive an additional payment of £17,085 in administration costs for the remainder of 2022/23 in order to fully mitigate all Benefit Cap cases within West Lothian.

It is also worth noting that the Scottish Government has agreed to continue ‘Benefit Cap full mitigation’ beyond the remainder of the 2022/23 financial year.

The allocations for the 2023/24 budget for benefit cap mitigation will be included in the 2023/24 allocations letter which will be issued in February 2023.

The projected total spend for “bedroom tax mitigation” in 2022/23 is £2.761 million. All applicants affected by the bedroom tax, who are entitled to Housing Benefit or the housing cost element paid as part of their UC award, will continue to be awarded full DHP to cover the shortfall during in 2022/23.

The funding for ‘bedroom tax mitigation’ follows the same approach as in 2021/22 to ensure the on-going full mitigation of the impact of the bedroom tax in Scotland. The Scottish Government has not, in its release of funding, estimated the cost of bedroom tax mitigation for local authorities as it did in previous years. Funding will be released in two tranches. Tranche One is 80% of the expected cost of bedroom tax mitigation and West Lothian received £2,279,453 in the Local Government Finance Order distribution. DHP spend will be monitored with Tranche Two funding calculated after the year end monitoring returns are submitted.

Funding for the category ‘other DHPs’ in 2022/2023 for West Lothian is £411,831 as detailed below:

Core DHP	£45,249
Local Housing Allowance	£36,511
Benefit Cap	£250,695*
Additional Scottish Government Funding	£79,376
Total	£411,831

The ‘Additional Scottish Government Funding’ outlined in the table above is additional funding that councils received who had utilised all of their DHP allocation in 2021/22. This was redistributed from those local authorities who had an underspend in their 2021/22 DHP allocation.

*Includes the additional sums for January to March 2023 to administer the full mitigation of the Benefit Cap cases.

DHP spend to date in 2022/23 is summarised as follows:

	Number of Awards	Spend to date £
Benefit Cap	36	44,926
Bedroom Tax	5107	2,318,870
Local Housing Allowance /Combination	20	7,670
Core DHP	429	191,111
Total	5,592	2,562,577

Funding for administrative costs, based on the number of claimants affected by the bedroom tax, local housing allowance and benefit cap, is £62,356 for 2022/23. This amount includes the additional funding provided to fully mitigate the Benefit Cap cases between January and March 2023.

D.4 Scottish Welfare Fund

The SWF covers the whole of Scotland and is delivered by local authorities who are responsible for administering Community Care Grants and Crisis Grants.

Scottish wide SWF funding for 2022/23 was £40.9 million the same figure as in 2021/22. The Scottish Government commissioned a review of the Scottish Welfare Fund which was undertaken by Ipsos and consisted of research and data analysis and will include examination of levels of funding and take-up as well as gathering insight into how the Fund is administered. The report is due to be presented to Scottish Government in early 2023.

West Lothian Council received Programme Funding for 2022/23 of £1,134,149 and Administration Funding of £174,851. This is a reduction of £10 in programme funding and increase of £3,010 in administration funding compared to the 2021/22 funding.

Scottish Government Programme Funding is being supplemented by additional West Lothian Council funding of £1.198 million.

West Lothian's allocation for SWF for 2022/2023 is detailed below:

SWF programme funding	£1,134,149
Additional West Lothian Council programme funding	£1,198,000
Administration Funding	£174,851
Total	£2,507,000

The level of administration funding provided does not cover the costs of providing this service. Information provided by four other local authorities shows that the Scottish Government administrative funding ranges from 35% to 50% of the full cost of running the service in relation to the actual cost. This shows that the position in West Lothian Council is broadly on par with other authorities.

The Scottish Government budget, published in December 2022, confirms that local authority funding for SWF in 2023/24 will remain at £40.9 million

The 2022/23 SWF spend to 31 December 2022 is summarised as follows:

	Number of Awards	Expenditure £
Crisis Grants	5767	644,931
Community Care Grants	1367	1,039,087
Total	7134	1,684,018

The above expenditure does not include applications received prior to 31 December 2022 that are still to be processed. There are currently 171 Community Care Grants and no Crisis Grants to be assessed.

D.5 Self Isolation Support Grant

Self-Isolation Support Grants started on 12 October 2020 and ended on 5 January 2023, although anyone who received a positive test for Covid can still apply up to 2 February 2023. The grant assisted those who tested positive for Covid 19 or who had been in contact with someone who tested positive to stay home and reduce the risk of spreading the disease. Only those that could not work from home and would lose income as a result of not being able to go to work qualified to be assessed for a grant. To qualify, individuals had to meet certain income criteria. The rules around who qualified for a grant changed several times during the grant duration but up to its closure, was still assisting those who tested positive. The service has dealt with 8476

applications for the grant over the last 2.5 years and awarded 4427 grants. The total paid to date is £2,135,175.

D.6 Additional Financial Support as a result of the “cost of living crisis”

The ‘cost of living crisis’ refers to the fall in ‘real’ disposable incomes that the UK has experienced since late 2021 caused predominantly by high inflation outstripping wage and benefit increases.

In response both the Scottish and UK Governments have announced in their 2023/24 Budget Statements that benefits including working age and disability benefits, Pension Credit and devolved Scottish benefits will be increased by a rate of 10.1% to more closely align with inflation. State Pension rates will also increase by 10.1% and the National Living Wage is set to rise by 9.7% from April 2023 to an hourly rate of £10.42, an annual pay rise worth over £1600 to a full-time worker.

In addition, the UK government has also announced cost of living support schemes to be extended to 2023/24. These will be made in multiple payments, spread across the year to ensure consistent support during 2023/24. Further detail on the exact timing and eligibility for payments to be provided by DWP and HMRC in due course, but are expected to be broadly as follows:

Payment	Amount	Date
First Cost of Living Payment	£301	Spring 2023
Disability Payment	£150	Summer 2023
Second Cost of Living Payment	£300	Autumn 2023
Pensioner Payment	£300	Winter 2023
Third Cost of Living Payment	£299	Spring 2024

Direct Cost of Living Payments to households on means tested benefits

More than eight million households on means tested benefits will receive Cost of Living Payments totalling up to £900 in 2023/24. This includes eligible households receiving the following benefits:

- Universal Credit
- Income-based Jobseekers Allowance
- Income-related Employment and Support Allowance
- Income Support
- Working Tax Credit
- Child Tax Credit
- Pension Credit

These will be paid in multiple instalments across the year. Payments will be tax-free and will not count toward the benefit cap, or impact any existing benefit entitlement.

£300 one off Pensioner Cost of Living Payment

Pensioner households will receive an additional £300 in 2023/24 to help them cover the cost of increased bills. Due to the disproportionate impact of the rising cost of living for older people, this support will be universal for all pensioners across the UK.

This payment can be made in addition to the means tested benefit payment and disability payment if eligible. The payment will be tax free and will not impact existing benefit entitlement.

£150 one off Disability Cost of Living Payment

Around six million people across the UK who receive the following disability benefits will receive a further one-off payment of £150 in 2023/24 to help with the additional costs they may face:

- Disability Living Allowance
- Personal Independence Payment
- Attendance Allowance
- Scottish Disability Benefits
- Armed Forces Independence Payment
- Constant Attendance Allowance
- War Pension Mobility Supplement

For disability benefit recipients who receive means tested benefits, the £150 will be on top of the £650 one off cost of living payment which they will receive separately. These payments will be exempt from tax, will not count towards the benefit cap, and will not have any impact on existing benefit awards.

Support with Energy Costs

The Energy Price Guarantee limits the amount suppliers can charge per unit of energy used. The scheme was introduced in November 2022 as a means to protect customers from large price increases, limiting household bills for typical use gas and electricity to £2500 per year on average.

It was announced in the Autumn Statement that the Energy Price Guarantee will be extended for a further year to April 2024. The unit price limit will increase slightly, meaning that a typical usage household will pay £3000 per year on average, but the government predicts average savings of £500 per year compared to the price of the energy price cap.

The government will also double to £200 the level of support for households that use alternative fuels, such as heating oil, LPG, coal or biomass, to heat their homes.

In addition, over 900,000 households without a direct relationship to an energy supplier, such as care home or park home residents, will be able to apply online for £400 of non-repayable help with their fuel bills.

In Scotland, the Winter Heating Payment has replaced the Cold Weather Payment previously paid by DWP. The new payment is to help people on low income benefits with increased heating costs during the winter. This is an annual payment of £50 and whereas the Cold Weather Payment was only paid if the temperature dropped below zero for seven consecutive days, the Winter Heating Payment is paid automatically to anyone who meets the qualifying criteria, regardless of temperature. Payments for winter 2022 are expected to be made from February 2023.

West Lothian Council Cost of Living Support

West Lothian Council is also delivering a number of support schemes, these include:

- £135,000 allocated to a “feeling the pinch” fund delivering specific one-off funding for households who need assistance but do not qualify for other types of support available. From October 2022 to date, payments of £37,421 have been paid to 189 qualifying households, the fund so far has helped those who are just above Scottish

Welfare Fund thresholds and experiencing financial hardship to those on a low income who require assistance with travel or winter clothing.

- £80 winter support payments were paid to customers in receipt of Council Tax Reduction in December 2022. This support was targeted toward those most likely to experience hardship in the winter months including:
 - Lone Parents
 - Disabled pensioners
 - Those in receipt of Universal Credit with a limited capability for work
 - Those with a carers allowance

£329,600 will be paid to 4,120 Council Tax Reduction recipients

- Energy support grants of up to £100 have been paid to 3,234 households since January 2022 with support totalling £232,225. Additionally, £42,000 has been allocated to provide additional support for energy bills for people with disabilities.
- A new grant fund of £20,000 has been allocated to support unpaid carers with increased living costs.
- £637,000 to provide an £80 payment to households in receipt of a School Clothing Grant in January 2023 to assist with the cost of winter clothes.

Training for Frontline Staff

A programme of information briefings has been planned between January and May 2023. These short sessions are designed to provide frontline staff with key information about cost of living support and social security benefits that may be available to help people experiencing poverty.

Topic	Date
Cost of living briefing sessions	Monday 23 January 2023
	Thursday 26 January 2023
	Wednesday 1 February 2023
Universal Credit overview briefings	Planned for February/March 2023
Social Security Scotland benefit overview	Planned for March/April 2023
Cost of living briefing sessions	May 2023

The above training opportunities have been shared with West Lothian Council, Community Planning Partners and Third/Voluntary sector staff. The training is a mix of face to face and online sessions, with the online sessions accommodating up to 70 people. The Cost of living Sessions are fully subscribed, however additional sessions are planned for May 2023. The training will be recorded and shared with those that are unable to attend the briefings.

D.7 Additional financial support for children in receipt of Free School Meals and School Clothing Grants.

In January 2023, an additional school clothing grant of £80 was paid to the parents or guardians of children who are in receipt of a clothing grant for the 2022/23 Academic Year. Based on the current number of children in receipt of a school clothing grant, this additional payment will benefit 7,300 children.

Funding from the Scottish Government has assisted the council to continue to provide financial support during 2022/23 to parents or guardians during the school holiday periods if their child is in receipt of Free School Meals, or for children in P1 to P5 who receive Universal Entitlement to Free School Meals but would otherwise qualify because of low household income to help them with the rising cost of living and in particular food and fuel costs. A payment of £15 per week will be paid for each child during holiday periods. This payment benefits families of 6500 children.

The Scottish Governments Bridging Payment has ceased with the last payment made in December 2022. The Scottish Government doubled this payment to £260. The total paid in West Lothian was £1,439,140 and supported just over 5,500 children. The Bridging Payments have ceased because the Scottish Government has rolled out the Scottish Child Payment to all children up to and including the age of 15 for parents on qualifying benefits.

West Lothian Council have also committed to making a £3 per day payment to all parents/guardians of school children who are in receipt of Free School Meals and adversely affected by the Teachers strikes, to date £36,660 has been paid.

D.8 The Scotland Act 2016 and the Devolution of Welfare

The Scotland Act, includes provision to devolve eleven benefits to Holyrood, and to give Holyrood the power to top up any benefits, reserved or devolved, provided the funding is met by the Scottish Government.

Scottish Child Payment

The Scottish Child Payment (SCP) was introduced on 15 February 2021 to provide support for low-income families with children under six. From November 2022 the Scottish Child Payment has increased to £25 per week and is paid for each child up to their 16th birthday.

The latest available statistics in September 2022 confirm between 1 April 2022 and the 30 September 2022 a total of £53,110,370 SCP was paid. Since its launch, a total of 189,615 applications have been received for SCP in Scotland with 7,105 being received from residents of West Lothian.

Adult Disability Payment

Adult Disability Payment (ADP) is a benefit for disabled working-age adults who live in Scotland. It helps with the extra costs incurred by people with disabilities or people who have a long-term health condition. Adult Disability Payment is replacing Personal Independence Payment (PIP) in Scotland.

ADP for new applicants has been introduced through a phased approach, this began in March 2022 and was completed in August 2022.

People already receiving PIP and DLA do not need to make an application for ADP. These existing awards will transfer automatically from the DWP to Social Security Scotland. Cases will transfer in stages starting from the summer of 2022 and this process is expected to be completed by the end of 2025.

Cold Weather Payment

From February 2023, Cold Weather Payments will be replaced by a new benefit called Winter Heating Payment. This was previously named Low Income Winter Heating Assistance (LIWHA).

Winter Heating Payment will provide an annual £50 payment, automatically through Social Security Scotland, to anyone who qualifies.

The qualifying criteria for the Winter Heating Payment mirrors that of Cold Weather Payments and unlike the Cold Weather Payment, Winter Heating Payment does not depend on how cold the temperature gets.

Child Winter Heating Allowance

Child Winter Heating Assistance is a benefit from the Scottish Government. It was first paid in 2020 and helps disabled children and young people and their families with increased heating costs over winter.

The annual payment for 2022/2023 is £214.10

It is not necessary to apply for the payment if a child currently lives in Scotland. If the child or young person is eligible, a payment is made automatically into the same account that your Disability Living Allowance for children is paid into.

E. CONCLUSION

As welfare changes continue to be rolled out and, as further changes take effect, officers will assess the cumulative effects of these challenges in order to develop and shape work going forward.

The direct and lasting impact of the rising cost of living will continue to be a concern for many households throughout 2023. The potential issues arising from the cost of living crisis and DWP led reforms and devolved Social Security benefits will continue to be monitored. The results of this work will be reported to elected members via the PDSP process and relevant action will be proposed by the council and community planning partners to pro-actively address issues arising. Officers will continue to prioritise training and communication for all stakeholders in all aspects of Social Security and benefits.

F. BACKGROUND REFERENCES

None.

Appendices/Attachments: None.

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Donald Forrest
Head of Finance and Property Services
13 February 2023

DATA LABEL: PUBLIC



CORPORATE POLICY AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL

NON-DOMESTIC RATES EMPTY PROPERTY RELIEF POLICY

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to present the proposed Non-Domestic Rates Empty Property Relief Policy effective from 1 April 2023 for consideration by the Panel.

B. RECOMMENDATION

It is recommended that the Panel:

1. Notes the need for local authorities to have a Non-Domestic Rates Empty Property Relief Policy under the Community Empowerment (Scotland) Act 2015 to allow the continued award of empty property relief from 1 April 2023.
2. Notes and considers the proposed Non-Domestic Rates Empty Property Relief Policy which officers intend to submit to Council Executive on 28 February 2023 for approval.
3. Notes that a further report will be brought to the Panel during 2024/25 following a full review of the policy and setting out any proposed changes from 1 April 2025.

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)	To create a new policy under Part 11 of the Community Empowerment (Scotland) Act 2015. An Integrated Relevance Assessment has been carried out and has determined that a full assessment is not required.
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	The proposed policy will extend the current statutory reliefs so there will be no impact on performance.
V	Relevance to Single Outcome Agreement	None.

VI	Resources - (Financial, Staffing and Property)	The Scottish Government has provided additional funding as part of the finance settlement for 2023/24 which will cover the projected costs of the policy.
VII	Consideration at PDSP	The report is being presented to the Panel before going to Council Executive.
VIII	Other consultations	Economic Development has been consulted as well as other local authorities via the Institute of Rating Revenues and Valuation (IRRV).

D. TERMS OF REPORT

D.1 Background

Non-Domestic Rates (Business Rates) is a property-based tax raised by the council and collected from businesses on behalf of the Scottish Government.

The amount charged in rates is based on the rateable value of the property multiplied by the applicable rate poundage.

The rateable value is determined by the Assessor for Lothian Valuation Joint Board and is an estimate of the yearly rental value of the property on the open market.

The rate poundage is set each year by the Scottish Government through statutory regulations.

There are various reliefs available to businesses to reduce or remit the rates charged should they meet the set criteria for relief.

Empty Property Relief (EPR) is one such relief and is currently administered under the following key legislation:

- Sections 24 and 25 of The Local Government (Scotland) Act 1966
- The Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994
- The Non-Domestic Rating ((Unoccupied Property) (Scotland) Regulations 2018

The Scottish Government set out in the Scottish Budget Corporate Report published on 28 January 2021 that they would devolve EPR to local authorities at the next Non-Domestic Rates revaluation on 1 April 2023.

As a result, the above legislation will be repealed with effect from 1 April 2023. Therefore, for local authorities to continue to award EPR they are required to develop their own EPR Policy under Part 11 of the Community Empowerment (Scotland) Act 2015.

D.2 Current Statutory Empty Property Reliefs

The existing EPR scheme operating under the legislation set out above is as follows:

- Unoccupied industrial property is eligible for 100% relief for the first six months since becoming unoccupied and thereafter is eligible for 10% relief until occupied.
- Other (non-industrial) unoccupied property is eligible for 50% relief for the first three months since becoming unoccupied and thereafter is eligible for 10% relief until occupied.

The above relief is also available where part of a property is empty and will remain so for a short time only. The Assessor for Lothian Valuation Joint Board will provide the rateable values attributable to the occupied and unoccupied parts of the property with the relief being applied against the empty part only.

In addition, where an unoccupied property falls into to one of the following categories the property is eligible for 100% relief until occupied:

- Listed building
- Rateable value less than £1,700
- Occupation is prohibited by law
- Property has no buildings (e.g. land or ground)
- Subject to a building preservation order
- Owner is in administration (or subject to an administration order)
- Owner is a company or limited liability partnership subject to a winding up order made under the Insolvency Act 1986 or being wound up voluntarily under that Act
- Action taken by or on behalf of the Crown or any public authority with a view to prohibiting occupation or to acquisition (e.g. compulsory purchase order)
- Person entitled to possession only so entitled as a liquidator, as the trustee under a trust deed for creditors or an award of sequestration, or as an executor of a deceased persons estate.

The council is liable for Non-Domestic Rates on most of the buildings and land it uses therefore is eligible for EPR in the same way as other ratepayers.

D.3 Levels of Empty Property Relief Awarded

The level of EPR awarded over the last three full financial years, as well as the current year to date, is noted in the table below:

Financial Year	Level of EPR Awarded (£)
2019/20	3,106,961
2020/21	3,063,544
2021/22	2,952,952
2022/23 (to date)	3,004,817

The level of EPR awarded has been relatively stable over this period of time.

A revaluation of all non-domestic properties is being carried out across Scotland by the Assessors of the respective Valuation Joint Boards. The revaluation and subsequent change to the rateable value of properties, which will come into effect from 1 April 2023, may have an impact on the level of EPR awarded. The extent of any impact of revaluation on the rateable value of properties in West Lothian will not be fully known until the revaluation file is received from the Assessor for Lothian Valuation Joint Board which is expected in March 2023.

The current economic environment may also result in an increase in the number of

empty non-domestic properties meaning there could be an increase in the level of EPR awarded.

The level of EPR awarded will continue to be closely monitored throughout the period of the policy.

D.4 Empty Property Relief Funding Arrangements

Local authorities bill and collect Non-Domestic Rates on behalf of the Scottish Government. The amount collected by local authorities is “pooled” by the Scottish Government and redistributed to local authorities as part of the funding settlement. This takes account of EPR awarded and income collected from empty properties therefore EPR awarded is currently fully funded by the Scottish Government.

In 2022/23 Non-Domestic Rates income made up 12% of the councils funding.

With the devolution of EPR to local authorities from 1 April 2023, the Scottish Government has provided additional funding as part of the finance settlement which is expected to cover the projected cost of the councils Non-Domestic Rates Empty Property Relief Policy.

D.5 Empty Property Relief Policy From 1 April 2023

To enable the council to continue to award EPR for empty non-domestic properties from 1 April 2023 the council must do so under a Non-Domestic Rates Empty Property Relief Policy.

Given the uncertainty of the current economic environment and the limited time available to assess the impact of revaluation and what any changes to the current scheme may have on EPR levels, it is proposed that, as with a number of other local authorities, the council implements a policy that replicates the current scheme for the years 2023/24 and 2024/25.

The proposed policy from 1 April 2023 is set out in Appendix 1.

Following a full review and evaluation of the operation and impact of the policy a further report will be brought back to the Panel during 2024/25 setting out any proposed changes from 1 April 2025.

An Integrated Relevance Assessment has been carried out which has determined that a full assessment is not required. The Integrated Relevance Assessment is attached in Appendix 2.

E. CONCLUSION

The proposed Non-Domestic Rates Empty Property Relief Policy that replicates the current statutory empty property rates relief scheme will provide stability and certainty for ratepayers during a period of economic uncertainty and minimise any financial risk to the council.

The adoption of the policy for a two-year period will provide sufficient time for the current economic environment to settle and for a full review of the data on the impact of the policy and to identify where there may be opportunities for future refinement.

F. BACKGROUND REFERENCES

None.

Appendices/Attachments: Two

Appendix 1 - Proposed Non-Domestic Rates Empty Property Relief Scheme from 1 April 2023

Appendix 2 - Integrated Relevance Assessment Form

Contact Person: Scott Reid, Revenues Manager. Telephone 01506 282700

Scott.Reid@westlothian.gov.uk

Donald Forrest

Head of Finance and Property Services

13 February 2023

Appendix 1

West Lothian Council

Non-Domestic Rates Empty Property Relief Scheme

Reliefs Commencing 1 April 2023

Under Part 11 of the Community Empowerment (Scotland) Act 2015 the following Non-Domestic Rates Empty Property Reliefs will apply where, following receipt of a completed application, the applicant can evidence and demonstrate that all qualifying criteria has been satisfied.

Reliefs

Unoccupied industrial property is eligible for 100% relief for the first six months since becoming unoccupied and thereafter 10% relief until occupied.

Other (non-industrial) unoccupied property is eligible for 50% relief for the first three months since becoming unoccupied and thereafter 10% relief until occupied.

Note:

- A change of ratepayer does not affect the qualifying time period.
- From 1 April 2020 and for the purpose of determining eligibility, a property is treated as if it had been unoccupied during any period of occupation that ended within six months of when it started.
- Plant and machinery that was last used when the property was occupied can be kept on the property without that being classed as occupation.
- Shooting rights may be considered unoccupied if no commercial shooting/stalking takes place.

Partly Occupied Properties:

Where it appears to the council that part of a property is unoccupied but will remain so for a short time only, it may ask the Assessor to apportion the rateable value between the occupied and unoccupied parts.

Relief may be applied to the unoccupied part of the property for a maximum period of six months.

The level of eligible relief is as set out for “unoccupied industrial property” and “other (non-industrial) unoccupied property” above.

Note:

- The Valuation Roll itself is not altered, the apportioned rateable values are supplied to the council by the Assessor for Lothian Valuation Joint Board for the purpose of calculating eligible relief only.
- Part occupation relief will only be considered where the ratepayer can clearly evidence that part of the property is empty.
- The start date for part occupation relief is the later of the date part occupation commenced or the start of the financial year in which the council's request was made to the Assessor for Lothian Valuation Joint Board.
- The end date of part occupation relief is the earliest of the end of the part occupation; the property becomes fully unoccupied; the end of the relief period; or a further apportionment being made.

Unoccupied Properties Exempt from Empty Property Rates:

Unoccupied properties meeting the criteria below are exempt from empty property rates therefore **no rates will be payable**:

- Listed building
- Rateable value less than £1,700
- Occupation prohibited by law (see note)
- Property has no buildings (e.g. land or ground)
- Subject to a building preservation order
- Owner in administration (or subject to an administration order)
- Owner is a company or limited liability partnership subject to a winding-up order made under the Insolvency Act 1986 or being wound up voluntarily under that Act
- Action taken by or on behalf of the Crown or any public authority with a view to prohibiting occupation or to acquisition (e.g. compulsory purchase order)
- Person entitled to possession only so entitled as a liquidator, as the trustee under a trust deed for creditors or an award of sequestration, or as the executor of a deceased person's estate.

Note:

- For properties prohibited by law from occupation, a rates exemption would be awarded where legal action had been taken to prevent its use. However, if legal action had been taken to prevent one particular person or trade from using the property, then it would be unlikely to be exempt unless that person was the owner.
- Local Authorities may give consideration as to whether specific criteria are present before awarding 100% empty property relief where the ratepayer has entered insolvency (compulsorily or voluntarily) shortly after occupation.

The award of relief may be restricted where properties which are let under a lease agreement have become unoccupied within a period of six months from the date the property first became occupied under the lease agreement where at least one of the three following indicators, connected to actions to reduce or mitigate the rates liability are also present:

- the rent charged for the property is significantly below the level of the rent which could reasonably have been obtained at the time the lease was entered into, in all the circumstances;
- payment of the rent is optional in terms of the relevant lease;
- the purpose of the arrangement is identified in the lease as being for the purpose of mitigating rates liability.

Subsidy Control

A subsidy is where a public authority provides support to an enterprise that gives them an economic advantage, meaning equivalent support could not have been obtained on commercial terms.

Amongst other kinds of support this can take the form of a tax relief or exemption.

The purpose of the subsidy control regime is to prevent public authorities from giving financial advantages to enterprises in a way that could distort competition.

Non-Domestic Rates Empty Property Relief can be regarded as a general measure and is therefore unlikely to require to be awarded as a subsidy.

Application Process

In order to consider Empty Property Relief, the ratepayer must submit a completed application form along with all required supporting evidence.

Application forms will be available online via the council's website.

Examples of supporting evidence that may be required are noted below.

Relating to whether a property is unoccupied:

- Lease/Licence to occupy agreement
- Insurance documents (e.g. employee liability insurance, public liability insurance and contents insurance)
- Trading accounts (audited)
- Employee pay records/national insurance records including evidence of tax payments and national insurance returns to HMRC
- VAT registration certification and returns
- Bank account statements
- HMRC tax assessment
- Evidence of rent changing hands between tenant/landlord (e.g. debit in bank statements and payments recorded in company accounts)
- Invoices and utility bills
- Dated receipts or invoices for work carried out in the refurbishment of the property, showing the date of the work and the subject address.
- Dated receipts for materials purchased for the refurbishment of the property, showing that the materials were delivered to the subject address.
- Copy of a 'To Let' advert and invoice for the advert, showing the date of publication and the subject address of the property

- Signed statement or dated marketing brochure from a letting or property agent.
- Photographs showing both the inside and outside of the property, and demonstrating the date taken

Relating to properties prohibited by law from occupation:

- Written confirmation that the property is unfit for occupation from the Building Control Service or Environmental Health Service
- Written confirmation from Police Scotland or the Scottish Fire and Rescue Service

Backdating

An application for Empty Property Relief can be backdated to the start of the previous financial year in which the application is made so long as the ratepayer can provide sufficient evidence in support of their application.

Appeals

In cases where an application for Empty Property Relief is refused the ratepayer has the right to appeal. All appeals should be made in writing to the Head of Finance and Property Services.



Appendix 2

Integrated Relevance Assessment Form

1. Details of proposal	
Policy Title (include budget reference number if applicable)	Non-Domestic Rates Empty Property Relief
Service Area (detail which service area and section this relates to)	Finance and Property Services – Revenues Unit
Lead Officer (Name and job title)	Scott Reid – Revenues Manager
Other Officers/Partners Involved (list names, job titles and organisations if applicable)	N/A
Date relevance assessed	9 January 2023

2. Does the council have control over how this policy will be implemented?			
YES	✓	NO	

<p>3. The General Duty of the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:</p> <ul style="list-style-type: none"> • Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct • Advance equality of opportunity between those who share a protected characteristic and those who do not; and • Foster good relations between those who share a protected characteristic and those who do not <p>NB: In this section you must also consider the Human Rights Act and the key PANEL (Participation, Accountability, Non Discrimination, Empowerment and Legality) principles of Human Rights</p> <p>Which groups of people do you think will be, or potentially could be, impacted upon by the implementation of this policy? You should consider employees, clients, customers and service users (please tick below as appropriate).</p>	
Age – older people, young people and children	There will be no impact on this protected characteristic.
Disability – people with disabilities/long standing conditions	There will be no impact on this protected characteristic.
Gender reassignment – trans/transgender identity – anybody who's gender identity or gender expression is different to the sex assigned to them at birth	There will be no impact on this protected characteristic.
Marriage or civil partnership – people who are married or in a civil partnership	There will be no impact on this protected characteristic.
Pregnancy and maternity – woman who are pregnant and/or on maternity leave	There will be no impact on this protected characteristic.

Race – people from black, Asian and minority ethnic communities and different racial backgrounds	There will be no impact on this protected characteristic.
Religion or belief – people with different religions and beliefs including those with no beliefs	There will be no impact on this protected characteristic.
Sex – Gender Identify – women and men (boys and girls) and those who self-identify their gender	There will be no impact on this protected characteristic.
Sexual Orientation – lesbian, gay, bisexual, heterosexual/straight	There will be no impact on this protected characteristic.

4. Do you have evidence or reason to believe that this policy will or may impact on socio-economic inequalities?

Consideration must be given particularly to children and families

Socio-economic Disadvantage	Impact (Please Tick as Appropriate)
Low Income/Income Poverty – cannot afford to maintain regular payments such as bills, food, clothing	No - There is no evidence or reason to believe that there will or may be an impact.
Low and/or No Wealth – enough money to meet basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future	No - There is no evidence or reason to believe that there will or may be an impact.
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure and hobbies	No - There is no evidence or reason to believe that there will or may be an impact.
Area Deprivation – where you live (rural areas), where you work (accessibility of transport)	No - There is no evidence or reason to believe that there will or may be an impact.
Socio-economic Background – social class i.e. parents education, employment and income	No - There is no evidence or reason to believe that there will or may be an impact.

5. Integrated impact assessment required?

(Two ticks above = full assessment necessary)

YES		NO	✓
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6. Decision rationale

If you have ticked no above, use this section to evidence why a full IIA is not required

The eligibility for Non-Domestic Rates empty property relief is based on the classification of the business property. Eligibility for relief on unoccupied business properties has no link to protected groups or impact on socio-economic inequalities.

Signed by Lead Officer	Scott Reid
Designation	Revenues Manager
Date	9 January 2023
Counter Signature (Head of Service or Depute Chief Executive responsible for the policy)	Donald Forrest – Head of Finance and Property Services
Date	9 January 2023

CORPORATE POLICY & RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL**WORKPLAN – TO 21 APRIL 2023**

	Agenda Item	Lead Officer	CP&R PDSP Date
1.	Code of Conduct Annual Report	Chief Executive	Annually December 2023
2.	Annual SPSO Report	Chief Executive	Annually December 2023
3.	Property Asset Management – Performance Update	Head of Finance and Property Services	Annually December 2023
4.	ICT Asset Management Plan – Annual Review	Head of Finance and Property Services	Annually December 2023
5.	Corporate Asset Management Strategy – Annual Update	Head of Finance and Property Services	Annually December 2023
6.	Lothian Valuation Joint Board Annual Report	Chief Executive	Annually 21 April 2023
7.	Annual Complaints Report	Depute Chief Executive, Corporate, Operational and Housing Services	Annually August 2023
8.	Corporate Strategies Update (Digital Transformation, ICT, Improvement, People and Customer)	Head of Corporate Services	Annually August 2023
9.	Managements Plans: <ul style="list-style-type: none"> • Finance & Property • Corporate Services • Customer Service (HCBS) 	Heads of Service	Annually 2 June 2023
10.	Quarterly Performance Report	Depute Chief Executive, Corporate, Operational and Housing Services	Quarterly 21 April 2023 2 June 2023 August 2023 December 2023

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	Agenda Item	Lead Officer	CP&R PDSP Date
11.	Horizon Scan Report	Head of Finance and Property Services	Quarterly 2 June 2023 August 2023 December 2023 February 2024
12.	Quarterly Sickness Absence Update	Head of Corporate Services	Quarterly 2 June 2023 August 2023 December 2023 February 2024
13.	Social Security Benefits and Welfare Reform	Head of Finance and Property Services	Biannually August 2023 February 2024
14.	Financial Performance Report	Head of Finance and Property Services	Biannually August 2023 December 2023
15.	Museum Learning and Access Policy	Head of Housing, Customer and Building Services	Every 3 years December 2025
16.	The Museum Forward Plan	Head of Housing, Customer and Building Services	Every 3 years December 2025
17.	Library and Museum 6 Monthly Performance Report (April 2022 – September 2022)	Head of Housing, Customer and Building Services	21 April 2023
18.	Equality Outcomes and Mainstreaming Progress Report	Head of Corporate Services	21 April 2023
19.	Macmillan Cancer Services Update	Head of Finance and Property Services	2 June 2023
20.	Library and Museum 6 Monthly Performance Report (October 2022 – March 2023)	Head of Housing, Customer and Building Services	2 June 2023
21.	Lothian Valuation Joint Board minutes	Chief Executive	As available

Graham Hope
Chief Executive

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