



## ***Council Executive***

West Lothian Civic Centre  
Howden South Road  
LIVINGSTON  
EH54 6FF

16 March 2023

A hybrid meeting of the **Council Executive** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre, Livingston** on **Tuesday 21 March 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, declarations of interest in any urgent business and consideration of reports for information.

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

4. Confirm Draft Minutes of Meeting of Council Executive held on 28 February 2023 (herewith)

#### **Public Items for Decision**

5. Timetable of Meetings 2023/24 - Report by Chief Executive (herewith)
6. Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses - Report by Head of Corporate Services

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(herewith)

7. Community Council Special Project Grants - Report by Head of Corporate Services (herewith)
8. Site Selection for Whitrigg House Replacement Facility - Joint Report by Head of Social Policy and Head of Finance and Property Services (herewith)
9. Register of Common Good Update - Report by Head of Finance and Property Services (herewith)
10. Surplus Properties - Report by Head of Finance and Property Services (herewith)
11. West Lothian Leisure 2023/24 Funding Agreement - Report by Head of Finance and Property Services (herewith)
12. Food Insecurity Funding Update - Report by Head of Finance and Property Services (herewith)
13. Call for Views: Addressing Child Poverty Through Parental Employment - Report by Head of Finance and Property Services (herewith)
14. Proposal to Name the Beecraigs Field Archery Area in Memory of Jim Greig - Report by Head of Operational Services (herewith)
15. Roads Asset Safety Inspection Manual - 2023 Review - Report by Head of Operational Services (herewith)
16. Revocation of Broxburn Air Quality Management Area - Report by Head of Planning, Economic Development and Regeneration (herewith)
17. Review of the Planning Enforcement Charter - Report by Head of Planning, Economic Development and Regeneration (herewith)
18. West Lothian Local Development Plan (LDP): Development Plan Scheme No.15 - Report by Head of Planning, Economic Development and Regeneration (herewith)
19. Call for Views on the Financial Memorandum to the Children (Care and Justice) (Scotland) Bill - Report by Head of Social Policy (herewith)
20. Enhanced Collaborative Clinical and Care Support for Care Homes - Report by Head of Social Policy / Chief Social Work Officer (herewith)

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NOTE **For further information please contact Karen McMahon on tel. no. 01506 281621 or email [karen.mcmahon@westlothian.gov.uk](mailto:karen.mcmahon@westlothian.gov.uk)**

DATA LABEL: Public



## **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](mailto:james.millar@westlothian.gov.uk)
- Carol Johnston, Chief Solicitor and Depute Monitoring Officer, 01506 281626, [carol.johnston@westlothian.gov.uk](mailto:carol.johnston@westlothian.gov.uk)
- Committee Services Team, 01506 281604, 01506 281621  
[committee.services@westlothian.gov.uk](mailto:committee.services@westlothian.gov.uk)

January 2022

MINUTE of MEETING of the COUNCIL EXECUTIVE held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, on 28 FEBRUARY 2023.

Present – Councillors Lawrence Fitzpatrick (Chair), Kirsteen Sullivan, Tom Conn, Robert De Bold, Angela Doran-Timson, Damian Doran-Timson, Carl John, Danny Logue, Andrew McGuire, Anne McMillan, Craig Meek (substituting for Councillor George Paul), Sally Pattle and Pauline Stafford (substituting for Councillor Janet Campbell)

Apologies – Councillors Janet Campbell and George Paul

1 OPENING REMARKS

Council Executive agreed to request that the Provost send a letter of condolence to the family of fairtrade champion Andy Mount, following his recent passing.

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 ORDER OF BUSINESS

Council Executive agreed to hear agenda item 18 in accordance with Standing Order 8(3).

4 MINUTES

The Council Executive approved the minute of its meeting held on 7 February 2023. The Chair thereafter signed the minute.

5 SCOTTISH GOVERNMENT CONSULTATION - ELECTORAL REFORM

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive asking members to consider a proposed response to the Scottish Government's Electoral Reform Consultation.

It was recommended that the Council Executive consider the draft response in the appendix to the report and agree a council response to the Scottish Government's consultation on Electoral Reform.

Decision

To approve the terms of the report.

## 6 PROCUREMENT APPROVAL REPORT

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

It was recommended that the Council Executive approve an exemption from Contract Standing Orders for:

1. A direct award for independent advocacy services for looked after children to Who Cares? for a period of 2 years with the option to extend for a further 24 months, effective from 1 August 2023 until 31 July 2027 with a total estimated value of £250,000; and
2. A direct award for independent support and counselling for those that had suffered trauma and abuse to Wellbeing Scotland for a period of 3 years with the option to extend for 24 months, effective from 1 June 2023 until 31 May 2028 with a total estimated value of £216,000.

### Decision

To approve the terms of the report.

## 7 CORONATION OF HIS MAJESTY KING CHARLES III - ADDITIONAL LEAVE DAY

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services providing information on national plans to celebrate the coronation of His Majesty King Charles III in May 2023 and proposals for the council to grant an additional day of annual leave to all employees to be taken, where possible, on Monday 8 May 2023.

It was recommended that the Council Executive:

1. Note the national plans for a 'coronation weekend';
2. Note that further guidance was expected from the Scottish Government around school closures;
3. Note the arrangements made to celebrate the diamond and platinum jubilees in 2012 and 2022; and
4. Approve the proposal to grant an additional day of annual leave to all employees to be taken, where possible, on Monday 8 May 2023.

### Decision

To approve the terms of the report.

8 PENSIONS DISCRETIONS - SHARED ADDITIONAL VOLUNTARY CONTRIBUTIONS

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising members 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.

It was recommended that the Council Executive:

1. Note the required changes to the Policy Statement; and
2. Approve the Policy Statement.

Decision

To approve the terms of the report.

9 ELECTED MEMBERS EQUALITY AND DIVERSITY WORKING GROUP

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services providing an update on the work of the Elected Members Equality and Diversity Working Group (EMEDWG) and presenting an action plan of recommendations to address barriers which might present themselves to prospective, new and incumbent elected members with protected characteristics. The report also set out proposed arrangements for expanding the remit of the short life Working Group following agreement of the composite motion at the meeting of West Lothian Council on 24 January 2023.

It was recommended that the Council Executive:

1. Note that the work undertaken by the EMEDWG to carry out an integrated impact assessment on the common procedures and practices of elected members was complete (Appendix 2 of the report);
2. Agree that the council take forward the actions recommended by the EMEDWG members and that updates on progress with actions be reported to Corporate Policy and Resources PDSP on an annual basis (Appendix 3 of the report);
3. Note the set of suggested actions that fell out with the control of the council and agree that these should be forwarded to relevant stakeholders for their consideration. (Appendix 4 of the report);
4. Agree that the Chief Executive write to the Scottish Government requesting that the Local Government (Scotland) Act 1973 be amended to permit an Elected Member on family leave to nominate

one other Elected Member to act as their proxy at meetings of full council;

5. In accordance with a decision of full council on 24 January 2023, agree an expanded remit for the short life Working Group to consider the impact of the National Planning Framework 4 across the protected characteristics (Appendix 5 of the report);
6. Consider the membership of the Working Group;
7. Following the conclusion of the work required under the group's original remit, agree that the Head of Planning, Economic Development and Regeneration would now be Lead Officer for the Working Group in relation to its work under the expanded remit with continued support/input from the council's Equalities Officer;
8. Agree that the Working Group should meet as soon as reasonably practicable and thereafter as agreed by the lead officer in consultation with the Chairs; and
9. Note that, as instructed by full council on 24 January 2023, that the Lead officer would produce a report to a future meeting of the Economy Empowerment and Wealth Building PDSP.

#### Decision

To approve the terms of the report, subject to expanding recommendation 6 to include the Liberal Democrats group member and the Independent member in the working group membership.

### 10 COMMUNITY COUNCIL SPECIAL PROJECT GRANTS

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

It was recommended that the Council Executive determine the application received from Kirknewton Community Council as detailed in the appendix to the report.

#### Decision

To approve the terms of the report.

### 11 NON-DOMESTIC RATES EMPTY PROPERTY RELIEF POLICY

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval of the Non-Domestic Rates Empty Property Relief Policy effective from 1 April 2023, as detailed in Appendix 1 of the report.

It was recommended that the Council Executive:

1. Note 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. Approve the Non-Domestic Rates Empty Property Relief Policy detailed in Appendix 1 of the report, effective from 1 April 2023; and
3. Note that a further report would be brought to Council Executive during 2024/25 following a full review of the policy and setting out any proposed changes from 1 April 2025.

#### Decision

To approve the terms of the report.

#### 12 FAULDHOUSE PARTNERSHIP CENTRE - REINFORCED AUTOCLAVED AERATED CONCRETE ROOF UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the delivery of the Reinforced Autoclaved Aerated Concrete (RAAC) roof replacement to the hall within Fauldhouse Partnership Centre, and seeking approval to progress through financial close to construction as outlined in the report.

It was recommended that the Council Executive:

1. Approve acceptance of the finalised proposed construction cost of £830,000;
2. Note the proposed delivery timescales and key project milestones including completion by August 2023; and
3. Delegate authority to the Head of Finance and Property Services to execute and deliver the final design and build development agreement (DBDA) and associated documentation on behalf of the Council at Financial Close.

#### Decision

To approve the terms of the report.

#### 13 CIH SCOTLAND HOUSING FESTIVAL

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services seeking approval for the attendance of the appropriate elected member(s)

to attend the CIH (Chartered Institute of Housing) Scotland's Housing Festival on 7–8 March at the SEC Glasgow.

It was recommended that the Executive Councillor for Housing Services attend the CIH Scotland Housing Festival on the 7–8 March 2023.

#### Decision

1. To approve the terms of the report.
2. To provide an update report following the CIH Scotland Housing Festival to a future meeting of Housing Services PDSP.

#### 14 ADOPTION OF NATIONAL PLANNING FRAMEWORK 4 (NPF4)

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration fulfilling a commitment given to Council Executive at its meeting in December 2022 to provide an update on the adoption of National Planning Framework 4 (NPF4).

It was recommended that the Council Executive:

1. Note the adoption of NPF4 on 13 February 2023;
2. Note that on adoption of NPF4, Scottish Planning Policy (2014) and the Edinburgh & South East Scotland Strategic Development Plan (SDP) had been superseded;
3. Note that transitional guidance had been produced by the Scottish Government on the transition to the new development plan system and on some policy considerations;
4. Note the material consequences of this for planning decisions and the development plan process, particularly during the transitional period; and
5. Agree that a further report on the Minimum All Tenure Housing Land Supply approach should be brought to a future meeting of Council Executive for consideration.

#### Decision

To approve the terms of the report.

#### 15 INTERVENING SAFELY POLICY FOR CHILDREN'S RESIDENTIAL SERVICES

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy seeking approval for an Intervening Safely Policy for children's residential services.

It was recommended that the Council Executive:

1. Note the content of the report; and
2. Approve the Intervening Safely Policy for use in West Lothian Council's Children's Residential Services.

#### Decision

To approve the terms of the report.

### 16 STATUTORY OFFICER ROLES IN THE SCHEME OF DELEGATIONS

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive asking members to consider an updated set of role descriptions for significant statutory posts and related amendments to the Scheme of Delegations to Officers.

It was recommended that the Council Executive:

1. Agree the updated and revised role descriptions in the appendix to the report 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. 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. 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) appoint deputies in consultation, where practicable, with the relevant postholder;
4. In light of current changes being implemented in relation to Information Governance responsibilities, delegate authority to the Chief Executive to make a permanent new appointment to the post of Data Protection Officer; and
5. Appoint the Governance Manager to be Monitoring Officer on a permanent basis.

#### Decision

To approve the terms of the report.

### 17 SCHEME OF DELEGATIONS - ELECTRONIC COMMUNICATIONS DETERMINATION

The Council Executive considered a report (copies of which had been

circulated) by the Governance Manager seeking approval to amend the Scheme of Delegations to enable non-alcohol licensing schemes to be processed more easily and flexibly through electronic communication as an alternative to hard copy documents.

It was recommended that the Council Executive amend the Scheme of Delegations to Officers by authorising the Chief Solicitor to make and vary the council's Electronic Communications Determination in relation to all non-alcohol licensing schemes under the Civic Government (Scotland) Act 1982, as set out in paragraph D5 of the report.

#### Decision

To approve the terms of the report.

### 18 QUICK BUILD HOUSING

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services providing an update on concepts and funding regarding quick build solutions, including the use of cabins and containers, to assist with the homeless situation and as an alternative to B&B/Hotel accommodation.

It was recommended that the Council Executive:

1. Note the council's proactive approach to reducing homelessness;
2. Note the temporary accommodation provision;
3. Note the position on funding of temporary accommodation;
4. Note the key findings of a review of quick build concepts and the work being undertaken to reduce the use of B&B/Hotel accommodation; and
5. Note the next steps.

Councillor Angela Doran-Timson moved a verbal motion that would have set up a working group as referenced in D7 of the report and that a report should be brought to full council and not Council Executive. The Governance Manager advised that in its current form the motion was not competent as it did not cover the elements required under Standing Order 52.

#### Motion

Council Executive recognises that there is an imbalance between the supply and demand for permanent social rented accommodation in West Lothian and there remains a high number of people applying to the council for permanent housing through the council's allocations policy as well as permanent and temporary accommodation required for homeless applicants to enable the council to discharge its statutory homeless duty.

Council Executive is asked to note that whilst container/cabin houses have been used to meet specific housing need in certain circumstances within the United Kingdom, this represents a very small element of addressing homelessness and comes at a comparable cost to traditional build council houses.

Council Executive also notes that the Cabinet Secretary for Social Justice, Housing and Local Government has invited councils to come up with innovative ideas for the homeless crisis as regards quick build provision but that there is no Scottish Government funding provision for the capital costs of temporary accommodation, including quick build solutions.

Council Executive therefore agrees to establish a short life working group to consider innovative options for quick build housing in West Lothian which can be introduced speedily and cost effectively to help to reduce the number of homeless applicants who are required to be accommodated in hotels and Bed and Breakfast.

Council Executive further agrees to:

- The membership of 1 Labour (Executive Councillor for Housing), 1 SNP and 1 Conservative member to the working group and associated officers;
- Appoint the Executive Councillor for Housing to be chair;
- Appoint a vice-chair;
- The Head of Housing Customer and Building Services being the Lead Officer for the working group;
- The Lead Officer in consultation with the chair making arrangements for the working group meetings and agenda; and

The Lead Officer reporting back on the working group's findings and recommendations to a future meeting of the Housing Services PDSP and thereafter to an appropriate meeting of Council Executive.

- Moved by Councillor Andrew McGuire and seconded by Councillor Kirsteen Sullivan.

#### Amendment

Council Executive recognises that there is an imbalance between the supply and demand for permanent social rented accommodation in West Lothian and there remains a high number of people applying to the council for permanent housing through the council's allocations policy as well as permanent and temporary accommodation required for homeless applicants to enable the council to discharge its statutory homeless duty.

Council Executive is asked to note that whilst container/cabin houses have been used to meet specific housing need in certain circumstances within the United Kingdom, this represents a very small element of

addressing homelessness and comes at a comparable cost to traditional build council houses.

Council Executive also notes that the Cabinet Secretary for Social Justice, Housing and Local Government has invited councils to come up with innovative ideas for the homeless crisis as regards quick build provision but that there is no Scottish Government funding provision for the capital costs of temporary accommodation, including quick build solutions.

Council Executive therefore agrees to establish a short life working group to consider innovative options for quick build housing in West Lothian which can be introduced speedily and cost effectively to help to reduce the number of homeless applicants who are required to be accommodated in hotels and Bed and Breakfast.

Council Executive further agrees to:

- The membership of 1 Labour (Executive Councillor for Housing), 1 SNP and 1 Conservative member to the working group and associated officers;
- Appoint the Executive Councillor for Housing to be chair;
- Appoint a vice-chair;
- The Head of Housing Customer and Building Services being the Lead Officer for the working group;
- The Lead Officer in consultation with the chair making arrangements for the working group meetings and agenda; and

The Lead Officer reporting back on the working group's findings and recommendations to a future meeting of the Housing Services PDSP and thereafter to an appropriate meeting of West Lothian Council.

- Moved by Councillor Angela Doran-Timson and seconded by Councillor Damian Doran-Timson.

An electronic vote was conducted. The result was as follows:

<u>Motion</u>	<u>Amendment</u>	<u>Abstain</u>
Tom Conn	Angela Doran-Timson	Carl John
Lawrence Fitzpatrick	Damian Doran-Timson	Robert De Bold
Danny Logue		Pauline Stafford
Andrew McGuire		
Anne McMillan		
Craig Meek		
Sally Pattle		
Kirsteen Sullivan		

#### Decision

1. Following a vote, the motion was successful by 8 votes to 2 with 3

abstentions and it was agreed accordingly.

2. Council Executive unanimously agreed to appoint Councillor Angela Doran-Timson as Vice-Chair to the working group.



**DATA LABEL: Public**



## **COUNCIL EXECUTIVE**

### **TIMETABLE OF MEETINGS 2023/24**

#### **REPORT BY CHIEF EXECUTIVE**

#### **A. PURPOSE OF REPORT**

The approval of a timetable of meetings to July 2024 of the council, its committees and working groups (including Policy Development and Scrutiny Panels) which meet according to a regular timetable.

#### **B. RECOMMENDATIONS**

1. Subject to the following, to note and approve the arrangements shown in the appendices for meetings of the council, its committees and working groups from August 2023 until July 2024
2. In relation to Policy Development & Scrutiny Panels (PDSPs):-
  - i. To note that their meeting dates are set through Lead Officers and Chairs
  - ii. To note that although Lead Officers and Chairs have been consulted about the dates proposed in this report those dates may be subject to later change
3. In relation to Local Area Committees (LACs):-
  - i. To note that each LAC sets its own meeting dates and that those in the appendices are not all yet agreed
  - ii. To delegate authority to the Chief Executive to make any changes required as a result of LACs subsequently agreeing different meeting arrangements.
4. In relation to Members' Training Days:-
  - i. To note and agree the proposed dates
  - ii. To delegate authority to the Chief Executive to adjust those dates and times in the event of a change of circumstances arising
5. To note that, subject to the exceptions made in Standing Orders and

the Scheme of Administration, meetings will continue to be convened on a hybrid basis from the council chamber.

## C. SUMMARY OF IMPLICATIONS

<b>I</b>	<b>Council Values</b>	Focusing on our customers' needs, being honest, open and accountable, making best use of our resources
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Council's Standing Orders and Scheme of Administration Local Code of Corporate Governance
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None
<b>IV</b>	<b>Impacts on performance and performance indicators</b>	None
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	None
<b>VI</b>	<b>Resources – (Financial, Staffing and Property</b>	None
<b>VII</b>	<b>Consideration at PDSP</b>	None
<b>VIII</b>	<b>Other Consultations</b>	Chairs and Lead Officers; Committee Services; Corporate Management Team

## D. TERMS OF REPORT

### 1 Background

- 1.1 The council is required to agree a timetable of meetings for the council, its committees and working groups that meet according to a regular timetable. In accordance with a recommendation by Internal Audit, and recent practice, a timetable of meetings for the next year is produced for consideration and approval. It has followed past practice so far as practicable in the general pattern and frequency of meetings of bodies in the council's decision-making structure. To assist members, the same information found in Appendix 1 is presented in an alternative format in Appendix 2. Subject to a small number of exceptions in Standing Orders, meetings will continue to be convened on a hybrid basis from the council chamber.
- 1.2 Additionally, meetings have been arranged in accordance with a decision taken by council on 26 September 2017 which concerned Family Friendly Working Arrangements and 7 November 2017 which concerned resulting Changes to Standing Orders. Meeting arrangements have been proposed that meet the requirements of Standing Orders. Except where required for

regulatory committees the main school holiday periods have been avoided and meetings do not start before 9.30 am or after 3.30 pm.

- 1.3 Meetings fixed by some other bodies, for instance, the Licensing Board, West Lothian Integration Joint Board, St John's Hospital Stakeholder Group, Community Planning Partnership Board and Community Safety Board are set independently and they have been shown in Appendix 1, where known, for information purposes only.

## **2 Particular meeting arrangements**

- 2.1 In general, meetings of council and its committees have been arranged on the same pattern as before and in accordance with specific rules in the Scheme of Administration.
- 2.2 Under the council's Scheme of Administration, meetings of Policy Development and Scrutiny Panels are to be fixed by the Clerk in consultation with the Chairs and Lead Officers. Those arrangements have been completed with both the Chair and Lead Officer having been consulted on and agreed the proposed dates for Policy Development Scrutiny Panels. They may be subject to change from time to time.
- 2.3 Local Area Committees are required to agree each year a schedule of regular meetings for the succeeding twelve months to be submitted to the Council Executive for approval. Most of these proposed dates have been agreed by the LACs, but some remain outstanding, and provisional dates are included for those bodies in the appendices.
- 2.4 It is recommended that authority is delegated to the Chief Executive to make any changes required for Local Area Committees and to incorporate those details in the timetable in the appendices.

## **3 Training Days**

- 3.1 As has been recent practice, a number of dates have also been identified for the purpose of elected member training. These are proposed as follows:-
- Wednesday 6 September 2023 at 10am
  - Monday 6 November 2023 at 10am
  - Monday 18 March 2024 at 10am; and
  - Monday 27 May 2024 at 10am
- 3.2 Identifying and setting aside these dates for training and member development will assist in the planning and delivery of training. Since that practice was introduced there has been an increase in the take-up of training opportunities. It is hoped that will continue. Training arrangements are kept under review through a working group of officers in consultation with a small number of representative elected members. In case changed circumstances require a training day to be rearranged, authority is sought to allow the Chief Executive to change the dates where required.

## **E. CONCLUSION**

Setting dates and times for meetings of full council, committees and other bodies will ensure compliance with the Code of Corporate Governance and Internal Audit's recommendations, and will assist in the forward planning of council business.

**F. BACKGROUND REFERENCES**

Standing Orders and Scheme of Administration.

West Lothian Council, 26 September 2017, 13 February 2018, 19 November 2019, 28 September 2021 and 23 June 2022

Appendices: 1 Calendar of Meetings 2023/2024

2 Summary of meeting arrangements 2023/2024

Contact Person: Carol Johnston, Chief Solicitor  
Graham Hope, Chief Executive

21 March 2023

**August 2023**

Monday	Tuesday	Wednesday	Thursday	Friday
	1 School Holiday	2 School Holiday	3 School Holiday	4 School Holiday
7 School Holiday	8 School Holiday 14:00 West Lothian Integration Joint Board	9 School Holiday	10 School Holiday	11 School Holiday 10:00 West Lothian Licensing Board
14 9:30 Bathgate Local Area Committee 14:00 Asset Transfer Committee	15 10:00 Council Executive	16 9:30 Licensing Committee	17 10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)  14:00 Social Work & Health Policy PDSP	18 9:30 Corporate Policy & Resources PDSP
21 9:30 Whitburn & Blackburn Local Area Committee 14:00 Joint Consultative Group (Non-Teaching)	22 9:30 Linlithgow Local Area Committee 14:00 Education PDSP	23 10:00 Development Management Committee	24 9:30 Housing Services PDSP	25 9:30 Employee Appeals Committee
28 10:00 Community Planning Partnership Board 14:00 Joint Consultative Group (Teaching)	29 9:30 Armadale & Blackridge Local Area Committee 14:00 Public & Community Safety PDSP	30 9:30 Placing in School Appeals Committee 11:30 Local Review Body	31 9:30 West Lothian Leisure Advisory Committee  14:00 Asset Transfer Review Body	

**September 2023**

Monday	Tuesday	Wednesday	Thursday	Friday
				1 9:30 Livingston North Local Area Committee
4 14:00 Asset Transfer Committee	5 10:00 Education Executive 11:00 Council Executive 14:00 Education Quality Assurance Committee	6 10:00 Members Training 14:00 IJB Audit, Risk & Governance Committee	7 9:30 Livingston South Local Area Committee	8 10:00 West Lothian Licensing Board
11 14:00 Performance Committee	12 9:30 Economy, Community Empowerment & Wealth Building PDSP 11:00 Environment & Sustainability PDSP 14:00 Fauldhouse & the Breich Valley Local Area Committee	13 9:30 Licensing Committee	14 10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	15 <b>School Holiday</b>
18 <b>School Holiday</b>	19 14:00 West Lothian Integration Joint Board	20 10:00 Development Management Committee	21 9:30 Housing Services PDSP	22 9:30 Corporate Policy & Resources PDSP
25 14:00 Governance & Risk Committee	26 10:00 West Lothian Council	27 9:30 Placing in School Appeals Committee 11:30 Local Review Body	28 9:30 East Livingston & East Calder Local Area Committee 14:00 Asset Transfer Review Body	29 9:30 Employee Appeals Committee 9:30 Broxburn, Uphall & Winchburgh Local Area Committee

**October 2023**

Monday	Tuesday	Wednesday	Thursday	Friday
2	3 10:00 Council Executive	4 14:30 Livingston Youth Trust	5 14:00 Social Work & Health Policy PDSP	6 9:30 Audit Committee
9 <b>School Holiday</b>	10 <b>School Holiday</b>	11 <b>School Holiday</b>	12 <b>School Holiday</b>	13 <b>School Holiday</b>  10:00 West Lothian Licensing Board
16  14:00 Asset Transfer Committee	17 10:00 Council Executive  14:00 Public & Community Safety PDSP	18  9:30 Licensing Committee	19  10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	20
23  9:30 Placing in School Appeals Committee	24  14:00 Education PDSP	25  10:00 Development Management Committee	26  9:30 West Lothian Leisure Advisory Committee  14:00 Asset Transfer Review Body	27 <b>CoSLA Convention</b>  9:30 Employee Appeals Committee
30	31  09:30 Armadale & Blackridge Local Area Committee  14:00 Education Quality Assurance Committee			

**November 2023**

<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
		1 11:30 Local Review Body	2 9:30 Livingston South Local Area Committee	3 9:30 Livingston North Local Area Committee
6 10:00 Members Training 14:00 Joint Consultative Group (Non-Teaching)	7 10:00 Education Executive 11:00 Council Executive	8 9:30 Placing in School Appeals Committee	9 9:30 Housing Services PDSP 14:00 West Lothian Integration Joint Board	10 10:00 West Lothian Licensing Board
13 9:30 Bathgate Local Area Committee 14:00 Performance Committee	14 9:30 Economy, Community Empowerment & Wealth Building PDSP 11:00 Environment & Sustainability PDSP	15 9:30 Licensing Committee 14:30 Livingston Youth Trust	16 10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	17 9:30 Broxburn, Uphall & Winchburgh Local Area Committee
20 10:00 Community Planning Partnership Board 14:00 Joint Consultative Group (Teaching)	21 10:00 West Lothian Council	22 10:00 Development Management Committee	23	24 9:30 Employee Appeals Committee
27 14:00 Asset Transfer Committee	28 9:30 Linlithgow Local Area Committee 14:00 Fauldhouse & the Breich Valley Local Area Committee	29 11:00 Local Review Body	30 9:30 East Livingston & East Calder Local Area Committee 14:00 Asset Transfer Review Body	

**December 2023**

Monday	Tuesday	Wednesday	Thursday	Friday
				1  9:30 Corporate Policy & Resources PDSP
4  9:30 Whitburn & Blackburn Local Area Committee  14:00 Asset Transfer Committee	5  14:00 Education PDSP	6  10:00 Development Management Committee	7  9:30 West Lothian Leisure Advisory Committee  14:00 Social Work & Health Policy PDSP	8  10:00 West Lothian Licensing Board
11  9:30 Placing in School Appeals Committee  14:00 Governance & Risk Committee	12  10:00 Council Executive  14:00 Public & Community Safety PDSP	13  9:30 Licensing Committee  14:00 IJB Audit, Risk & Governance Committee	14  10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)  14:00 Asset Transfer Review Body	15  9:30 Employee Appeals Committee
18	19	20	21	22
25 <b>School Holiday</b>	26 <b>School Holiday</b>	27 <b>School Holiday</b>	28 <b>School Holiday</b>	29 <b>School Holiday</b>

**January 2024**

Monday	Tuesday	Wednesday	Thursday	Friday
1 School Holiday	2 School Holiday	3 School Holiday	4 School Holiday	5 School Holiday
8	9 14:00 West Lothian Integration Joint Board	10 9:30 Licensing Committee	11	12 10:00 West Lothian Licensing Board
15 14:00 Asset Transfer Committee	16 10:00 Education Executive 11:00 Council Executive 14:00 Education Quality Assurance Committee	17 10:00 Development Management Committee	18 10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	19 9:30 Audit Committee
22	23 10:00 West Lothian Council	24 11:30 Local Review Body	25 9:30 Placing in School Appeals Committee 14:00 Asset Transfer Review Body	26 9:30 Employee Appeals Committee
29 14:00 Joint Consultative Group (Teaching)	30 9:30 Economy, Community Empowerment & Wealth Building PDSP  11:00 Environment & Sustainability PDSP	31		

**February 2024**

Monday	Tuesday	Wednesday	Thursday	Friday
			1 9:30 Housing Services PDSP	2 9:30 Livingston North Local Area Committee
5 14:00 Performance Committee	6 10:00 Council Executive 14:00 Education PDSP	7 9:30 Licensing Committee	8 9:30 Livingston South Local Area Committee 14:00 Social Work & Health Policy PDSP	9 10:00 West Lothian Licensing Board
12 <b>School Holiday</b>	13 <b>School Holiday</b>	14 <b>School Holiday</b>	15 <b>School Holiday</b>	16 <b>School Holiday</b>
19 9:30 Placing in School Appeals Committee 14:00 Asset Transfer Committee	20 10:00 Council Executive 14:00 Fauldhouse & the Breich Valley Local Area Committee	21 10:00 Development Management Committee	22 10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	23 9:30 Employee Appeals Committee
26 9:30 Whitburn & Blackburn Local Area Committee	27 09:30 Armadale & Blackridge Local Area Committee 14:00 Public & Community Safety PDSP	28 11:30 Local Review Body	29 9:30 West Lothian Leisure Advisory Committee 14:00 Asset Transfer Review Body	

**March 2024**

<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
				1  9:30 Corporate Policy & Resources PDSP
4  9:30 Bathgate Local Area Committee  14:00 Governance & Risk Committee	5  9:30 Linlithgow Local Area Committee  14:00 Education Quality Assurance Committee	6  9:30 Licensing Committee  14:00 IJB Audit, Risk & Governance Committee	7  9:30 East Livingston & East Calder Local Area Committee	8  10:00 West Lothian Licensing Board
11  14:00 Joint Consultative Group (Non-Teaching)	12  10:00 Education Executive 11:00 Council Executive	13  11:30 Local Review Body	14  9:30 Placing in School Appeals Committee  14:30 Livingston Youth Trust	15  9:30 Employee Appeals Committee  9:30 Broxburn, Uphall & Winchburgh Local Area Committee
18  10:00 Members Training 14:00 Asset Transfer Committee	19  10:00 West Lothian Council	20  10:00 Development Management Committee	21  10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning) 14:00 Asset Transfer Review Body	22  9:30 Audit Committee
25  14:00 Performance Committee	26  9:30 Economy, Community Empowerment & Wealth Building PDSP 11:00 Environment & Sustainability PDSP 14:00 West Lothian Integration Joint Board	27  9:30 Licensing Committee	28  9:30 Housing Services PDSP	29 <b>School Holiday</b>

**April 2024**

Monday	Tuesday	Wednesday	Thursday	Friday
1 School Holiday	2 School Holiday	3 School Holiday	4 School Holiday	5 School Holiday
8 School Holiday	9 School Holiday	10 School Holiday	11 School Holiday	12 School Holiday  10:00 West Lothian Licensing Board
15  14:00 Joint Consultative Group (Teaching)	16  10:00 Council Executive  14:00 Education PDSP	17  10:00 Development Management Committee	18  10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	19  9:30 Corporate Policy & Resources PDSP
22  14:00 Asset Transfer Committee	23  09:30 Armadale & Blackridge Local Area Committee  14:00 West Lothian Integration Joint Board	24  9:30 Licensing Committee	25  9:30 West Lothian Leisure Advisory Committee  14:00 Asset Transfer Review Body	26  9:30 Employee Appeals Committee
29  14:00 Performance Committee	30  9:30 Placing in School Appeals Committee  14:00 Education Quality Assurance Committee			

**May 2024**

Monday	Tuesday	Wednesday	Thursday	Friday
		1 11:30 Local Review Body	2 9:30 Livingston South Local Area Committee 14:00 Social Work & Health Policy PDSP	3 9:30 Livingston North Local Area Committee
6 <b>School Holiday</b>	7 10:00 Education Executive 11:00 Council Executive 14:00 Public & Community Safety PDSP	8	9 9:30 Housing Services PDSP	10 10:00 West Lothian Licensing Board
13 9:30 Whitburn & Blackburn Local Area Committee 14:00 Joint Consultative Group (Non-Teaching)	14 10:00 West Lothian Council	15 10:00 Development Management Committee	16 10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	17 9:30 Broxburn, Uphall & Winchburgh Local Area Committee
20 <b>School Holiday</b>	21 9:30 Linlithgow Local Area Committee 14:00 Fauldhouse & the Breich Valley Local Area Committee	22 9:30 Licensing Committee	23 9:30 Placing in School Appeals Committee	24
27 10:00 Members Training 14:00 Asset Transfer Committee	28 10:00 Council Executive 14:00 Education Quality Assurance Committee	29 9:30 Placing in School Appeals Committee	30 9:30 Placing in School Appeals Committee 14:00 Asset Transfer Review Body	31 9:30 Employee Appeals Committee

**June 2024**

<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
3 <b>Bathgate Local Holiday</b>	4  9:30 Economy, Community Empowerment & Wealth Building PDSP  11:00 Environment & Sustainability PDSP  14:00 Education PDSP	5  9:30 Placing in School Appeals Committee  11:30 Local Review Body	6  9:30 West Lothian Leisure Advisory Committee	7  9:30 Placing in School Appeals Committee  9:30 Corporate Policy & Resources PDSP
10  9:30 Bathgate Local Area Committee  14:00 Governance & Risk Committee	11  10:00 Council Executive  14:00 Public & Community Safety PDSP	12  10:00 Development Management Committee	13  9:30 East Livingston & East Calder Local Area Committee  14:00 Social Work & Health Policy PDSP	14  10:00 West Lothian Licensing Board
17  9:30 Placing in School Appeals Committee  14:00 Performance Committee	18 <b>Linlithgow Marches</b>	19  9:30 Placing in School Appeals Committee  9:30 Licensing Committee  14:00 IJB Audit, Risk & Governance Committee	20  10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	21  9:30 Employee Appeals Committee
24  9:30 Placing in School Appeals Committee  14:00 Asset Transfer Committee	25  10:00 Education Executive  11:00 Council Executive  14:00 West Lothian Integration Joint Board	26  9:30 Placing in School Appeals Committee  14:30 Livingston Youth Trust	27  9:30 Placing in School Appeals Committee  14:00 Asset Transfer Review Body	28  9:30 Audit Committee

**July 2024**

Monday	Tuesday	Wednesday	Thursday	Friday
1 Summer School Holiday commence	2	3	4	5
8	9	10 10:00 Development Management Committee	11	12 10:00 West Lothian Licensing Board
15	16	17 9:30 Licensing Committee	18 10:00 West Lothian Council Planning Committee; and 11:00 West Lothian Council (Planning)	19
22	23	24	25	26
29	30	31		

**COMMITTEE TIMETABLE 2023-24 - SUMMARY**

<b>Asset Transfer Committee</b>	Monday afternoons; 14/08/23, 04/09/23, 16/10/23, 27/11/23, 04/12/23, 15/01/24, 19/02/24, 18/03/24, 27/04/24, 27/05/24 & 24/06/24
<b>Asset Transfer Review Body</b>	Thursday afternoons; 31/08/23, 28/09/23, 26/10/23, 30/11/23, 14/12/23, 25/01/24, 29/02/24, 28/03/24, 25/04/24, 30/05/24 & 27/06/24
<b>Armadale and Blackridge Local Area Committee</b>	Tuesday mornings; 29/08/23, 31/10/23, 27/02/24 & 23/04/24
<b>Audit Committee</b>	Friday morning; 06/10/23, 19/01/24, 22/03/24 & 28/06/24
<b>Avoidance of Disputes Committee</b>	Ad hoc
<b>Bathgate Local Area Committee</b>	Monday mornings; 14/08/23, 13/11/23, 04/03/24 & 10/06/24
<b>Broxburn, Uphall and Winchburgh Local Area Committee</b>	Friday mornings; 29/09/23, 17/11/23, 15/03/24 & 17/05/24
<b>Community Planning Partnership Board</b>	Monday mornings; 28/08/23 & 20/11/23
<b>Community Safety Board</b>	TBC
<b>Corporate Policy and Resources Policy Development and Scrutiny Panel</b>	Friday mornings; 18/08/23, 22/09/23, 01/12/23, 01/03/24, 19/04/24 & 07/06/24
<b>Council Executive</b>	Tuesday mornings; 15/08/23, <b>05/09/23</b> , 03/10/23, 17/10/23, <b>07/11/23</b> , 12/12/23, <b>16/01/24</b> , 06/02/24, 20/02/24, <b>12/03/24</b> , 16/04/24, <b>07/05/24</b> , 28/05/24, 11/06/24, <b>25/06/24</b> (mtgs in bold will commence @ 11am as same day as Education Executive)
<b>Economy, Community Empowerment and Wealth Building Policy Development and Scrutiny Panel</b>	Tuesday mornings @ 9:30am; 12/09/23, 14/11/23, 30/01/24, 26/03/24 & 04/06/24
<b>Development Management Committee</b>	Wednesday mornings; 23/08/23, 20/09/23, 25/10/23, 22/11/23, 06/12/23, 17/01/24, 21/02/24, 20/03/24, 17/04/24, 15/05/24, 12/06/24 & 10/07/24
<b>East Livingston and East Calder Local Area Committee</b>	Thursday mornings; 28/09/23, 30/11/23, 07/03/24 & 13/06/24
<b>Education Executive</b>	Tuesday mornings; 05/09/23, 07/11/23, 16/01/24, 12/03/24, 07/05/24 & 25/06/24
<b>Education Quality Assurance Committee</b>	Tuesday afternoons; 05/09/23, 31/10/23, 16/01/24, 05/03/24, 30/04/24 & 28/05/24
<b>Education Policy Development and Scrutiny Panel</b>	Tuesday afternoon; 22/08/23, 24/10/23, 05/12/23, 06/02/24, 16/04/24 & 04/06/24
<b>Employee Appeals Committee</b>	Friday mornings; 25/08/23, 29/09/23, 27/10/23, 24/11/23, 15/12/23, 26/01/24, 23/02/24, 15/03/24, 26/04/24, 31/05/24 & 21/06/24
<b>Environment &amp; Sustainability Policy Development and Scrutiny Panel</b>	Tuesday mornings @ 11.00am; 12/09/23, 14/11/23, 30/01/24, 26/03/24 & 04/06/24
<b>Fauldhouse and The Breich Valley Local Area Committee</b>	Tuesday afternoons; 12/09/23, 28/11/23, 20/02/24 & 21/05/24
<b>Governance and Risk Committee</b>	Monday afternoons; 25/09/23, 11/12/23, 04/03/24 & 10/06/24

## Appendix 2

Housing Services Policy Development and Scrutiny Panel	Thursday mornings; 24/08/23, 21/09/23, 09/11/23, 01/02/24, 28/03/24 & 09/05/24
Joint Consultative Group (Non-Teaching)	21/08/23, 06/11/23, 11/03/24 & 13/05/24
Joint Consultative Group (Teaching)	28/08/23, 20/11/23, 29/01/24 & 15/04/24
Licensing Committee	Wednesday mornings; 16/08/23, 13/09/23, 18/10/23, 15/11/23, 13/12/23, 10/01/24, 07/02/24, 06/03/24, 27/03/24, 24/04/24, 22/05/24, 19/06/24, 17/07/24
Linlithgow Local Area Committee	Tuesday mornings; 22/08/23, 28/11/23, 05/03/24 & 21/05/24
Livingston North Local Area Committee	Friday mornings; 01/09/23, 03/11/23, 02/02/24 & 03/05/24
Livingston South Local Area Committee	Thursday mornings; 07/09/23, 02/11/23, 08/02/24 & 02/05/24
Local Review Body	Wednesday mornings; 30/08/23, 27/09/23, 01/11/23, 29/11/23, 24/01/24, 28/02/24, 13/03/24, 01/05/24, 05/06/24
Miscellaneous Appeals Committee	Ad hoc
Performance Committee	Monday afternoons; 11/09/23, 13/11/23, 05/02/24, 25/03/24, 29/04/24 & 17/06/24
Public and Community Safety Policy Development and Scrutiny Panel	Tuesday afternoons; 29/08/23, 17/10/23, 12/12/23, 27/02/24, 07/05/24 & 11/06/24
Senior Officer Appointment Committee	Ad hoc
Social Work & Health Policy Development and Scrutiny Panel	Friday mornings; 17/08/23, 05/10/23, 07/12/23, 08/02/24, 02/05/24 & 13/06/24
St John's Hospital Stakeholder Group	TBC
West Lothian (Placing in Schools) Appeals Committee	30/08/23, 27/09/23, 23/10/23, 08/11/23, 11/12/23, 25/01/24, 19/02/24, 14/03/24, 30/04/24 & 23/05/24 <b>PLUS Block Appeals</b> ; 29/05/24, 30/05/24, 05/06/24, 07/06/24, 17/06/24, 19/06/24, 24/06/24, 26/06/24 & 27/06/24
West Lothian Integration Joint Board	Tuesday afternoon; 08/08/23, 19/09/23, 09/11/23, 09/01/24, 26/03/24, 23/04/24 & 25/06/24 <b>(still to be approved by the IJB)</b>
West Lothian Integration Joint Board Appointments Committee	Ad hoc
West Lothian Integration Audit, Risk & Governance	Wednesday afternoons; 06/09/23, 13/12/23, 06/03/24 & 19/06/24 <b>(still to be approved by the ARGC committee)</b>
West Lothian Council	Tuesday mornings; 26/09/23, 21/11/23, 23/01/24, 19/03/24 & 14/05/24
West Lothian Council (Planning) Committee	Thursday mornings @ 10.00; 17/08/23, 14/09/23, 19/10/23, 16/11/23, 14/12/23, 18/01/24, 22/02/24, 21/03/24, 18/04/24, 16/05/24, 20/06/24 & 18/07/24
West Lothian Council (Planning)	Thursday mornings @ 11.00; 17/08/23, 14/09/23, 19/10/23, 16/11/23, 14/12/23, 18/01/24, 22/02/24, 21/03/24, 18/04/24, 16/05/24, 20/06/24 & 18/07/24
West Lothian Leisure Advisory Committee	Thursday morning; 31/08/23, 26/10/23, 07/12/23, 29/02/24, 25/04/24 & 06/06/24
West Lothian Licensing Board	Friday mornings; 11/08/23, 08/09/23, 13/10/23, 10/11/23, 08/12/23, 12/01/24,

	09/02/24, 08/03/24, 12/04/24, 10/05/24 & 14/06/24
<b>Whitburn and Blackburn Local Area Committee</b>	Monday mornings; 21/08/23, 04/12/23, 26/02/24 & 13/05/24
<b>Members Training</b>	06/09/23, 06/11/23, 18/03/24 & 27/05/24



DATA LABEL: PUBLIC



## COUNCIL EXECUTIVE

### SCHEME OF ELECTED MEMBERS REMUNERATION, ALLOWANCES AND REIMBURSEMENT OF EXPENSES

#### REPORT BY HEAD OF CORPORATE SERVICES

##### **A. PURPOSE OF REPORT**

To allow the adoption of a Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses for 2023/24.

##### **B. RECOMMENDATION**

1. To approve the revised Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses for 2023/24 as set out in Appendix 1.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Being honest, open and accountable
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	The council's Code of Corporate Governance requires the Scheme to be reviewed annually by Committee; Local Governance (Scotland) Act 2004 and related statutory regulations.
<b>III Implications for Scheme of Delegations to Officers</b>	The Scheme will be amended in accordance with Appendix 4 to the Scheme".
<b>IV Impact on performance and performance Indicators</b>	None
<b>V Relevance to Single Outcome Agreement</b>	None
<b>VI Resources - (Financial, Staffing and Property)</b>	Elected Members remuneration, allowances and expenses will be resourced from within the 2023/24 Revenue Budget.
<b>VII Consideration at PDSP</b>	None
<b>VIII Other consultations</b>	In accordance with the Council's Financial Regulations, the Head of Finance and Estates has been consulted.

## D. TERMS OF REPORT

### D.1 Background

The Council's Code of Corporate Governance requires the Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses (the Scheme) to be reviewed annually by Committee.

The Scheme is based on the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007 and the Local Government (Allowances and Expenses) (Scotland) Regulations 2007, both as amended.

### D.2 2022/23 Pay Levels

Elected members remuneration is set by the Scottish Government. The Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2023 (the 2023 Regulations), were laid before the Scottish Parliament on 30<sup>th</sup> January 2023 and are due to come into force on 1<sup>st</sup> April 2023. They substitute increased annual amounts of local authority remuneration to members. The changes will come into effect from 1 April 2023 and are set out below:

Post	2022/23 Salary (£)	2023/24 Salary (£)	Increase (£)
Leader of the Council	39,148	40,205	1,057
Civic Head (Provost)	29,361	30,154	793
Senior Councillors (12)	28,543	29,314	771
Councillors of Joint Boards			
- Convenors	24,467	25,128	661
- Vice Convenors	23,244	23,872	628
Councillors	19,571	20,099	528

### D.3 2022/23 Scheme

The council's Code of Corporate Governance requires the Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses (the Scheme) to be reviewed annually.

The Scheme for 2023/24 has been updated to include the revised salary payments set out Section 2.

In addition, guidance has been prepared on the use of the Civic Allowance. This is attached to the Scheme as Appendix 4.

## F. BACKGROUND REFERENCES

The Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007 and the Local Government (Allowances and Expenses) (Scotland) Regulations 2007, both as amended.

Appendices/Attachments: 1: Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses 2023/24.

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 Tel: 01506 281463

**Lesley Henderson**  
**Interim Head of Corporate Services**

**21 March 2023**

**WEST LoTHIAN COUNCIL**

**SCHEME OF ELECTED MEMBERS REMUNERATION, ALLOWANCES AND REIMBURSEMENT OF EXPENSES 2023/24**

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APPENDIX 4 – PROVOST’S ALLOWANCE GUIDANCE

## WEST LoTHIAN COUNCIL

### SCHEME OF ELECTED MEMBERS REMUNERATION, ALLOWANCES AND REIMBURSEMENT OF EXPENSES

#### 1 INTRODUCTION

The Scheme is based on the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007 and the Local Government (Allowances and Expenses) (Scotland) Regulations 2007, both as amended.

#### 2 ELECTED MEMBER POSITIONS AND REMUNERATION ARRANGEMENTS

##### 2.1 Positions

Remuneration levels for Elected Members are dependent on the responsibilities held. With the exception of the position of basic Councillor, levels of payment are determined by a banding system. For remuneration purposes West Lothian Council is placed in Band B.

**Leader of the Council** – Each local authority will have one Council Leader post.

**Civic Head** – Each local authority will have one Civic Head post and has scope to determine the level of salary paid up to a maximum of 75% of the remuneration paid to the Council Leader.

**Senior Councillor** – Individual authorities have the flexibility to determine which positions should be considered Senior Councillor meriting a higher level of remuneration. In doing so, the restrictions set out in the regulations that should be considered are:

- the limit on the number of posts that each council may have (West Lothian Council limit of 14);
- the total budget available for paying Senior Councillors;
- that payment cannot be more than 75% of the remuneration paid to the Leader.

**Councillors** - Elected Members who do not hold the position, for remuneration purposes, of Leader, Civic Head or Senior Councillor will receive remuneration set at the basic level.

##### 2.2 West Lothian Council – Levels of Remuneration

The scope for determining levels of remuneration for Elected Members is set out in the regulations. The Council's Code of Corporate Governance requires the Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses to be reviewed annually by committee. Any increases notified by the Scottish Government within the annual reporting cycle will be applied administratively.

### **2.3 Joint Boards and Community Justice Authorities**

Conveners of joint boards and community justice authorities shall be paid a total yearly amount of £25,128 (this includes the salary they receive as a councillor). The vice-convener will be paid a total yearly amount of £23,872 (this includes the salary they receive as a councillor). If the convener or vice-convener receives greater remuneration as a Senior Councillor, the greater amount will be payable.

### **2.4 Renouncing all or part of a salary**

Any Elected Member, regardless of level of payment, will be able to renounce receipt of all or any part of his/her salary if he/she wishes to do so. If an Elected Member chooses to renounce all or part of the payment due they should advise the Head of Corporate Services in writing.

## **3 CLAIMING ALLOWANCES & EXPENDITURE**

### **3.1 West Lothian Council Business**

Elected Members are required to complete the standard claims form, for reimbursement of travel, subsistence and expenses costs. Claim forms are available from the Member Services Administration team or on [My Toolkit](#).

Completed forms should clearly indicate the approved duty undertaken. For ease of administration the reference letters allocated in Appendix 1 can be used. It is only necessary to detail times if a claim for subsistence is made.

Claims should be completed and submitted on a monthly basis. Dates for submitting forms for payment will be provided to the Member Services Administration team and are published on [My Toolkit](#).

### **3.2 Joint Board Business**

For councillors who are also members of joint boards, there is a requirement to report expenses relating to this business separately. The standard claim form for reimbursement of travel, subsistence and expenses costs for joint board business is available from the Member Services Administration team or on [My Toolkit](#).

### **3.3 Submission and Publication**

It is the responsibility of each individual Elected Member to complete forms accurately and duly sign the declaration. Completed forms should be passed to Corporate Services for processing.

As the Council is required to publish information on Elected Members' salaries, allowances and expenses by 1 June each year, expenses claims for that year must be submitted no later than 5 April. Expenses claims submitted after this date will only be reimbursed in exceptional circumstances to be determined by the Head of Corporate Services.

## 4 TRAVEL ALLOWANCES

Elected Members are expected to adopt the most cost-effective method of travel.

Payment of travel allowances will be paid to Elected Members in accordance with the Local Government (Allowances and Expenses) (Scotland) Regulations 2007 and Amendment Regulations 2010.

Travel allowances will be paid at the rates set by the regulations for journeys necessarily incurred for the purpose of performing approved duties. The list of approved duties is set out in Appendix 1.

### 4.1 Private Car, Van, Motorcycle or Bicycle

#### Work Travel

Where the method of travel is by private car, van, motorcycle or bicycle the mileage claimed should commence from the point of departure on Council business and should be on the basis of excess mileage incurred on approved duties.

Rates of mileage allowance are set in the Regulations and are as follows:

Mode of Transport	Amount Per Mile
Car or Van	45p
Motorcycle	24p
Bicycle	20p
Additional passenger rate (per passenger)	5p

HM Revenue and Customs have set the maximum statutory tax-free rate of mileage allowance at 45p per mile. PAYE will not be payable on mileage allowance claims.

In addition to mileage, the following associated costs will be reimbursed:

- Parking charges – receipted costs of expenditure incurred
- Road and bridge tolls
- Road pricing/congestion charges – receipted costs of expenditure incurred
- Ferry fares for car, motorcycle or bicycle - receipted cost of expenditure incurred

#### Home to Work Travel

Home to work mileage claims for Elected Members who live more than 20 miles outside the council's boundary will be the subject of taxation.

Mileages incurred should be so detailed to provide a suitable trail for audit purposes. In this respect, details of each port of call must be entered on the claim form.

Elected Members have an obligation to claim the shortest route for each journey undertaken irrespective of the miles actually travelled.

### 4.2 Public Transport

Where the method of travel is by public transport, the following expenses may be claimed:

- Buses and trams – expenses incurred, including season ticket/passes where this is considered more cost effective.
- Taxis, trains, air travel, ferry travel – receipted cost of fare.

Travel by taxi should only be in cases of urgency or when no public service is reasonably available. If an Elected Member requires to travel by taxi on a regular basis, the principle of this should be agreed beforehand with the Head of Corporate Services.

It is expected that travel by public transport should be by standard or economy class.

## 5 SUBSISTENCE

### 5.1 Meals

Where an Elected Member is required to carry out Council business out with his or her own ward, or out with council premises in the local authority area of which they are a member, actual receipted cost of reasonable expenses may be reimbursed up to the levels detailed below:

Breakfast*	£8
Lunch	£12
Dinner	£25

\*Reimbursement of breakfast costs cannot be claimed in addition to overnight subsistence and are only payable when there is a requirement to travel some distance.

### 5.2 Overnight Subsistence

In the case of an absence overnight from the usual place of residence the maximum rates of receipted reimbursement are:

Standard	£110
London	£131

This reimbursement covers the cost of bed and breakfast whether accommodation is booked on a “room only” or “bed and breakfast” basis.

Friends or Family	£25
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Where overnight accommodation away from home is taken with friends or family a rate of £25 per night is payable. Any claim relating to this allowance must include the accommodation address and the name(s) of the friends or family with whom the Elected Member stayed. In the circumstances where a claim of this kind is made, no other overnight allowance is payable.

Where the Council itself purchases places for Elected Members at a residential conference or other event, no overnight subsistence will be payable.

### 5.3 Overseas Accommodation

Where travel overseas is required, the maximum level of receipted reimbursement will generally be equivalent to the London rate.

Overseas	£131
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## **6 CIVIC HEAD ALLOWANCE**

The Civic Head, or persons deputising for the Civic Head, may be reimbursed actual and receipted expenditure incurred in carrying out civic duties up to a maximum of £3,000 in a 12-month period running from the date of election.

## **7 TELEPHONES, COMPUTERS AND OTHER EQUIPMENT**

Guidance on the provisions available in relation to telephone, computers and other equipment and the costs that will be reimbursed and the arrangements for doing so is set out in Appendix 2.

## **8 PAYMENT ARRANGEMENTS**

The payment of travel and subsistence allowances and Civic Head expenses will be paid monthly on the last Thursday of the month. Payments will be made directly to the Elected Member's bank account.

## **9 FAMILY LEAVE ARRANGEMENTS**

This [guidance](#) ensures that as far as possible, Elected Members can take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio holders and others in receipt of Senior Councillor payments during any period of leave taken.

## **10 TAXATION**

Any Elected Member wishing information on the tax implications of specific allowances should seek advice from the HR Operations Section of Corporate Services.

## **11 CHECKS AND CONTROLS**

Elected Members should annually submit a valid driving licence and car insurance certificate for inspection at the start of each financial year to Corporate Services. The car insurance should cover Council business use.

Total claims for subsistence and mileage will be reported to the Leader of the Council on a 3-monthly basis. Elected Members will also be provided with details of their own cumulative claim totals.

Corporate Services staff will ensure the arithmetical accuracy of the form and will vouch travel allowances claimed for Committee attendance.

Corporate Services staff will ensure that all claims submitted adhere to the details contained in this Scheme otherwise the claim will be returned to the Elected Member.

## 12 PUBLICATION

Information on Elected Members salaries, allowances and expenses will be published on the Council's website by 1 June each year. This information will include any ICT related costs and costs for transport, subsistence and attendance at conferences paid for directly by the Council on behalf of Elected Members. This information will also be available for inspection at council offices when requested in writing by a member of the public. Appendix 3 sets out the template for publicising Elected Members Remuneration, Allowances and Expenses.

CORPORATE SERVICES  
POINTS OF CONTACT

<b>Name</b>	<b>Designation</b>	<b>Telephone</b>	<b>Location</b>
Jackie Wilson	HR Team Leader	01506 281463	Civic Centre
Margaret Mullen	Payroll Team Leader	01506 281436	Civic Centre

## WEST LoTHIAN COUNCIL

### APPROVED DUTIES

Allowances are payable for the purpose of an approved duty, the Local Government (Scotland) Act 1973 defines an approved duty as:

- Attendance at meeting of the body or any of its committees or sub-committees, and
- The doing of any other thing approved by the body, or anything of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the body or of any of its committees or sub-committees.

The term body used above includes the Convention of Scottish Local Authorities, West Lothian Council and Joint Boards of which the council is a participant.

The “approved duties” approved by the council in terms of section 46 of the Local Government (Scotland) Act 1973 are listed hereunder, viz:

REFERENCE	APPROVED DUTY
a)	Attendance at a duly constituted meeting of the Council and Committees or Sub – Committees thereof, Policy Development & Scrutiny Panels and Local Committees.
b)	Attendance in the capacity as a member of the Council at meetings, functions or ceremonies at the invitation of non-party political organisations.
c)	Attendance by Chair of Committee or Sub-Committee of the council, or an Executive Elected Member (portfolio holder), as the Council’s representative at any event, function or visit whose matter is closely related to the function of that committee or Sub-Committee or Portfolio.
d)	Attendance at scheduled surgeries.
e)	Attendance at surgeries out with a member’s own ward, where necessary.
f)	Attendance by an Elected Member at specified place and at a pre-arranged time for the purpose of being available for consultation by constituents on problems arising in connection with the discharge of the functions of the council or any of its committees or sub-committees. Attendance for consultation with constituents at a place within the area of West Lothian Council other than at fixed or specified locations.
g)	Attendance at meetings of other bodies as a duly appointed delegate of the council.

REFERENCE	APPROVED DUTY
h)	Attendance at a conference or course as a duly appointed delegate of the Council.
i)	Attendance by a Chair of a Committee or Sub-Committee of the Council, or an Executive Elected Member (portfolio holder), or their nominees at meetings which have to be arranged on occasions with officials of the Council.
j)	Attendance by the Provost, Deputy Provost and Leader of the Council at his or her office to undertake official duties.
k)	Attendance at any other function or ceremony with prior approval of the Council or appropriate Committee or Sub-Committee.
l)	Attendance of a local member of the Council at a meeting called by the Provost or Chair of Committee or Sub-Committee of the Council, or an Executive Elected Member (portfolio holder), and/or an officer of the council to discuss business of a competent nature.
m)	Undertaking a duty in connection with the Council's functions, provided it has been approved in advance by the appropriate Committee or Sub-Committee, with the proviso that when a duty of an emergency nature arises which cannot be dealt with by telephone or correspondence, that emergency duty will be reported to the next meeting of that Committee or Sub-Committee for consideration as an "approved duty".
n)	Attendance at duly notified meetings of Elected Members of the political group.
o)	Attendance of Elected Members of the Council at area offices following a surgery in pursuance of any enquiry made to the local member by a constituent at the surgery.
p)	Attendance of Elected Members of the Council at properly constituted meetings of Community Councils and Parent Councils established within their ward.
q)	Attendance at Council premises for the purpose of carrying out clerical research and correspondence duties in relation to matters raised with Elected Members by constituents. Such duties will occur as required, but shall constitute "approved duties" on not more than one occasion in each working day.
r)	Attendance of political group officers, namely, Leader, Deputy Leader, Secretary and Whip to carry out work on behalf of the group on the basis of not more than five occasions in a calendar month.
s)	Attendance at training offered free of charge by bodies, such as the Improvement Service; or Audit Scotland, without the prior approval of the Council or appropriate Committee or Sub-Committee.

## WEST LoTHIAN COUNCIL

### ELECTED MEMBER TELEPHONE, COMPUTER AND OTHER EQUIPMENT ALLOWANCES

#### CLAIMS PROCEDURE AND GUIDANCE NOTE

This guidance note sets out the provision available in relation to the costs that will be reimbursed and the arrangements for doing so.

#### 1. Computers

Each Elected Member will be provided with a desktop PC or laptop computer for business use.

#### 2. Home Telephones

Elected Members may choose to have either:

- A secondary (business) home telephone line installed and administered by the Council; or
- 50% of receipted line rental and itemised billing charges reimbursed for a home telephone which is used for both business and personal use.

Where a telephone package involves payment of line rental and a fixed sum in relation to call charges, reimbursement will be for 50% of the line rental charges plus any identified business call costs only.

#### 3. Mobile Telephone and iPad

The Council will provide a mobile telephone and an iPad to Elected Members from a supplier of the Council's choice. The Council will be responsible for the following costs:

- Telephone equipment
- Line rental/charge
- The actual cost of business

The use of mobile telephones and iPads is restricted to Council business only. On receipt of these devices Elected Members will be required to provide a written undertaking regarding restrictions of use. In exceptional circumstances, an Elected Member may use the mobile telephone for a private call. In such cases he or she will be required to repay the full cost of the call to the Council.

As international roaming is not included in the contract for iPads, if an Elected Member requires to use their iPad whilst abroad, this must only be done in areas where free

Wi-Fi is available. Elected Members must contact IT Services prior to taking the iPad abroad in order to get the international bar lifted. This bar must be reinstated on return.

#### **4. Broadband Internet Services**

Broadband internet services will be made available to Elected Members based on business need to be determined in conjunction with the Head of Corporate Services.

When requesting installation Elected Members will be required to provide a written undertaking regarding restrictions of use.

#### **5. Remote Secure Access (RSA) Tokens**

RSA Tokens will be made available to Elected Members based on business need in circumstances where an Elected Member requires secure remote access to network drives. Business need shall be determined in conjunction with the Head of Corporate Services.

#### **6. Payment of Accounts**

- Home Telephones for Business and Personal Use

The Elected Member will be responsible for paying accounts for home telephones used for business and personal use to the provider of the service.

- Secondary Phone Line for Business Use

The Council will administer the payment of secondary phone lines installed for business use only.

- Mobile Telephones and iPad

The Council will administer the payment of mobile telephone and iPad accounts.

- Broadband Internet Services

Where broadband internet services are provided via a home telephone package the Elected Member will be responsible for paying accounts for the broadband internet service. The Council will administer the payment of broadband internet services installed for business use only.

#### **7. Reimbursement of Costs**

Elected Members must submit a receipted telephone account and/or broadband internet service account to Corporate Services, before any reimbursement of costs can be made. Where an Elected Member has opted to use one phone line for business and personal use, then receipted accounts must be accompanied by a statement of business calls being claimed.

Elected Members paying telephone and/or broadband internet service accounts by direct debit or budget account must submit the payment invoice received from the provider of the service.

Reimbursement will be made through the payroll system.

## **8. Taxation (PAYE)**

### **• Home Telephones**

Reimbursements of home telephone rentals are subject to tax under PAYE. Tax is calculated at the time of payment and is deducted at source from the rental cost. Business telephone calls are not liable to tax. This however is subject to appropriate controls being in place.

Elected Members are required to keep records of private and business calls and they have a responsibility to keep itemised call billing statements and any other supporting evidence where reimbursement is being sought for business calls.

### **• Mobile Telephones**

No tax charge arises from the use of mobile telephones. The Council will retain copies of mobile telephone accounts and itemised call billing statements for inspection purposes.

### **• Broadband Internet Services**

No tax charge arises for the reimbursement of broadband internet service accounts which are provided for business purposes. The council will retain copies of billing statements for inspection purposes.

### **• VAT**

Elected Members will be reimbursed for the VAT component of rental and business calls subject to provision of a receipted telephone account and/or broadband internet service account. The actual receipted account must be submitted, as copies are not sufficient for the Council to reclaim the VAT element. Where Elected Members pay telephone accounts and/or broadband internet service accounts by direct debit or budget account, the actual payment invoice received from the provider of the service must be submitted.

## **9. Other Matters**

Elected members may wish to have home telephone features that are additional to the basic services listed above. Where this is the case, Elected Members will be responsible for meeting the full cost of these features with no reimbursement being provided by the Council.

Additional mobile telephones purchased for private use will be the responsibility of Elected Members, with no reimbursement of any aspect of the cost being made, even where occasional business use is incurred.



## **PROVOST'S ALLOWANCE GUIDELINES**

### **1. Background**

Local government legislation sets out rules about councillors' pay (remuneration) and expenses (allowances and expenses). The general provisions in primary legislation are supplemented by statutory regulations.

The present regime was established in 2007 after the move to voting in local government elections by proportional representation and the introduction of multi-member wards. The regulations have been amended from time to time but not to any significant extent.

As required by statute, the regulations were made after consultation with the Scottish Local Authorities Remuneration Committee (SLARC). Its [guidance](#) in relation to councillors' pay and expenses, revised in April 2020, remains in place.

### **2. Expenses and allowances**

The regulations set out rules for the expenses payable to councillors for carrying out approved duties. They apply to all councillors. In March each year the council approves its own Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses. It adds local detail to the statutory rules and sets out procedures for councillors to follow in incurring expenses and claiming and reclaiming them. That should be consulted in relation to the expenses allowed for every councillor.

The regulations make separate provision for the payment of expenses for a council's Civic Head. This guidance is in relation to the separate allowance available for the Civic Head. The allowance is to enable the Provost to fulfil the civic duties and activities of their role. It is not a sum of money around which new or expanded activities are to be planned or designed.

### **3. Civic Head**

Councils have powers to designate any councillor or position to be the Civic Head. This council has consistently attached that designation to the councillor elected to be Convener of the council and then to use the word "Provost" instead of Convener.

The Leader of the Council is designated separately as the political figurehead of the council. The Provost is the civic or ceremonial figurehead of the council and "Provost" will be used in this guidance.

The Provost has duties as a ward member. They will chair meetings of full council. They will almost always be members of council committees, policy development and scrutiny panels and outside bodies. They may hold other council positions carrying additional responsibilities, such as Executive Councillor. Their civic and ceremonial duties are separate and distinct from those general councillor duties.

The distinction is significant in determining the use to be made of the Provost's allowance. The Provost's allowance is in addition to expenses incurred for any and all other councillor duties. It can only be used in connection with the Provost's duties and not any other councillor duties.

#### **4. Role description**

The council has approved role descriptions for all the councillor positions in the council structure. The duties of the Provost, over and above the duties attached to their other councillor roles, are to:-

- act as civic head, hosting council events and attending other events as civic leader and representative of the council and the West Lothian communities
- promote West Lothian's profile to the wider community through public appearances at social, community, cultural and business events and through the media
- foster networks with other organisations in both the business and public sectors to support and enhance the development of West Lothian and its communities
- chair meetings of full council, complying with the duties and powers in the council's Standing Orders)
- ensure the proper conduct of business there in terms of Standing Orders and the council's values
- liaise closely with the Leader of the Council in terms of the civic roles and functions on behalf of the council, and with the Depute Provost
- promote the core values of the council
- act at all times in a manner to enhance the reputation of the council in terms of fair representation, open government and accountability and as a representative of both the council and the community
- maintain the highest standards of integrity and behaviour personally and act as an example to others

#### **5. Provost's additional allowance**

From the regulations:-

- The amount allowed is £3,000 each year
- The specified figure is an allowance each year for expenses incurred. It is not a budget which must be used or exhausted every year. Unspent allowance cannot be carried over to the following year
- The annual amount attached to the post, whether or not there is more than one councillor holding that position in the year. It is not £3,000.00 per Provost
- It can be incurred by and reimbursed to another councillor for deputising (usually the Depute Provost)
- Rather than the usual financial reporting year, each year starts on the anniversary of the date of the ordinary council elections, held every five years

- The allowance must be used “to enable [the Provost] to carry out their civic duties”. The council’s role description should be referred to
- Anything that would be covered by the expenses payable for other councillor duties cannot be paid from the Provost’s allowance. Duplication and overlap are not allowed
- The expenditure must be receipted

From the SLARC guidance:-

- The council can decide for itself, within the regulations, what legitimate uses of the fund might be
- Acceptable examples include additional and necessary purchase or hire of clothes to attend civic functions; visits where the Provost would like to return hospitality to the host; personal hospitality and other approved costs associated with holding the office of Provost

Within the rules in the regulations and guidance, these types of expenditure are legitimate:-

- Hospitality for guests, hosts and representatives of partner organisations and organisations involved in the civic and community life of West Lothian (e.g., food and drink provided locally; food or drink purchased during civic visits or events)
- Provision of facilities for the hospitality for guests, hosts and representatives of partner organisations and organisations involved in the civic and community life of West Lothian (e.g., coffee-making facilities; furniture and furnishings in the Provost’s lounge)
- Clothing appropriate for attending to civic duties and at civic events (e.g., suits, dresses, hats, formal/evening dress)

Inappropriate uses:-

- Expenditure recoverable under the general allowances available to all councillors should not be reimbursed from the Provost’s allowance (e.g., travel costs for local trips; phone and internet costs)
- Equipment provided at the council’s expense for all councillors should not be paid from the Provost’s allowance (e.g., office furniture and equipment; IT equipment)
- Gifts and prizes for honourees, guests, hosts, partner organisations and organisations involved in the civic and community life of West Lothian are funded from a separate budget (e.g., West Lothian whisky, quaiches, salvers, badges, pennants, calendars and similar items)
- Donations to partner and community organisations (e.g., museums, charities, voluntary organisations)
- Expenditure which exceeds the council’s powers should not be incurred (e.g., donations to charities or voluntary organisations for work abroad; donations to public bodies with their own statutory role in West Lothian)

- Expenditure which would breach the council's legal duties in relation to political publicity

Procedures:-

- There should be consultation with the Chief Executive's Office in relation to any proposed spend where that is appropriate. A common-sense approach should be taken. For example, the unplanned purchase of drinks for civic guests or to return hospitality should not require prior approval; the acquisition of furnishings or equipment for the Provost's lounge should
- Existing council sources or contracts should be utilised first (e.g., stocks of equipment held by the council; suppliers registered through PECOS)
- Best value and value for money should be demonstrable where appropriate (e.g., obtaining two or more competing estimates or quotations for supply of furnishings; considering alternative transport options)
- Public perception should be kept in mind at all times
- Records must be kept of requests, authorisations, spending and reimbursement
- Expenditure must not be reimbursed unless it is receipted
- Due to legal restrictions on an individual councillor's power to make decisions committing council policy or expenditure, final authority for the use of the allowance sits with the Chief Executive
- A summary of spending from the Provost's allowance will be included in the annual report published on councillors' remuneration



DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **COMMUNITY COUNCIL SPECIAL PROJECT GRANTS**

#### **REPORT BY HEAD OF CORPORATE SERVICES**

##### **A. PURPOSE OF REPORT**

To invite the Council Executive to consider applications for special project grants which have been received from Dechmont and Newton Community Councils.

##### **B. RECOMMENDATION**

That the Council Executive determines the applications received from Dechmont and Newton Community Councils as detailed in the appendix.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I</b>	<b>Council Values</b>	Focusing on our customers' needs; making best use of our resources; and working in partnership
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Section 22 of the Local Government (Scotland) Act 1994 and the Special Project Grant Guidelines
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None.
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	None.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	None.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	£3000 in the special project grant budget for financial year 2022/23.
<b>VII</b>	<b>Consideration at PDSP</b>	None.
<b>VIII</b>	<b>Other consultations</b>	None.

**D. TERMS OF REPORT**

A special project grant scheme currently operates for community councils in West Lothian to allow them to carry out projects in their areas. Community councils can apply for a maximum of £750 special project funding in each financial year. There is no minimum grant. The total budget for financial year 2022/23 is £3000. Applications are dealt with on a first come first served basis. Community councils who retain more than £75 of their annual grant from the previous financial year are expected to contribute 10% towards projects less than £750.

Six valid applications have been received so far in financial year 2022/23. Of those, two were approved by Council Executive in November 2022, one in December 2022 and one in February 2023. The applications from Dechmont and Newton Community Councils are detailed in Appendix 1. The balance remaining in the budget for the current financial year is £829.60. The amount requested in the applications is £829.

If the applications are granted in full, there will be £0.60 remaining in the special project grant scheme budget. The scheme will open to applications again on 1<sup>st</sup> April 2023.

**E. CONCLUSION**

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

**F. BACKGROUND REFERENCES**

Minute of Meeting of the Partnership & Resources PDSP held on 18<sup>th</sup> February 2011.

Minute of Meeting of the Council Executive held on 22<sup>nd</sup> March 2011.

Appendices/Attachments: One

Contact Person: Lorraine McGrorty, Committee Officer, 01506 281609

Lesley Henderson  
Interim Head of Corporate Services

21 March 2023

## APPENDIX

**Application 1**

<b>Community Council</b>	<b>Project</b>	<b>Cost</b>	<b>Total Grant Requested</b>
Dechmont Community Council	To produce a bi-annual community council newsletter	£600	£600

**Comments**

1. Dechmont Community Council wishes to produce a bi-annual community newsletter. They hope this will increase awareness of community issues; provide information on current and potential projects; create awareness of the roles and responsibilities of the Community Council and its members; and encourage greater involvement and participation in local community issues.
2. The village is home to many elderly residents who welcomed receiving information via a newsletter in 2018. It would not be possible to facilitate the production of the newsletter without financial assistance.
3. The community council will use the skills of members to create the newsletter content and to distribute the newsletter throughout the village.
4. The project is acceptable and meets the criteria for assistance.

**Recommendation**

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

**Application 2**

<b>Community Council</b>	<b>Project</b>	<b>Cost</b>	<b>Total Grant Requested</b>
Newton Community Council	Towards the cost of purchasing and installing a community defibrillator.	£1300	£229

**Comments**

1. Newton Community Council wishes to install a defibrillator outside the community education centre for the community and passing motorists to use.
2. They have applied and been approved by St. John's Ambulance Service to have a defibrillator. They have already received donations totalling £825 towards the costs from Hopetoun Estate and Newton Community Education Association.
3. If the project is approved, the community council will pay the balance of £246 from their own reserves. The operational costs will be split between the community council and the community education centre.

4. The project is acceptable and meets the criteria for assistance.

**Recommendation**

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

DATA LABEL: Public



## **COUNCIL EXECUTIVE**

### **SITE SELECTION FOR WHITRIGG HOUSE REPLACEMENT FACILITY**

#### **JOINT REPORT BY HEAD OF SOCIAL POLICY AND HEAD OF FINANCE AND PROPERTY SERVICES**

##### **A. PURPOSE OF REPORT**

The purpose of this report is to advise Council Executive of the outcome of an options appraisal undertaken by officers on potential sites for the approved General Services capital investment project to replace Whitrigg House, a residential care facility for children that is currently located in East Whitburn.

##### **B. RECOMMENDATION**

It is recommended that Council Executive:

1. Notes the outcome of an options appraisal undertaken by officers on potential sites for the approved General Services capital investment project to replace Whitrigg House, a children's residential care facility currently located in East Whitburn.
2. Agrees that Site 1 (Land adjoining Torcroft House, Whitburn) is the preferred location for the new facility and authorises officers to progress delivery of the project on that basis.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on customers' needs, being honest, open and accountable, providing equality of opportunities; making best use of resources, working in partnership.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Children (Scotland) Act 1995 and associated regulatory Guidance. Children and Young People (Scotland) Act 2014. Children (Scotland) Act 2020. Looked After Children (Scotland) Regulations 2009. UN Convention on the Rights of the Child 1989. The Promise Scotland.
<b>III Implications for Scheme of Delegations to Officers</b>	None.
<b>IV Impact on performance and performance indicators</b>	Key performance indicators that will be monitored will be: <ul style="list-style-type: none"> <li>• Children and Young people are safe and included in line with Getting It Right For Every Child Principles</li> <li>• Numbers of children in residential and secure care are reduced</li> <li>• Outcomes and attainment for children and young people are improved.</li> </ul>

<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	<ul style="list-style-type: none"> <li>• Our children have the best start in life and are ready to succeed.</li> <li>• We live in resilient, cohesive and safe communities.</li> <li>• People most at risk are protected and supported to achieve improved life chances.</li> <li>• We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</li> </ul>
<b>VI</b>	<b>Resources – (Financial, Staffing and Property)</b>	Total approved capital funding of £992,000 is in place to deliver the new facility during the 2023/24 financial year.
<b>VII</b>	<b>Consideration at PDSP</b>	Feedback on service delivery as part of the Transforming Your Council consultation was discussed at the Health and Care PDSP on 18 December 2017 and the Social Policy PDSP on 21 December 2017.
<b>VIII</b>	<b>Other Consultations</b>	<p>Consultation with staff, managers and young people during the course of the review of the existing services.</p> <p>Housing, Customer &amp; Building Services, NETs Land and Countryside Services.</p> <p>The local elected members for the ward have received a copy of this report for their information.</p>

## **D. TERMS OF REPORT**

### **D.1 Background**

Full council at its meeting on 21 February 2023 approved the Corporate Asset Management Strategy and General Services Ten Year Capital Investment Strategy 2023/24 to 2032/33. This included an approved capital budget of £850,000 in 2023/24 for the delivery of a new children's residential care facility to replace Whittrigg House in East Whitburn. The project also includes an approved capital budget of £142,000 from 2022/23 that will be carried forward into 2023/24, providing a total approved project budget of £992,000.

Whittrigg House in Redmill Court, East Whitburn is a two-storey converted house that provides residential care for children. The property no longer meets Care Inspectorate quality standards and a new, purpose-built replacement facility will ensure a minimum of two young people can be accommodated, with a further two beds for emergency situations, plus ancillary accommodation for support staff. If the approved capital budget permits, it will also be used to deliver additional two-bedroom accommodation on-site that would enable young people to transition to a permanent tenancy of their own, an approach to support and care delivery that reflects recognised service best practice.

### **D.2 Options for delivery of the Whittrigg House replacement facility**

Officers have considered a range of project delivery options (including the potential purchase and conversion of an existing residential property or the purchase of a privately-owned site) and concluded that a new, purpose-built facility on a council-owned site would result in the best service outcomes and enable the project to be delivered in an effective and efficient manner in accordance with approved budgets and required operational timelines.

Under this model, officers from Property Services will design a purpose-built facility with reference to future service needs and acknowledged examples of sector-specific best practice. The facility will be built on a suitable area of council-owned land in an appropriate location and the project will be delivered using the traditional procurement approach.

The current Whitrigg House will continue to be used operationally to support the young people living there until the new replacement facility is completed. It is proposed that a further report will be presented to a future meeting of the Council Executive seeking approval to declare Whitrigg House surplus to requirements and to disposal of that property in accordance with the council's approved Surplus Property Procedure.

### **D.3 Site selection**

Senior managers in Social Policy responsible for service delivery collaborated with Property Services colleagues to establish priority criteria and in doing so confirmed that the new facility would ideally be located close to its sister facility, Torcroft House in Whitburn. This would enable staff to move easily between the two facilities, ensuring the most efficient use of resources whilst delivering the best possible outcomes and care for the children being supported. The site must also be close enough to amenities to enable those young people to feel part of the community, but detached enough to minimise the impact of any potential anti-social behaviour.

A range of potential sites were identified and considered jointly by officers from Social Policy and Property Services.

Officers undertook joint inspections of each site and thereafter considered the respective advantages and disadvantages of each. Deliberations included consideration of the surrounding environment, any practical and physical limitations relating to design potential and service delivery, along with potential implications on project costs. The following three sites were subsequently shortlisted as being most suitable.

<b>Site No.</b>	<b>Address</b>
1	Land adjacent to Torcroft House, Raeburn Crescent, Whitburn
2	Land at King George V Park, Whitburn
3	Land at Dixon Road, Whitburn

A high-level feasibility study was then undertaken to demonstrate that the proposed new facility could be accommodated on each of the three shortlisted sites.

### **D.4 Recommendation**

Having fully considered the available options, officers have reached a clear consensus view that Site 1 (Land adjacent to Torcroft House at Raeburn Crescent, Whitburn) should be taken forward as the preferred site for the new facility. The extent of that site is shown hatched in black on the location plan at Appendix 1.

Officers consider this site's location immediately adjacent to the existing facilities at Torcroft House provides a unique opportunity for enhanced operational and service delivery benefits than no other site can offer. Specifically, it would result in improvements around staffing contingency and matching with the young people using our services, with that enhanced consistency in turn resulting in recognised benefits for those young people. Co-location would also offer opportunities for enhanced workforce training and development, improved networking and the introduction of additional professional services to support the young people.

The site is located within and is well served by an existing community and there is the long-established presence of Torcroft House at this location. Positive communication with members of the local community has taken place around service delivery in recent years and it is intended that there will be service led engagement with relevant parties in respect of this new facility.

The site is owned by the council and is held on Housing Revenue Account (HRA). The Head of Housing Customer and Building Services has confirmed she is in principle prepared to transfer the land to General Services account (subject to Tenant's Panel approval) to enable the project to proceed. General Services account would, either from the approved project budget or by way of an excambion (i.e. a land swap), recompense HRA for the transfer of that land. The value of the land would be independently determined by the District Valuer in accordance with established practices.

The site is currently held as an open space asset and comprises an unused former kick-pitch that is no longer considered fit for purpose. The NETs Land and Countryside Services Manager has confirmed he would welcome this area being re-purposed as the site for the new facility.

Approximately two thirds of the site is designated as open space in the adopted West Lothian Local Development Plan 2018 and, as with any potential site, planning permission would be required to enable the project to proceed. The adjoining land at Blaeberry Park provides public open space in this locality and it is considered by officers that the proposed new investment would represent a marked improvement on the existing, unused former kick-pitch.

Officers have discussed the proposed model of locating this new facility next to Torcroft House with representatives from the Care Inspectorate. The Care Inspectorate are supportive of that approach and have acknowledged the clear service-focused benefits of doing so.

Officers recommend that Council Executive agrees Site 1 (Land adjoining Torcroft House, Whitburn) as the preferred location for the new facility and authorises officers to progress the delivery of the project on that basis.

#### **D.5 Indicative project delivery timelines**

If Council Executive approval is secured to proceed with Site 1 as the preferred location, officers anticipate that the new facility could be delivered within the following indicative timescale:

<b>Programme stage</b>	<b>Anticipated Timescale</b>
Design Start Date	21.03.2023
Stage 2 Client Sign off on Concept Design	24.07.2023
Planning Consent	25.09.2023
Building Warrant	27.11.2023
Tenders out	17.01.2024
Tender return	22.02.2024
Site Start	20.03.2024
Site Completion	09.01.2025

#### **E. CONCLUSION**

Whitrigg House, Redmill Court in East Whitburn no longer meets Care Inspectorate quality standards and the council is committed to delivering a new, improved facility that will meet the needs of our children and young people going forward.

Officers have considered a range of delivery options and concluded that a new, purpose-built facility on a council-owned site would result in the best possible service outcomes and enable the project to be delivered in an effective and efficient manner in accordance with approved budgets and required operational timelines.

An options appraisal of potential sites has been undertaken and officers recommend that Site 1 (Land adjoining Torcroft House, Whitburn) should be agreed by Council Executive as the preferred location for the new facility and that officers should be authorised to proceed with project delivery on that basis.

## **F. BACKGROUND REFERENCES**

West Lothian Council – 21 February 2023 - Corporate Asset Management Strategy and General Services Ten Year Capital Investment Strategy 2023/24 to 2032/33.

Appendices/Attachments: Appendix 1 – Location plan

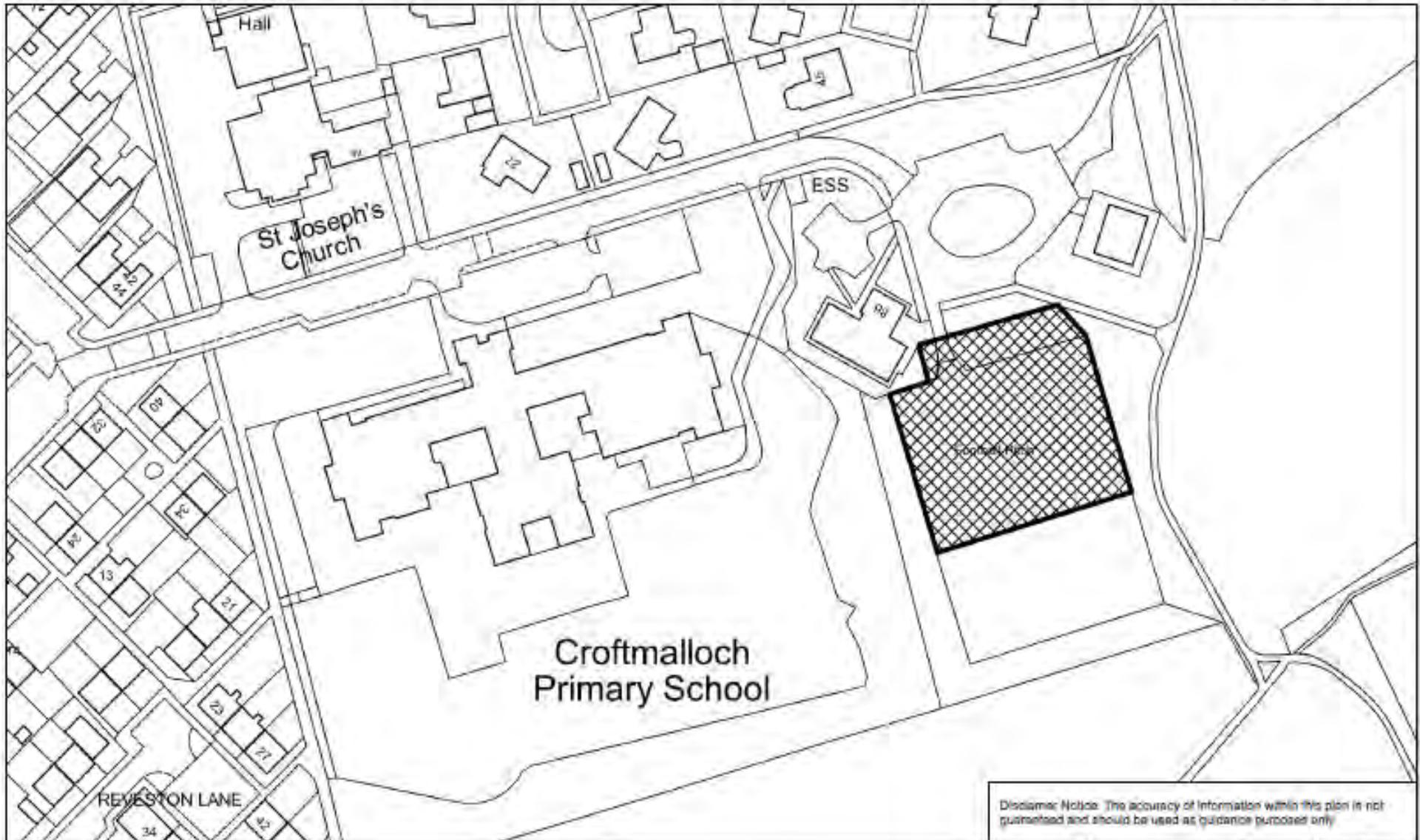
Contact Persons: Pauline Cochrane, Senior Manager, Social Policy, (01506) 282252.  
Scott Hughes, Asset Manager, Property Services, (01506) 281825.

**Jo MacPherson**  
**Head of Service, Social Policy**

**Donald Forrest**  
**Head of Finance and Property Services**

**21 March 2023**

**APPENDIX 1 - Location Plans**



Disclaimar Notice: This accuracy of information within this plan is not guaranteed and should be used as guidance purposes only

	<p><b>Site 1 - Land adjacent to Torcroft House, Raeburn Crescent, Whitburn</b></p>	<p>Not to Scale</p>	<p>A4</p>	
<p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p>		<p>15/8/2022</p>	<p><small>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. © Crown copyright. All rights reserved. Licence 100017194 2022</small></p>	

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## **COUNCIL EXECUTIVE**

### **REGISTER OF COMMON GOOD UPDATE**

#### **REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES**

##### **A. PURPOSE OF REPORT**

The purpose of this report is to provide Council Executive with an update on work undertaken by officers to further develop the council's Register of Common Good in accordance with the requirements of Part 8 of the Community Empowerment (Scotland) Act 2015.

##### **B. RECOMMENDATION**

It is recommended that Council Executive:

1. Notes the work undertaken by officers to further develop the council's Register of Common Good in accordance with the requirements of Part 8 of the Community Empowerment (Scotland) Act 2015.
2. Notes that work is ongoing to fully consider the remaining representations received during the mandatory community consultation exercise and to engage further with the Whitburn community to consider potential common good property in the former Burgh of Whitburn.
3. Agrees that officers will present a further update to Council Executive by September 2023.

##### **C. SUMMARY OF IMPLICATIONS**

- |            |  |  |
|------------|--|--|
| <b>I</b>   | <b>Council Values</b>  | <ul style="list-style-type: none"> <li>• Focusing on our customers' needs.</li> <li>• Being honest, open and accountable.</li> <li>• Providing equality of opportunities.</li> <li>• Making best use of our resources.</li> <li>• Working in partnership.</li> </ul> |
| <b>II</b>  | <b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b> | The work undertaken by officers ensures the council is compliant with the statutory requirements of Part 8 of the Community Empowerment (Scotland) Act 2015.   |
| <b>III</b> | <b>Implications for Scheme of Delegations to Officers</b>  | None.  |

<b>IV</b>	<b>Impact on performance and performance Indicators</b>	None.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built environment.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	The council will incur revenue costs in the region of £100,000 in 2022/23 and 2023/24 for legal work being undertaken by external solicitors to support the establishment and updating of the Register of Common Good. The costs are being met from existing revenue budgets.
<b>VII</b>	<b>Consideration at PDSP</b>	The then Partnership and Resources PDSP on 4 February 2022,
<b>VIII</b>	<b>Other consultations</b>	Legal Services.

## **D. TERMS OF REPORT**

### **D.1 Background**

Common good is property owned by a local authority which has been passed down, through local government reorganisation, from former burghs. Those burghs would have received it as a gift or purchased it. It includes land and buildings, and moveable items such as furniture and art. It may include cash where property has been sold and income received from the leasing of common good property.

There is no formal, statutory definition of common good. It is not a separate legal entity and property is not “owned by the common good”. The property is owned by the local authority. The local authority may however be legally restricted in the uses to which it can put such property, or whether it can dispose of it, if the property is considered to be common good. It does not automatically follow that all council owned property in the former burghs is common good. For example, if a property was originally acquired by the former burgh council for a specific statutory purpose, then potentially it may not be common good.

The Community Empowerment (Scotland) Act 2015 (the Act) imposes duties on local authorities in relation to common good property. Part 8 of the Act seeks to increase transparency about the existence of common good assets and to ensure there is community involvement in decisions taken about their identification, use and disposal.

Section 102 of the Act places a duty on local authorities to “establish and maintain a register of property which is held by the authority as part of the common good.” Council Executive at its meeting on 22 March 2022 approved the publication of the first version of the council’s Register of Common Good and noted that officers were continuing their work to fully consider all representations received during the mandatory community consultation exercise. Council Executive was provided with an update report on 25 October 2022, at which time further additions to the Register of Common Good were approved.

The Act provides that once the council has fully considered a representation, its decision is final, unless significant new information comes to light or a court decides otherwise by way of judicial review. There is no appeals process written into the legislation or guidance.

The purpose of this report is to provide Council Executive with an update on the work by officers to date to further develop the council's Register of Common Good in accordance with the requirements of Part 8 of the Community Empowerment (Scotland) Act 2015.

## D.2 Current Position

Officers from Property Services and Legal Services have been investigating 74 properties across the county to determine whether they should properly be included in the published Register of Common Good in accordance with statutory requirements.

In determining whether or not a property should be considered as common good, it is necessary to examine the title deed(s) for that property, to consider how the property was acquired by the council and how it has been used since it was acquired. As a result of the time and resource intensive nature of the title reviews required for each of the properties identified during the consultation, the Chief Solicitor procured the services of external solicitors to assist in this exercise.

Progress to date in determining the representations received is summarised in Table 1 below.

Table 1: Summary of progress in determining representations

Status	Number of Properties
1. Where investigations are complete and the legal advice is that the property should be regarded as common good.	14
2. Where investigations are complete and the legal advice is that the property should not be regarded as common good.	10
3. Where the council's Property Services team has confirmed that the property is not owned by the council and the property has not been included in the common good considerations.	12
4. Properties where the legal work is ongoing and supplementary information has been requested or is being considered by legal advisors	29
5. Non-property assets (e.g. regalia, furniture, artworks).	9
<b>TOTAL:</b>	<b>74</b>

As set out in Table 1 above, nine of the representations received via the consultation exercise relate to non-property assets such as regalia, furniture and artworks.

A review of those non-property assets is being undertaken in consultation with the council's Museum's Officer as part of an ongoing, wider review of the council's movable heritage assets. In light of investigations to date and in the absence of information to the contrary, officers consider it likely that the council's moveable heritage assets will ultimately be recommended for approval as common good property going forward.

### **D.3 Updated Register of Common Good**

The exercise to investigate and consider each of the representations has been and continues to be very resource intensive. Consideration of a single property typically involves the identification and analysis of multiple historic title deeds and collaboration with the council's Archive Manager to research historic committee minutes dating from the former Burgh Councils in an attempt to identify key information around the circumstances under which individual properties were acquired.

As a result of the work undertaken to date by officers and their appointed external solicitors, a considered legal position has now been reached on 24 properties. A further 12 properties which are not owned by the council have not been included in the legal title examination. Of those 24 properties, 14 have been confirmed as common good and were previously approved by Council Executive for inclusion in the Register of Common Good and 10 were confirmed as not being common good.

Tangible progress has been made in working towards a considered legal opinion on every one of the outstanding properties. Due to the ongoing complexities of the work involved and conflicting time-critical workload pressures on officers, it has been possible at this stage to reach a final legal opinion on one additional property since the matter was last reported to Council Executive on 25 October 2022.

The aforementioned property, where a final legal position has been reached, is "Open space land between Whitburn Road and Meadowpark in Bathgate". The legal advice provided is that this property should not be considered as common good and as such there is no requirement to further update the existing Register of Common Good at this juncture.

It is intended to bring this ongoing exercise to a close at the earliest possible opportunity and resources will be prioritised with the objective of providing Council Executive with a further substantive update in September 2023.

### **D.4 Further consultation in the former Burgh of Whitburn**

At the then Partnership and Resources PDSP on 4 February 2022, the Panel noted that no representations had been received from the community in relation to the former Burgh of Whitburn. The Panel suggested that further engagement take place. Officers confirmed that the register would be a live document that must, by law, be under continuous review. Officers agreed that further engagement with the Whitburn community would take place once all the original consultation representations had been considered. Given the passage of time and the desire to see this exercise concluded as soon as possible, officers have commenced engagement with the Whitburn community.

Officers have begun engagement with representatives from Whitburn Community Council and Whitburn Community Development Trust and sought representations from these organisations on properties in the former Burgh of Whitburn that the community consider could potentially qualify as common good. Officers are seeking to have a consolidated list of properties from the community by 31 May 2023 and are aiming to have investigations on those suggested properties complete during 2023/24.

**E. CONCLUSION**

Council Executive is recommended to note the ongoing work undertaken by officers to further develop the council's Register of Common Good in accordance with the requirements of Part 8 of the Community Empowerment (Scotland) Act 2015 and to engage further with the Whitburn community to consider potential common good properties in the former Burgh of Whitburn.

Officers will bring this ongoing exercise to a close at the earliest possible opportunity and have undertaken to prioritise resources with a view to providing Council Executive with a further substantive update in September 2023.

**F. BACKGROUND REFERENCES**

Establishment of a Register of Common Good - Partnership and Resources PDSP  
4 February 2022

Establishment of a Register of Common Good – Council Executive 22 March 2022

Register of Common Good Update – Council Executive 25 October 2022

Appendices/Attachments: None

Contact Person: Scott Hughes (Asset Manager): e-mail: [scott.hughes@westlothian.gov.uk](mailto:scott.hughes@westlothian.gov.uk)

**Donald Forrest**  
**Head of Finance and Property Services**

**21 March 2023**



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## **COUNCIL EXECUTIVE**

### **SURPLUS PROPERTIES**

#### **REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES**

##### **A. PURPOSE OF REPORT**

The purpose of this report is to seek approval to formally declare surplus a number of properties outlined in the report which are no longer required for service delivery.

##### **B. RECOMMENDATION**

It is recommended that Council Executive:

1. Approves that the properties in the report and listed in Appendix 1 are declared surplus to council requirements, and,
2. Instructs officers to deal with the assets concerned in accordance with previously approved Surplus Property Procedures, and as outlined in Appendix 1 of this report.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	<p>Forms part of the council's approved Asset Management Strategy and Property Asset Management Plan.</p> <p>Complies with legal requirement to obtain "Best Value" under the 1973 and 2003 Local Government (Scotland) Acts and also the Disposal of Land by Local Authorities (Scotland) regulations 2010 and the Community Empowerment (Scotland) Act, 2015.</p> <p>Complies with Community Empowerment (Scotland) Act 2015 (Part 5) relating to community asset transfer.</p>
<b>III Implications for Scheme of Delegations to Officers</b>	None
<b>IV Impact on performance and performance Indicators</b>	The disposal of surplus properties may contribute to performance in different areas e.g. capital receipts; revenue income from the

Tenanted Non-Residential Portfolio (TNRP) / Commercial Property Portfolio (CPP) or be available for community asset transfer.

- V Relevance to Single Outcome Agreement** Effective management of property resources influences many key outcomes contained in the single outcome agreement.
- VI Resources - (Financial, Staffing and Property)**

The lease, sale, asset transfer or demolition of assets identified as surplus will allow resources used for these to be re-directed to other retained property assets. Some will produce revenue income stream and/or a capital receipt which will contribute to relevant targets.

Revenue savings from disposing of the property in this report have already been included in the approved revenue budget for the year 2023/24 and are due to be delivered in the current financial year.
- VII Consideration at PDSP** None.
- VIII Other consultations**

Relevant services have been consulted including Education; Operational Services; Legal Services; Highways and Transportation.

The elected members for relevant wards have been provided with a copy of this report for their information.

## **D. TERMS OF REPORT**

### **D.1 Introduction**

The report advises of a number of property assets that are no longer required for the delivery of services and are proposed to be declared surplus. It is proposed that the properties are dealt with in accordance with the Surplus Property Procedures which were approved by the Council Executive on 28 November 2017.

### **D.2 Background**

The council is committed to the efficient and effective management of assets to support the delivery of services. Property assets are managed as a corporate resource and those no longer required for the delivery of services should not be retained as these represent both financial and management resource burdens. Properties that are vacant or not effectively used also represent a risk of dereliction and are an ongoing statutory compliance burden on the council.

In accordance with the updated Surplus Property Procedures, property assets that are no longer required for service delivery need to be formally declared surplus and then be subject to a standard process to ensure transparent and consistent decision making on their future.

This report advises on a number of properties that have been identified as no longer required for service delivery and are therefore surplus to council requirements. If the report is approved, then disposal of the properties will be progressed in accordance with the updated procedures.

Plans showing the extent of each property listed in Appendix 1 are attached as Appendix 2.

### **D.3 Surplus Property**

The properties listed below have been identified as being surplus to service requirements and are no longer required by the council:

- Part of former Addiewell Bing, Addiewell
- St David House, 24 South Bridge Street, Bathgate
- Retail Unit, 22 South Bridge Street, Bathgate
- Former Hopefield Nursery School, Blackburn
- Arrochar and Torridon House, Almondvale Boulevard, Livingston
- Former Bus Turning Area, B9080, Winchburgh

These consist primarily of two main types of property:

1. Properties that are no longer required for the delivery of services; and/or
2. Properties that have been replaced by new property assets where the lease, sale or demolition of the previous asset formed part of the business case for the new asset.

All of the properties meet either or both of the criteria outlined above and therefore it is appropriate that these are declared surplus to requirements. Further information on each property is included in Appendix 1 to the report together with a recommendation on how to process each property once it has been declared surplus.

### **D.4 Common Good**

None of the properties contained in this report qualify as Common Good.

### **D.5 Community Asset Transfer (CAT)**

Any property is subject to the possibility of a formal application for Community Asset Transfer being received through the statutory provisions contained in the Community Empowerment (Scotland) Act, 2015. Where such an application is received, it will be dealt with in accordance with the Community Asset Transfer policy and practices already set up and approved by the council.

Where there is known community interest in CAT in respect of any of the properties in this report (although no formal CAT application has been received) then this is noted in Appendix 1 attached.

## **E. CONCLUSION**

The properties outlined in this report are or will no longer be required for service delivery and are therefore surplus to the council's operational requirements going forward. It is in the council's best interest to proceed with the marketing of each property in accordance with the updated Surplus Property Procedures and as outlined in the report.

## **F. BACKGROUND REFERENCES**

1. Council Executive – 28 November 2017 – Surplus Property Procedures
2. Council Executive – 28 November 2017 – Community Empowerment (Scotland) Act 2015: Community Asset Transfer Policy and Governance Review

Appendices/Attachments:

Appendix 1 - List of properties to be declared surplus

Appendix 2 – Plans of properties referred to in Appendix 1.

Contact Person: Jack Orr, Group Surveyor, Finance and Property Services

Tel: (01506) 281829 - Email: [jack.orr@westlothian.gov.uk](mailto:jack.orr@westlothian.gov.uk),

**Donald Forrest**

**Head of Finance and Property Services**

Date of meeting: 21 March 2023

## DATA LABEL: PUBLIC

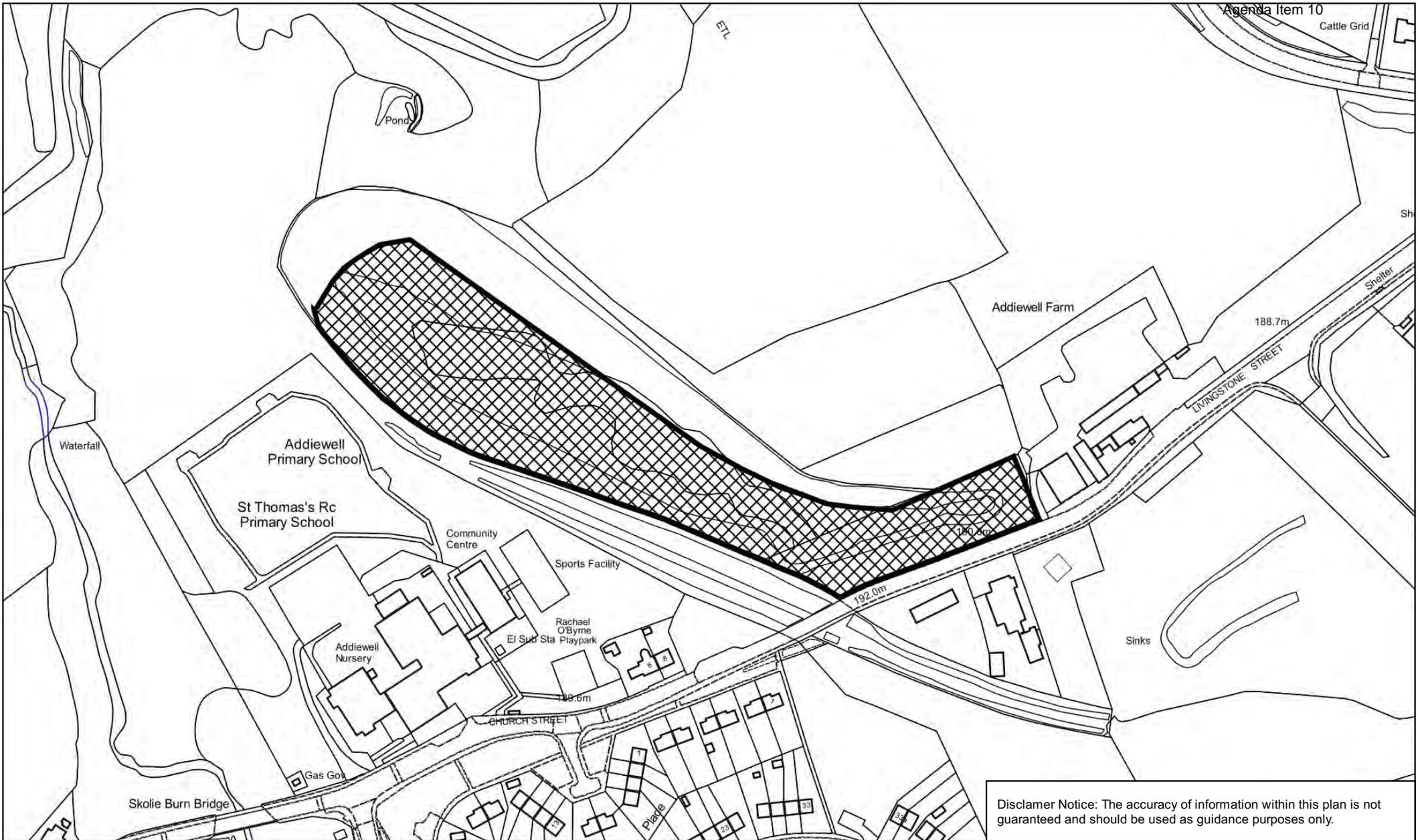
## APPENDIX 1 – LIST OF SURPLUS PROPERTIES AND RECOMMENDATIONS

Property	Reason for declaring surplus	Current Position	Recommendation on action by officers
Land forming part of Addiewell Bing, Addiewell	No longer required for service delivery.	Land was planted with trees as part of an SDA funded rehabilitation scheme in the 1980s and is surrounded on three sides by land belonging to Mr A. MacFarlane, Addiewell Farm.	Offer land to previous owner Mr MacFarlane, Addiewell Farm, under provisions of Crichel Down rules. These rules are a non-statutory government policy which requires certain bodies to offer to sell back surplus land to the former owner (or their successors) once the land has become surplus to requirements - if the land was originally acquired by, or under threat of, compulsion.
St David House, 24 South Bridge Street, Bathgate	No longer required for service delivery.	Staff relocation to new locations pending, following which building will be closed.	Market property for lease or sale for commercial or residential uses (to include social housing) compliant with Local development Plan policies. Any community interest will be considered as part of this process.
Retail unit, 22 South Bridge Street, Bathgate	No longer required for service delivery.	Forms part of the St David House building. Currently being used for emergency storage.	Market property for lease or sale for commercial or residential uses (to include social housing) compliant with Local development Plan policies. Any community interest will be considered as part of this process.
Former Hopefield Nursery School, Blackburn	No longer required for service delivery.	All staff and pupils being relocated to a new purpose-built wing within Blackburn Primary School.	Market property for lease or sale for commercial or other uses compliant with Local development Plan policies. Any community interest will be considered as part of this process. Consideration of any future use will take into account compatibility with the adjoining primary school including the establishment of an acceptable physical boundary between both properties. Failing a satisfactory outcome within a reasonable period of time, then the building would be demolished.  Officers have received a note of interest in this property from The Larder. That note of interest is not a Community Asset Transfer (CAT) request and as at the date of preparing this report no CAT requests have been received for this property.
Arrochar and Torridon House, Almondvale Boulevard, Livingston	No longer required for service delivery.	Staff relocation to new locations pending, following which building will be closed.	Market property for lease or sale for commercial and other uses compliant with Local development Plan policies. Any community interest will be considered as part of this process.

Land forming former bus turning circle, B9080, near Winchburgh	No longer required for service delivery.	This facility which was created in 1980 is no longer required due to the substantial planned changes to the road layout in the area resulting from the wider development of Winchburgh.	As the land is entirely surrounded by land under the control of Winchburgh Developments, it is proposed that it should be sold to them on terms which are appropriate, and provide suitable protection for the public interest.
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Ref: objective/council executive/surplus properties/appendix 1  
Date: 21 march 2023

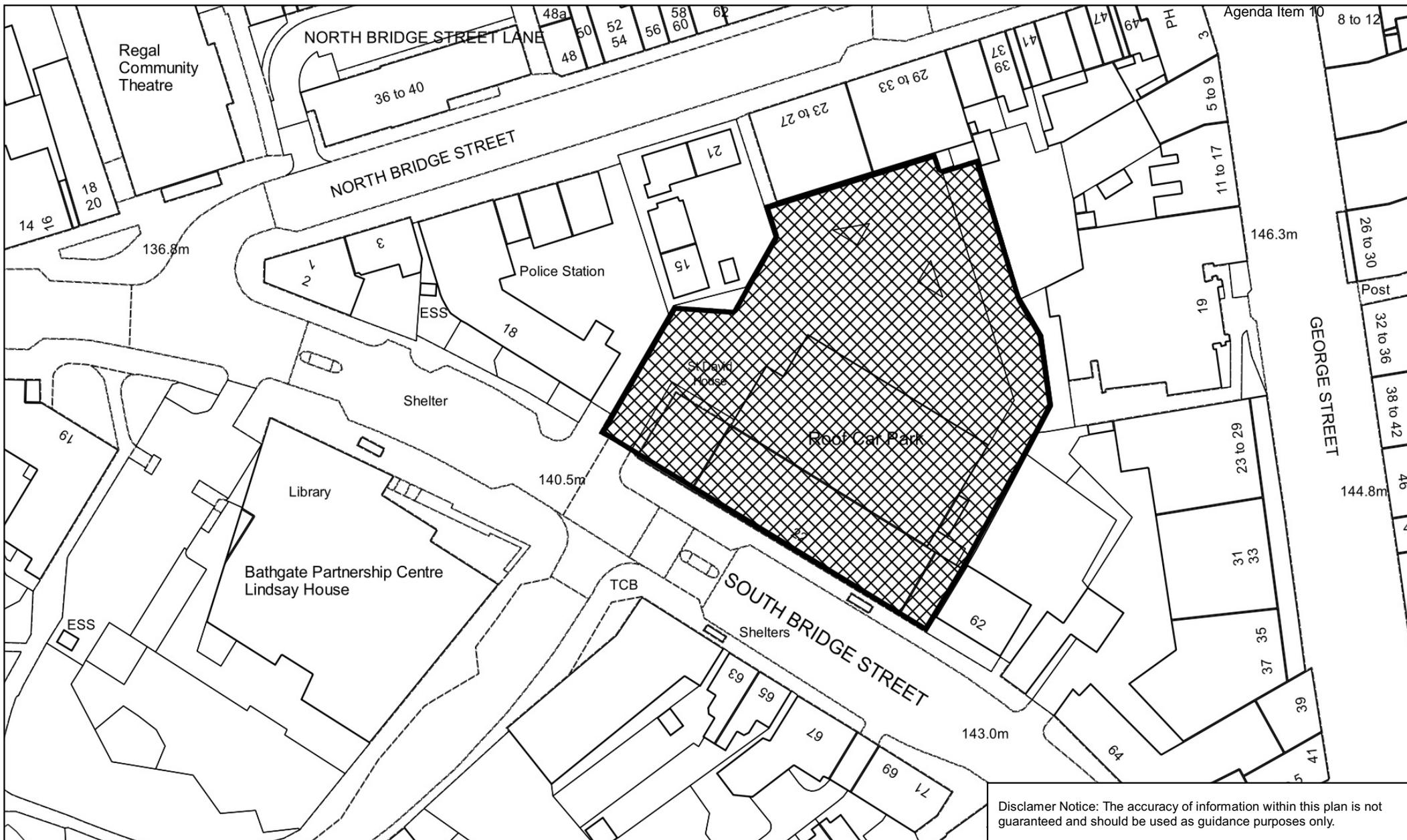
# Appendix 2



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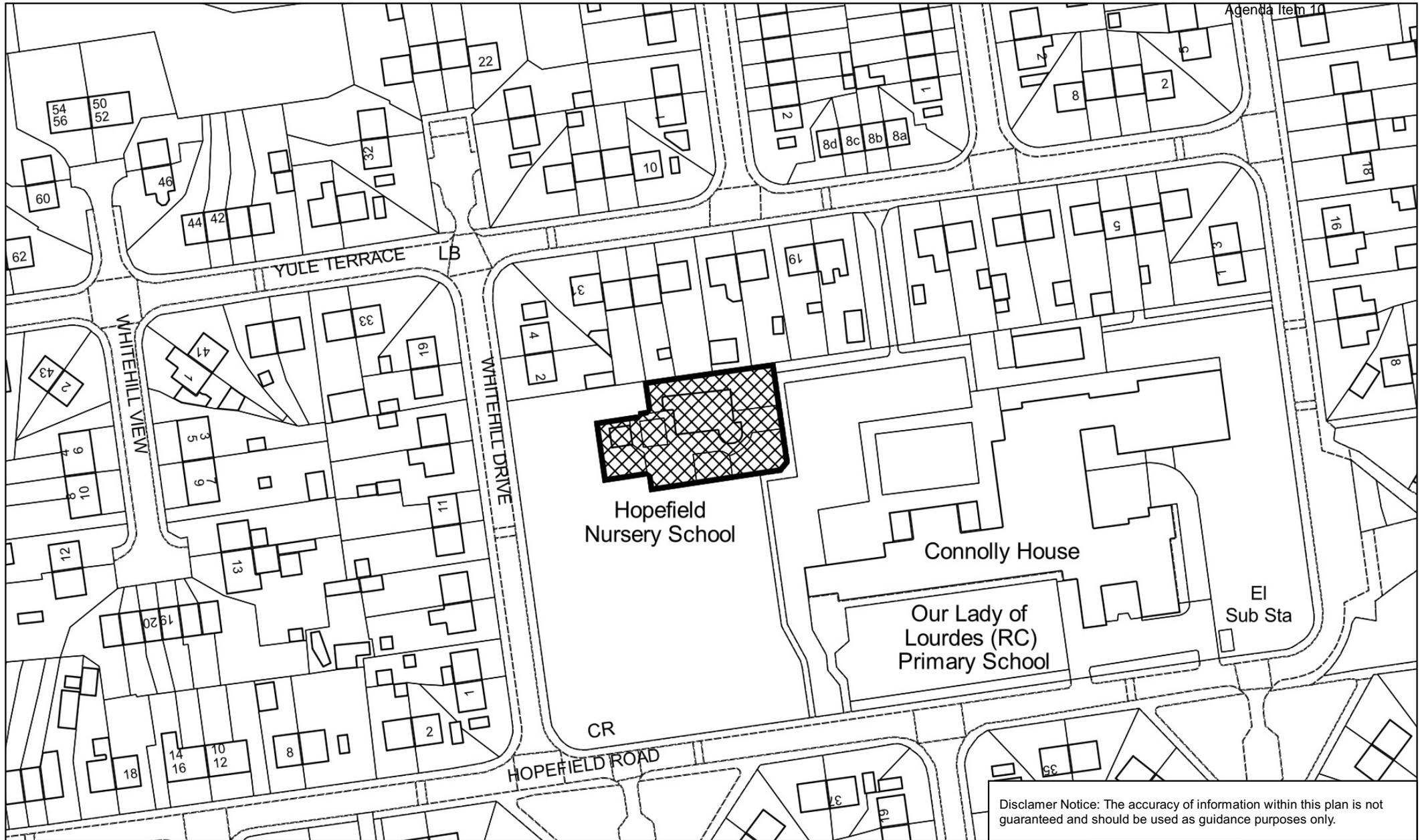
	<h2>Addiewell Bing, Addiewell</h2>	<p>Not to Scale</p>	<p>A4</p>	
<p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p>		<p>2/3/2023</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2023</p>	

# Appendix 2



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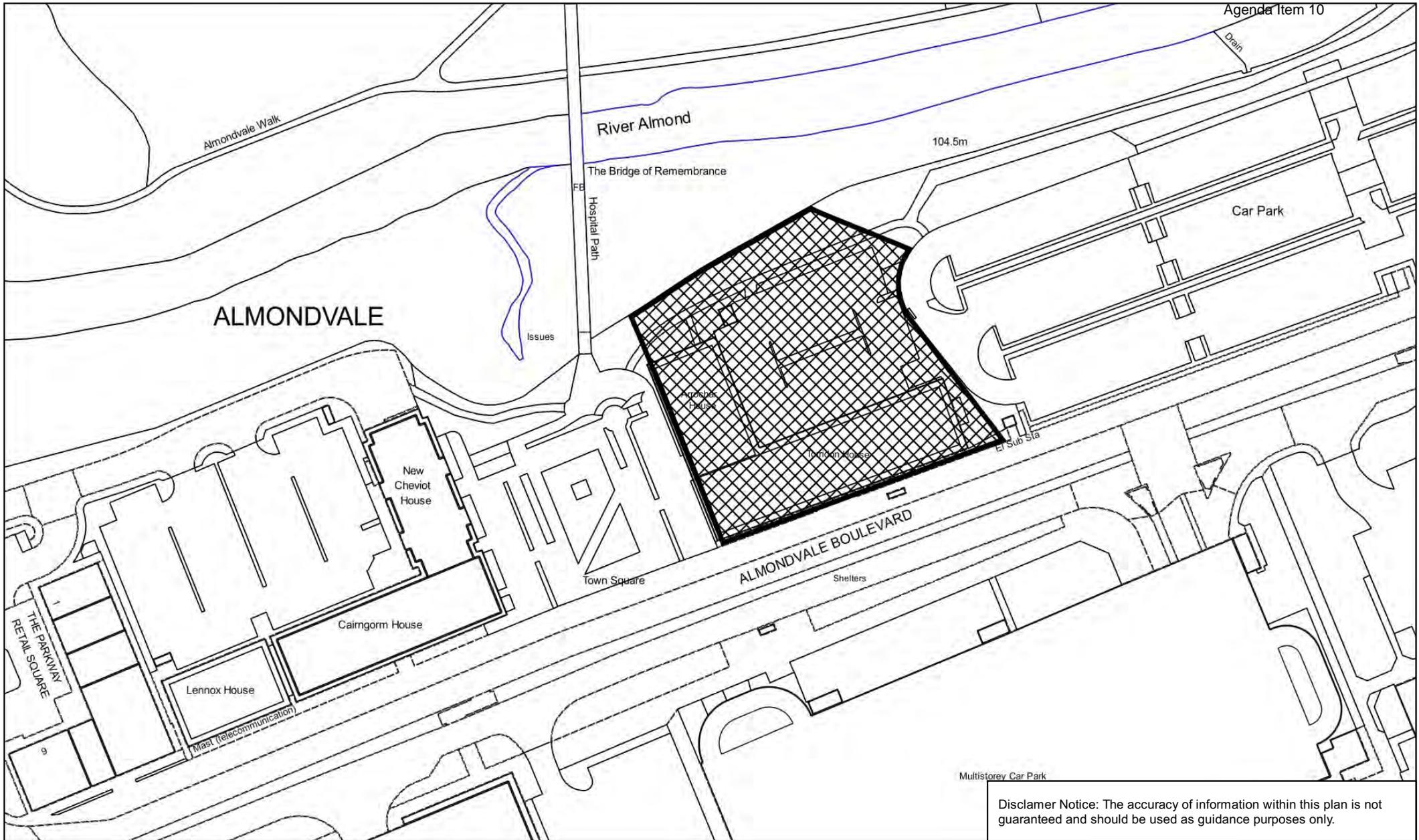
	<h2>St David House &amp; 22 South Bridge Street, Bathgate</h2>	<p>Not to Scale</p>	<p>A4</p>	
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 <p><b>West Lothian Council</b></p>	<p><b>Hopefield Nursery School, Blackburn</b></p>	<p>Not to Scale</p>	<p>A4</p>	
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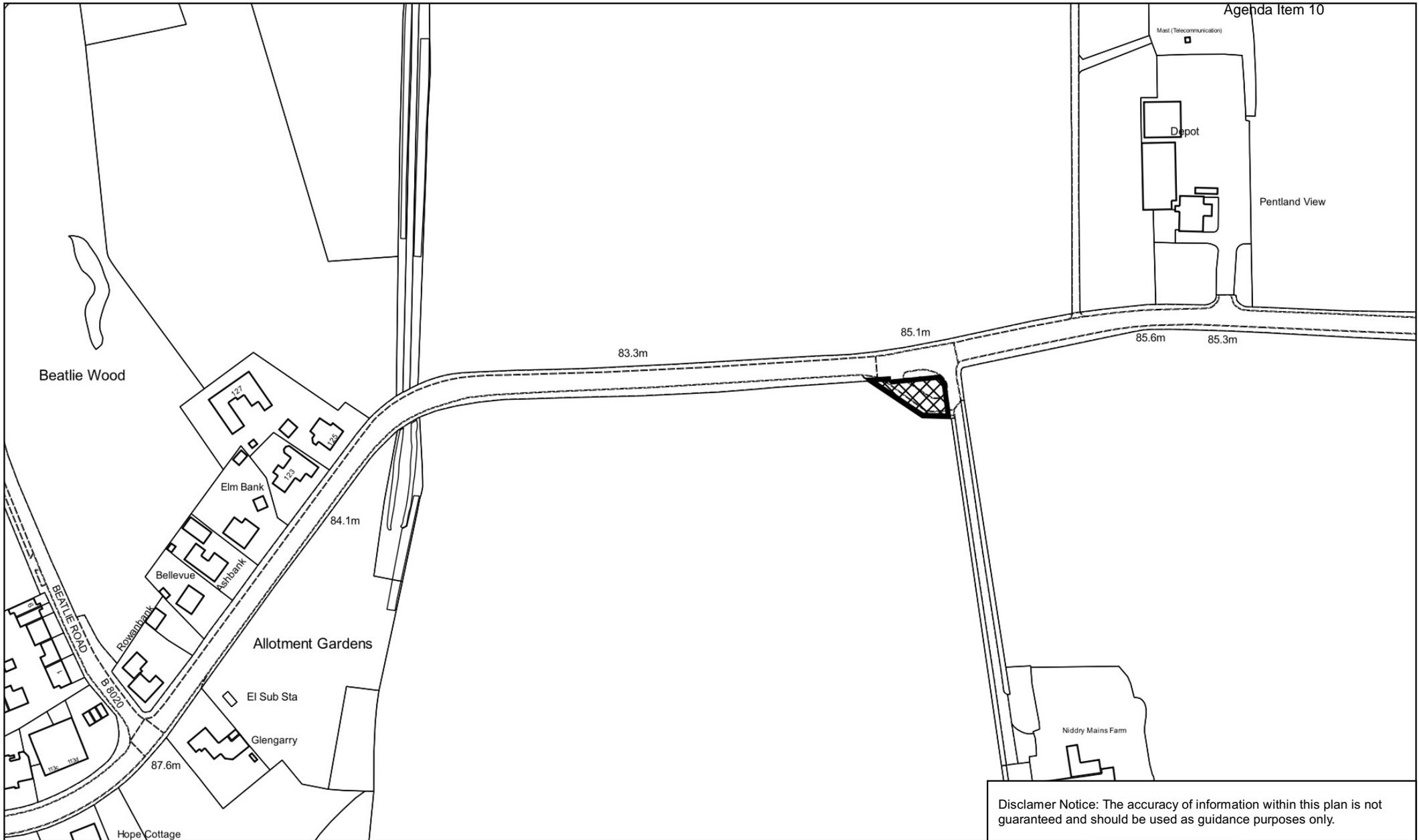
# Appendix 2



Disclaimer Notice: The accuracy of information within this plan is not guaranteed and should be used as guidance purposes only.

	<h2>Arrochar House &amp; Torrison House, Livingston</h2>	<p>Not to Scale</p>	<p>A4</p>	
<p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p>	<p>6/3/2023</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2023</p>		

# Appendix 2



 <p>West Lothian Council</p>	<h2>Former Bus Turning Circle, Winchburgh</h2>	<p>Not to Scale</p>	<p>A4</p>	
<p>Property Management, West Lothian Civic Centre, Livingston, EH54 6FF</p>		<p>2/3/2023</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. ©Crown copyright. All rights reserved. Licence 100037194 2023</p>	



DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **WEST LoTHIAN LEISURE 2023/24 FUNDING AGREEMENT**

#### **REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES**

#### **A. PURPOSE OF REPORT**

This report seeks Council Executive approval for the 2023/24 Annual Funding Agreement between the council and West Lothian Leisure (WLL).

#### **B. RECOMMENDATION**

It is recommended that Council Executive:

1. Approves the 2023/24 Annual Funding Agreement for WLL of £2.166 million;
2. Notes the terms and conditions set out in the Annual Funding Agreement for all funding to be paid by the council to WLL;
3. Notes the updates made to the Annual Funding Agreement;
4. Notes the updates on WLL's 2022/23 financial performance and 2023/24 budget.

#### **C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on customers' needs, being honest, open and accountable, making best use of resources, working in partnership.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Local Government (Scotland) Act 1975, Section 90: Following the Public Pound.
<b>III Implications for Scheme of Delegations to Officers</b>	Authority for agreeing minor changes to the management fee for WLL is delegated to the Head of Finance and Property Services.
<b>IV Impact on performance and performance Indicators</b>	The council funding for WLL enables the provision of a range of cultural and leisure services.
<b>V Relevance to Single Outcome Agreement</b>	Effective prioritisation of resources will be essential to achieving the targets contained in the Single Outcome Agreement.
<b>VI Resources - (Financial, Staffing and Property)</b>	The council is providing WLL with core funding of £2.166 million in 2023/24.
<b>VII Consideration at PDSP</b>	None.

**VIII Other consultations** Education Services.  
West Lothian Leisure.

**D. TERMS OF REPORT**

**D.1 Introduction**

The updated Annual Funding Agreement between the council and WLL sets out the agreed management fee and potential other funding to be paid to WLL by the council for 2023/24. The agreement is attached in appendix 1 with the 2023/24 Financial Reporting Arrangements with WLL attached in appendix 2.

These detail the terms and conditions for payment of the management fee and potential other funding, including the provision of services provided by WLL in accordance with the Service Agreement, outline the monitoring and scrutiny of the financial performance of WLL to be undertaken by the council and cover termination and disputes, insurance and indemnity and governance.

**D.2 2023/24 WLL Management Fee and Potential Other Funding**

The proposed annual management fee for 2023/24, along with the actual fee for 2022/23, is detailed below.

	<b>2022/23</b>	<b>2023/24</b>
	<b>£'000</b>	<b>£'000</b>
<b>Core Funding Prior Year</b>	2,231	1,972
Approved Incremental Budget Saving	(259)	0
<b>Core Funding Current Year</b>	<b>1,972</b>	<b>1,972</b>
Voluntary Severance Advance Funding	(132)	(132)
Landlord Maintenance	220	180
Contribution to Real Living Wage increase	0	146
<b>Total Annual Management Fee</b>	<b>2,060</b>	<b>2,166</b>

The 2023/24 WLL management fee is £2.166 million and is the fee paid to WLL for the provision of sports and leisure services within West Lothian in accordance with the Service Agreement.

The core funding element of the management fee less the repayment of the voluntary severance advance funding will generally be paid half yearly in advance, subject to the terms and conditions set out in the Annual Funding agreement continuing to be met by WLL.

The landlord maintenance and contribution to Real Living Wage increase elements of the management fee are expected to be made at the start of 2023/24.

Temporary Gateway funding of £1.5 million was provided to WLL in 2021/22 and 2022/23.

A timetable has been agreed with WLL to ensure current and relevant financial information is provided to the council. All financial information is regularly monitored and analysed by council officers and will continue to be reported to the West Lothian Leisure Advisory Committee, with a focus on implications for the council. WLL continue to closely monitor their financial position and implement mitigating action, within the current parameters, to minimise the impact of the financial pressures arising as a result of the current pandemic.

### **D.3 WLL's 2022/23 Financial Performance and 2023/24 Budget**

#### **2022/23 Financial Performance**

WLL latest financial forecast for 2022/23 was reported to its Audit and Finance Subcommittee meeting on 25 January 2023. This shows a trading surplus of £469,000 and a year-end closing cash balance of £2.98 million.

#### **2023/24 Budget**

WLL approved its 2023/24 budget to its Board meeting on 28 February 2023. This shows a trading deficit of £1.18 million compared to the 2022/23 forecast trading surplus of £469,000 with the key movements being a reduction in council funding and increases in utility and salary costs being partially offset by increases in income and the inclusion of the new Winchburgh site surplus.

The 2023/24 budget shows a year-end cash balance of £2.05 million.

### **E. CONCLUSION**

The updated Annual Funding Agreement between the council and WLL (i) sets out the agreed management fee and potential other funding to be paid to WLL by the council for 2023/24, (ii) details the terms and conditions regarding the payment of the management fee and potential other funding, including provision of services by WLL in accordance with the Services Agreement, (iii) sets out monitoring and scrutiny of the financial performance of WLL by the council and (iv) covers termination and disputes, insurance and indemnity and governance.

### **F. BACKGROUND REFERENCES**

Performance Reports to WLLAC in 2022/2023

WLL Annual Funding Agreement 2022/23 - Report by Head of Finance and Property Services to Council Executive 22 March 2022

Revenue Budget Report 2022/23– Report by Head of Finance and Property Services – West Lothian Council 15 February 2022

Appendices/Attachments:

Appendix 1 – Annual Funding Agreement between WLC and WLL

Appendix 2 – WLL Financial Reporting Arrangements

Contact Person: Robert Young, Senior Service Accountant

Email: [robert.young@westlothian.gov.uk](mailto:robert.young@westlothian.gov.uk)

Tel no: 01506 281298

**Donald Forrest**  
**Head of Finance and Property Services**  
**21 March 2023**

# **Annual Funding Agreement Document**

**Between**

**West Lothian Council**

**And**

**West Lothian Leisure**

**For the provision of facilities for recreational, sporting, cultural and social activities in terms of sections 14, 15 and 16 of the Local Government and Planning (Scotland) Act 1982.**

**1 April 2023 to 31 March 2024**

**ANNUAL FUNDING AGREEMENT DOCUMENT FOR 2023/24  
FOR THE DELIVERY OF  
RECREATIONAL, SPORTING, CULTURAL AND SOCIAL ACTIVITIES**

**Between**

**WEST LOTHIAN COUNCIL** established under the Local Government etc (Scotland) Act 1994 and having its principal offices at West Lothian Civic Centre, Howden South Road, Livingston, West Lothian EH54 6FF

**And**

**WEST LOTHIAN LEISURE** a company which is a Scottish charity (Scottish charity number SC027470) incorporated under the Companies Acts (company number SC543017) and having its registered office at Xcite Bathgate, Balbardie Park, Torphichen Road, Bathgate, West Lothian EH48 4LA

**1. MANAGEMENT FEE**

- 1.1 The council agrees, subject to the terms and conditions set out in the Agreement, to pay the management fee to the West Lothian Leisure (WLL) in consideration for the provision of services by WLL in accordance with the Services Agreement.
- 1.2 The management fee due in 2023/24 shall be payable by the council to WLL subject to receipt by the council of a valid VAT invoice issued by WLL relating to that element of the management fee. The 2023/24 management fee is shown below:
- The council will pay £1,840,169 for services in relation to the WLL's role in utilising its professional management and leisure skills to manage the council's sport and recreational facilities on its behalf and for the outcomes and services detailed in the Service Specification. This element of the management fee shall be paid in two instalments as follows:
    - First instalment for £920,084.50, to be invoiced at the start of the first quarter of 2023/24.
    - Second instalment for £920,084.50 to be invoiced at the start of the third quarter of 2023/24.
  - A contribution towards the cost of the following specific projects in 2023/24, to be invoiced at the start of the first quarter of 2023/24:
    - Landlord's Capital Maintenance (£180,000).
    - Contribution towards the Real Living Wage salary increase (£146,000).
- 1.3 The sum will be reviewed in advance of each subsequent financial year, and a management fee will be agreed by the council as part of the council's revenue budget for the year ahead.
- 1.4 Authority for agreeing minor revisions to the management fee with WLL is delegated to the council's Head of Finance and Property Services.
- 1.5 In the event of there being any overpayment by the council for any reason, including where it has been determined that the council has over-compensated for provision of services, the council shall be entitled to recover any sums due either by repayment by WLL to the council or by deduction from future sums due by the council to WLL under this or any other agreement between the parties.

- 1.6 WLL shall keep secure and maintain until two years after the final payment of all sums due under the Agreement, full and accurate records of all expenditure incurred by the WLL in its performance of those services, and of all payments made to it by the council, by service users or by third parties in that regard.

## **2. 2018/19 ADDITIONAL FINANCIAL SUPPORT FOR ONE-OFF STAFFING COSTS**

- 2.1 The council provided WLL £270,000 of additional funding in 2018/19 in a re-profiling of the management fee to cover one-off staffing costs required to deliver the 2018/19 savings, as agreed by Council Executive.
- 2.2 The management fee provided by the council will be reduced in eight equal annual instalments of £33,750 commencing in 2021/22 and ending in 2028/29.

## **3. 2019/20 ADDITIONAL FINANCIAL SUPPORT FOR ONE-OFF STAFFING COSTS**

- 3.1 The council provided WLL £783,000 of additional funding in 2019/20 in a re-profiling of the management fee to cover one-off staffing costs required to deliver the 2019/20 savings, as agreed by Council Executive.
- 3.2 The management fee provided by the council will be reduced in eight equal annual instalments of £97,875 commencing in 2021/22 and ending in 2028/29.

## **4. RESCHEDULING OF DEBT PAID THROUGH SELF-FINANCING**

- 4.1 As part of the 2019/20 funding agreement, the council rescheduled debt due to the council from WLL, paid through self-financing. The total overall value of repayments due by WLL to the council has not changed. The total debt has been combined and will be paid back in equal instalments over the period 2019/20 to 2041/42 (other than in 2020/21 when no amount was paid back).

## **5. MONITORING**

- 5.1 The council is obliged to set, and thereafter monitor and control, the amount of management fee paid and/or payable by the council to WLL.
- 5.2 WLL will maintain financial records in relation to work planned and undertaken and will provide the following financial information to the council on a regular basis:
- Actual and forecast trading account and balance sheet
  - Forecast cashflow for the remainder of the financial year
  - Key assumptions used to compile forecasts
  - Update on key risk areas e.g. income generation from memberships
  - Material movements from previously reported position
  - Potential impact of the projected financial position on the council
  - Actions being taken to manage the impact on WLL of the proposed reductions in funding over the period 2023/24 to 2027/28
- 5.3 Generally, this reporting will be every two months in line with committee timetables, to allow a separate finance report to be prepared and presented to the West Lothian Leisure Advisory Committee by the council's Head of Finance and Property Services. Council Executive revenue budget monitoring reports at period 4, 6 and 9 will contain a specific section on WLL to give an update on financial performance.
- 5.4 An annual timetable will be provided to WLL by the council prior to the start of the financial year confirming when the financial information will need to be submitted. Timescales will be in line with the approved committee cycle meetings of the West Lothian Leisure Advisory Committee.

- 5.5 The annual timetable will include the requirement for WLL to provide a detailed and balanced budget for the following financial year and the requirement for longer term budget strategy to ensure financial sustainability of the organisation.
- 5.6 The annual timetable will be updated as required to reflect any conditions agreed by Council Executive.
- 5.7 WLL will submit to the council as soon as possible, but not later than mid-September each year, its annual report and accounts audited by a qualified accountant, and will allow inspection of its accounting records by officers of the council if requested, within 14 days' notice of receiving a written request to that effect.
- 5.8 Financial performance will be reviewed in depth on an annual basis. The annual review will build on the regular meetings of the council/WLL review group and liaison between the liaison officers. This review will use the WLL final accounts and related audit reports.
- 5.9 WLL will demonstrate, to the reasonable satisfaction of the council, the existence and implementation of internal quality assurance systems to ensure effective working practices and robust financial systems are in place and appropriate to the standards required by the council and the needs and wishes of the service users.
- 5.10 WLL will demonstrate, to the reasonable satisfaction of the council, the existence and implementation of budgetary control processes which enable effective monitoring and quality financial control of the Service.
- 5.11 When requested by the council in writing, WLL will provide in a form agreed with the council, all and any information and documentation relevant (and no matter in what form that information is stored), in the reasonable opinion of the council, to demonstrate the quality of the service and to allowing the council to monitor, assess and evaluate the Provision of the Service by WLL.
- 5.12 WLL shall provide to the council all inspection reports or any other documents making recommendations by or setting out requirements from the Office of the Scottish Charity Regulator relating to the Services, and of any proposals by the Commission to cancel WLL's registration, within seven working days of receipt by the WLL.
- 5.13 The council reserves the right to commission, at its own cost, internal or external evaluations of the financial performance of WLL to which WLL will provide any information requested.

## **6. TERMINATION AND DISPUTES**

- 6.1 This agreement may be terminated by either party giving the other six months' notice in writing of its intention to do so.
- 6.2 If WLL has a receiver or administrator appointed, becomes insolvent, apparently insolvent, or is sequestrated or signs a Trust Deed for the behoof of its creditors, or goes into liquidation (other than voluntary liquidation for the purposes of reconstruction or amalgamation) or is wound up by the Court or is voluntarily wound up by creditors or by members, the council may terminate the Agreement by written notice with immediate effect.
- 6.3 If in the opinion of the council, WLL commits a material breach of the terms and conditions of the Annual Funding Agreement document then the council may terminate the Agreement by written notice with immediate effect.

## **7. INSURANCE AND INDEMNITY**

- 7.1 WLL shall be responsible for ensuring that appropriate and adequate insurance is maintained throughout the duration of the funding agreement for employer's liability, public liability, professional liability, malpractice, building and contents, and will on request provide

evidence to the Purchaser that such cover has been affected and all due premium payments have been paid.

- 7.2 If WLL has motor vehicles utilised for the purposes of the service users therein, they shall maintain appropriate vehicle and passenger insurance and shall supply to the purchaser, on request, copies of all or any of the relative policies with confirmation that all due premium payments have been paid.
- 7.3 WLL shall indemnify the purchaser fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any financial loss, death or personal injury, or loss of or damage to property unless WLL is able to demonstrate that such financial loss, death or personal injury or loss of or damage to property was not caused or contributed to by their negligence or default or the negligence or default of their staff or any circumstances within their control. WLL shall affect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of these risks.

**8. GOVERNANCE**

- 8.1 In signing this agreement WLL is agreeing to the conditions of funding as set out in this Annual Funding Agreement and in the Services Agreement.

**Signed on behalf of the Council**

Signature:

Name: Donald Forrest

Position: Head of Finance and Property Services

Date:

**Signed on behalf of WLL**

Signature:

Name: Ben Lamb

Position: Chief Executive

Date:

**DATA LABEL: PUBLIC****2023/24 FINANCIAL REPORTING ARRANGEMENTS WITH WEST LoTHIAN LEISURE****FINANCE REPORT ON WEST LoTHIAN LEISURE BY COUNCIL TO WEST LoTHIAN LEISURE ADVISORY COMMITTEE****1. BACKGROUND**

The council's Head of Finance and Property Services will present a financial report to the West Lothian Leisure Advisory Committee (WLLAC) at each of its meetings covering the financial performance of West Lothian Leisure (WLL). The various reports presented over the course of the year will include an update on budget development and approval, WLL audit reports and projected outturns in relation to the trading and cash-flow, focussing on key risks and potential implications for the council.

**2. REPORTING ARRANGEMENTS FOR REMAINDER OF 2022/23 COMMITTEE CYCLE**

Committee meetings have been scheduled for 27 April 2023 and 22 June 2023. A further meeting will be scheduled for September 2023. The financial information to be covered in the reports at each of the meetings will include the following:

Date of WLLAC Meeting	Key areas to be covered in financial report for WLLAC	Financial Information to be provided by WLL to WLC
27 April 2023	<ul style="list-style-type: none"> <li>Approved budget for 2023/24</li> <li>Update on 2022/23 WLL performance</li> </ul>	<ul style="list-style-type: none"> <li>Approved budget for 2023/24</li> <li>Latest projected outturn report for 2022/23 including trading account, balance sheet and cash-flow</li> </ul>
22 June 2023	<ul style="list-style-type: none"> <li>Draft final accounts for 2022/23</li> <li>Projected Outturn for 2023/24</li> </ul>	<ul style="list-style-type: none"> <li>Report on draft final accounts for 2022/23 including trading account, balance sheet and cash-flow</li> <li>Projected outturn report for 2023/24 including trading account, balance sheet and cash-flow</li> </ul>
TBC	<ul style="list-style-type: none"> <li>Final accounts for 2022/23</li> </ul>	<ul style="list-style-type: none"> <li>Report on final accounts for 2022/23 including trading account, balance sheet and cash-flow</li> </ul>

The following timetable outlines the key dates and tasks required to allow reports to be prepared and presented to the WLLAC for approval at these remaining meetings:

WLL to provide latest financial information to WLC * (Head of Finance, WLL)	WLC/WLL Review Group Meeting **	Agree Financial report with Head of Finance & Property Services (C Bohne)	Financial Report to Committee Services (C Bohne)	Present Report at WLLAC Meeting (R Young)
28/03/23	04/04/23	17/04/23	19/04/23	27/04/23
30/05/23	06/06/23	12/06/23	14/06/23	22/06/23
TBC	TBC	TBC	TBC	TBC

\*financial information to be provided to Christine Bohne, Accountant in WLC four working days prior to WLC/WLL review Group Meeting

\*\*includes discussion on financial performance

### 3. REPORTING ARRANGEMENTS FOR 2023/24 COMMITTEE CYCLE

The timetable below outlines the key dates for 2023/24 financial reporting and the areas to be covered within each report. This will be updated once consultation with WLL on future meeting dates is complete.

Information to be reported*	WLL to provide latest financial information to WLC	WLC/WLL Review Group Meeting**	Agree Financial report with Head of Finance & Property Services	Financial Report to Committee Services	WLLAC Meeting
Period 3 forecast 23/24	August 2023	TBC	TBC	TBC	TBC
Period 5 forecast 23/24	October 2023	TBC	TBC	TBC	TBC
Period 7 forecast 23/24	November 2023	TBC	TBC	TBC	TBC
Detailed budget for 24/25	December 2023	TBC	TBC	TBC	TBC
Period 9 forecast 23/24	February 2024	TBC	TBC	TBC	TBC
Period 11 forecast 23/24 Budget update 24/25	April 2024	TBC	TBC	TBC	TBC
Draft accounts 23/24 Latest forecast 24/25	June 2024	TBC	TBC	TBC	TBC

\*information not to be restricted to this and may include other relevant financial updates which will be requested in advance

\*\*exact dates to be confirmed, but meeting will be held in advance of the deadline for agreeing the financial reporting information with the Head of Finance and Property Services

The approved budget and final outturn will be presented to the WLLAC meeting immediately after these tasks are finalised by WLL. In addition to these tasks, each committee meeting will consider the latest forecast position from WLL. The financial information required for each meeting in respect of the latest projected outturns should include:

- Forecast trading account and balance sheet
- Projected cash-flow for the remainder of the financial year

- Key assumptions used to compile forecasts
- Update on key risk areas e.g. income generation from memberships
- Material movements from previously reported position
- Potential impact on the council

The financial information should be provided, in excel format, by the WLL Head of Finance of West Lothian Leisure to Christine Bohne (Accountant, Financial Management Unit) a minimum of four working days prior to the WLC/WLL Review Group.

In addition to the existing routine monitoring and scrutiny to the WLLAC, the Head of Finance and Property Services will include updates on the WLL financial position to the Council Executive within the Revenue Budget monitoring reports at period 4, 6 and 9 throughout the 2023/24 financial year and beyond.

#### 4. ADDITIONAL INFORMATION TO BE PROVIDED

WLL will submit to the council by mid-September each year its annual report and accounts audited by a qualified accountant, and will allow inspection of its accounting records by officers of the council if requested, within 14 days' notice of receiving a written request to that effect. This will allow further review of WLL's annual financial performance at the WLL Review Group before being reported to WLLAC.

In addition, with the agreement of the WLL Chief Executive, future audit reports will be presented to the WLLAC once these become available.

#### 5. ADDITIONAL FUNDING

This document will be updated, as required, if any additional funding for 2023/24 is agreed by Council Executive.





**COUNCIL EXECUTIVE**

**WEST Lothian LEISURE 2023/24 FUNDING AGREEMENT**

**REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES**

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<b>III Implications for Scheme of Delegations to Officers</b>	Authority for agreeing minor changes to the management fee for WLL is delegated to the Head of Finance and Property Services.
<b>IV Impact on performance and performance Indicators</b>	The council funding for WLL enables the provision of a range of cultural and leisure services.
<b>V Relevance to Single Outcome Agreement</b>	Effective prioritisation of resources will be essential to achieving the targets contained in the Single Outcome Agreement.
<b>VI Resources - (Financial, Staffing and Property)</b>	The council is providing WLL with core funding of £2.166 million in 2023/24.
<b>VII Consideration at PDSP</b>	None.

## VIII Other consultations

Education Services.  
West Lothian Leisure.

### D. TERMS OF REPORT

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The core funding element of the management fee less the repayment of the voluntary severance advance funding will generally be paid half yearly in advance, subject to the terms and conditions set out in the Annual Funding agreement continuing to be met by WLL.

The landlord maintenance and contribution to Real Living Wage increase elements of the management fee are expected to be made at the start of 2023/24.

Temporary Gateway funding of £1.5 million was provided to WLL in 2021/22 and 2022/23.

A timetable has been agreed with WLL to ensure current and relevant financial information is provided to the council. All financial information is regularly monitored and analysed by council officers and will continue to be reported to the West Lothian Leisure Advisory Committee, with a focus on implications for the council. WLL continue to closely monitor their financial position and implement mitigating action, within the current parameters, to minimise the impact of the financial pressures arising as a result of the current pandemic.

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#### **2022/23 Financial Performance**

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The 2023/24 budget shows a year-end cash balance of £2.05 million.

### **E. CONCLUSION**

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Contact Person: Robert Young, Senior Service Accountant

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Tel no: 01506 281298

**Donald Forrest**  
**Head of Finance and Property Services**  
**21 March 2023**

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  - First instalment for £920,084.50, to be invoiced at the start of the first quarter of 2023/24.
  - Second instalment for £920,084.50 to be invoiced at the start of the third quarter of 2023/24.
- A contribution towards the cost of the following specific projects in 2023/24, to be invoiced at the start of the first quarter of 2023/24:
  - Landlord's Capital Maintenance (£180,000).
  - Contribution towards the Real Living Wage salary increase (£146,000).

1.3 The sum will be reviewed in advance of each subsequent financial year, and a management fee will be agreed by the council as part of the council's revenue budget for the year ahead.

1.4 Authority for agreeing minor revisions to the management fee with WLL is delegated to the council's Head of Finance and Property Services.

1.5 In the event of there being any overpayment by the council for any reason, including where it has been determined that the council has over-compensated for provision of services, the council shall be entitled to recover any sums due either by repayment by WLL to the council or by deduction from future sums due by the council to WLL under this or any other agreement between the parties.

- 1.6 WLL shall keep secure and maintain until two years after the final payment of all sums due under the Agreement, full and accurate records of all expenditure incurred by the WLL in its performance of those services, and of all payments made to it by the council, by service users or by third parties in that regard.

## **2. 2018/19 ADDITIONAL FINANCIAL SUPPORT FOR ONE-OFF STAFFING COSTS**

- 2.1 The council provided WLL £270,000 of additional funding in 2018/19 in a re-profiling of the management fee to cover one-off staffing costs required to deliver the 2018/19 savings, as agreed by Council Executive.
- 2.2 The management fee provided by the council will be reduced in eight equal annual instalments of £33,750 commencing in 2021/22 and ending in 2028/29.

## **3. 2019/20 ADDITIONAL FINANCIAL SUPPORT FOR ONE-OFF STAFFING COSTS**

- 3.1 The council provided WLL £783,000 of additional funding in 2019/20 in a re-profiling of the management fee to cover one-off staffing costs required to deliver the 2019/20 savings, as agreed by Council Executive.
- 3.2 The management fee provided by the council will be reduced in eight equal annual instalments of £97,875 commencing in 2021/22 and ending in 2028/29.

## **4. RESCHEDULING OF DEBT PAID THROUGH SELF-FINANCING**

- 4.1 As part of the 2019/20 funding agreement, the council rescheduled debt due to the council from WLL, paid through self-financing. The total overall value of repayments due by WLL to the council has not changed. The total debt has been combined and will be paid back in equal instalments over the period 2019/20 to 2041/42 (other than in 2020/21 when no amount was paid back).

## **5. MONITORING**

- 5.1 The council is obliged to set, and thereafter monitor and control, the amount of management fee paid and/or payable by the council to WLL.
- 5.2 WLL will maintain financial records in relation to work planned and undertaken and will provide the following financial information to the council on a regular basis:
- Actual and forecast trading account and balance sheet
  - Forecast cashflow for the remainder of the financial year
  - Key assumptions used to compile forecasts
  - Update on key risk areas e.g. income generation from memberships
  - Material movements from previously reported position
  - Potential impact of the projected financial position on the council
  - Actions being taken to manage the impact on WLL of the proposed reductions in funding over the period 2023/24 to 2027/28
- 5.3 Generally, this reporting will be every two months in line with committee timetables, to allow a separate finance report to be prepared and presented to the West Lothian Leisure Advisory Committee by the council's Head of Finance and Property Services. Council Executive revenue budget monitoring reports at period 4, 6 and 9 will contain a specific section on WLL to give an update on financial performance.
- 5.4 An annual timetable will be provided to WLL by the council prior to the start of the financial year confirming when the financial information will need to be submitted. Timescales will be in line with the approved committee cycle meetings of the West Lothian Leisure Advisory Committee.

- 5.5 The annual timetable will include the requirement for WLL to provide a detailed and balanced budget for the following financial year and the requirement for longer term budget strategy to ensure financial sustainability of the organisation.
- 5.6 The annual timetable will be updated as required to reflect any conditions agreed by Council Executive.
- 5.7 WLL will submit to the council as soon as possible, but not later than mid-September each year, its annual report and accounts audited by a qualified accountant, and will allow inspection of its accounting records by officers of the council if requested, within 14 days' notice of receiving a written request to that effect.
- 5.8 Financial performance will be reviewed in depth on an annual basis. The annual review will build on the regular meetings of the council/WLL review group and liaison between the liaison officers. This review will use the WLL final accounts and related audit reports.
- 5.9 WLL will demonstrate, to the reasonable satisfaction of the council, the existence and implementation of internal quality assurance systems to ensure effective working practices and robust financial systems are in place and appropriate to the standards required by the council and the needs and wishes of the service users.
- 5.10 WLL will demonstrate, to the reasonable satisfaction of the council, the existence and implementation of budgetary control processes which enable effective monitoring and quality financial control of the Service.
- 5.11 When requested by the council in writing, WLL will provide in a form agreed with the council, all and any information and documentation relevant (and no matter in what form that information is stored), in the reasonable opinion of the council, to demonstrate the quality of the service and to allowing the council to monitor, assess and evaluate the Provision of the Service by WLL.
- 5.12 WLL shall provide to the council all inspection reports or any other documents making recommendations by or setting out requirements from the Office of the Scottish Charity Regulator relating to the Services, and of any proposals by the Commission to cancel WLL's registration, within seven working days of receipt by the WLL.
- 5.13 The council reserves the right to commission, at its own cost, internal or external evaluations of the financial performance of WLL to which WLL will provide any information requested.

## **6. TERMINATION AND DISPUTES**

- 6.1 This agreement may be terminated by either party giving the other six months' notice in writing of its intention to do so.
- 6.2 If WLL has a receiver or administrator appointed, becomes insolvent, apparently insolvent, or is sequestrated or signs a Trust Deed for the behoof of its creditors, or goes into liquidation (other than voluntary liquidation for the purposes of reconstruction or amalgamation) or is wound up by the Court or is voluntarily wound up by creditors or by members, the council may terminate the Agreement by written notice with immediate effect.
- 6.3 If in the opinion of the council, WLL commits a material breach of the terms and conditions of the Annual Funding Agreement document then the council may terminate the Agreement by written notice with immediate effect.

## **7. INSURANCE AND INDEMNITY**

- 7.1 WLL shall be responsible for ensuring that appropriate and adequate insurance is maintained throughout the duration of the funding agreement for employer's liability, public liability, professional liability, malpractice, building and contents, and will on request provide

evidence to the Purchaser that such cover has been affected and all due premium payments have been paid.

- 7.2 If WLL has motor vehicles utilised for the purposes of the service users therein, they shall maintain appropriate vehicle and passenger insurance and shall supply to the purchaser, on request, copies of all or any of the relative policies with confirmation that all due premium payments have been paid.
- 7.3 WLL shall indemnify the purchaser fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any financial loss, death or personal injury, or loss of or damage to property unless WLL is able to demonstrate that such financial loss, death or personal injury or loss of or damage to property was not caused or contributed to by their negligence or default or the negligence or default of their staff or any circumstances within their control. WLL shall affect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of these risks.

## **8. GOVERNANCE**

- 8.1 In signing this agreement WLL is agreeing to the conditions of funding as set out in this Annual Funding Agreement and in the Services Agreement.

### **Signed on behalf of the Council**

Signature:

Name: Donald Forrest

Position: Head of Finance and Property Services

Date:

### **Signed on behalf of WLL**

Signature:

Name: Ben Lamb

Position: Chief Executive

Date:

**2023/24 FINANCIAL REPORTING ARRANGEMENTS WITH WEST LoTHIAN LEISURE**

**FINANCE REPORT ON WEST LoTHIAN LEISURE BY COUNCIL TO WEST LoTHIAN LEISURE ADVISORY COMMITTEE**

**1. BACKGROUND**

The council's Head of Finance and Property Services will present a financial report to the West Lothian Leisure Advisory Committee (WLLAC) at each of its meetings covering the financial performance of West Lothian Leisure (WLL). The various reports presented over the course of the year will include an update on budget development and approval, WLL audit reports and projected outturns in relation to the trading and cash-flow, focussing on key risks and potential implications for the council.

**2. REPORTING ARRANGEMENTS FOR REMAINDER OF 2022/23 COMMITTEE CYCLE**

Committee meetings have been scheduled for 27 April 2023 and 22 June 2023. A further meeting will be scheduled for September 2023. The financial information to be covered in the reports at each of the meetings will include the following:

Date of WLLAC Meeting	Key areas to be covered in financial report for WLLAC	Financial Information to be provided by WLL to WLC
27 April 2023	<ul style="list-style-type: none"><li>• Approved budget for 2023/24</li><li>• Update on 2022/23 WLL performance</li></ul>	<ul style="list-style-type: none"><li>• Approved budget for 2023/24</li><li>• Latest projected outturn report for 2022/23 including trading account, balance sheet and cash-flow</li></ul>
22 June 2023	<ul style="list-style-type: none"><li>• Draft final accounts for 2022/23</li><li>• Projected Outturn for 2023/24</li></ul>	<ul style="list-style-type: none"><li>• Report on draft final accounts for 2022/23 including trading account, balance sheet and cash-flow</li><li>• Projected outturn report for 2023/24 including trading account, balance sheet and cash-flow</li></ul>
TBC	<ul style="list-style-type: none"><li>• Final accounts for 2022/23</li></ul>	<ul style="list-style-type: none"><li>• Report on final accounts for 2022/23 including trading account, balance sheet and cash-flow</li></ul>

The following timetable outlines the key dates and tasks required to allow reports to be prepared and presented to the WLLAC for approval at these remaining meetings:

WLL to provide latest financial information to WLC * (Head of Finance, WLL)	WLC/WLL Review Group Meeting **	Agree Financial report with Head of Finance & Property Services (C Bohne)	Financial Report to Committee Services (C Bohne)	Present Report at WLLAC Meeting (R Young)
28/03/23	04/04/23	17/04/23	19/04/23	27/04/23
30/05/23	06/06/23	12/06/23	14/06/23	22/06/23
TBC	TBC	TBC	TBC	TBC

\*financial information to be provided to Christine Bohne, Accountant in WLC four working days prior to WLC/WLL review Group Meeting

\*\*includes discussion on financial performance

### 3. REPORTING ARRANGEMENTS FOR 2023/24 COMMITTEE CYCLE

The timetable below outlines the key dates for 2023/24 financial reporting and the areas to be covered within each report. This will be updated once consultation with WLL on future meeting dates is complete.

Information to be reported*	WLL to provide latest financial information to WLC	WLC/WLL Review Group Meeting**	Agree Financial report with Head of Finance & Property Services	Financial Report to Committee Services	WLLAC Meeting
Period 3 forecast 23/24	August 2023	TBC	TBC	TBC	TBC
Period 5 forecast 23/24	October 2023	TBC	TBC	TBC	TBC
Period 7 forecast 23/24	November 2023	TBC	TBC	TBC	TBC
Detailed budget for 24/25	December 2023	TBC	TBC	TBC	TBC
Period 9 forecast 23/24	February 2024	TBC	TBC	TBC	TBC
Period 11 forecast 23/24 Budget update 24/25	April 2024	TBC	TBC	TBC	TBC
Draft accounts 23/24 Latest forecast 24/25	June 2024	TBC	TBC	TBC	TBC

\*information not to be restricted to this and may include other relevant financial updates which will be requested in advance

\*\*exact dates to be confirmed, but meeting will be held in advance of the deadline for agreeing the financial reporting information with the Head of Finance and Property Services

The approved budget and final outturn will be presented to the WLLAC meeting immediately after these tasks are finalised by WLL. In addition to these tasks, each committee meeting will consider the latest forecast position from WLL. The financial information required for each meeting in respect of the latest projected outturns should include:

- Forecast trading account and balance sheet
- Projected cash-flow for the remainder of the financial year

- Key assumptions used to compile forecasts
- Update on key risk areas e.g. income generation from memberships
- Material movements from previously reported position
- Potential impact on the council

The financial information should be provided, in excel format, by the WLL Head of Finance of West Lothian Leisure to Christine Bohne (Accountant, Financial Management Unit) a minimum of four working days prior to the WLC/WLL Review Group.

In addition to the existing routine monitoring and scrutiny to the WLLAC, the Head of Finance and Property Services will include updates on the WLL financial position to the Council Executive within the Revenue Budget monitoring reports at period 4, 6 and 9 throughout the 2023/24 financial year and beyond.

#### 4. ADDITIONAL INFORMATION TO BE PROVIDED

WLL will submit to the council by mid-September each year its annual report and accounts audited by a qualified accountant, and will allow inspection of its accounting records by officers of the council if requested, within 14 days' notice of receiving a written request to that effect. This will allow further review of WLL's annual financial performance at the WLL Review Group before being reported to WLLAC.

In addition, with the agreement of the WLL Chief Executive, future audit reports will be presented to the WLLAC once these become available.

#### 5. ADDITIONAL FUNDING

This document will be updated, as required, if any additional funding for 2023/24 is agreed by Council Executive.



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## **COUNCIL EXECUTIVE**

### **FOOD INSECURITY FUNDING UPDATE**

#### **REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES**

##### **A. PURPOSE OF REPORT**

The purpose of the report is to update the Council Executive on the work of the West Lothian Food Network (WLFN) to support households facing food insecurity and to consider an application from the West Lothian Food Network for £140,000 to support the network over the period from April 2023 to September 2023.

##### **B. RECOMMENDATION**

It is recommended that Council Executive:

1. Agrees the application from the WLFN for £140,000 which covers the period April 2023 to September 2023 to continue to help households experiencing food insecurity to be paid to the WLFN in two quarterly instalments; and
2. Agrees the first quarterly instalment is paid to WLFN by the end of March 2023; and,
3. Agrees delegated authority to the Head of Finance and Property Services to authorise a further payment to a maximum amount of £70,000 for quarter 2 of 2023/24; and,
4. Notes the additional Shared Prosperity Funding of £100,000 secured by WLFN for 2023/24 and 2024/25;
5. Notes the current period of transition for the West Lothian Food Network; and,
6. Notes WLFN's transition action plan, as set out in Appendix 1

##### **C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	<p>Reducing inequalities and poverty are key priorities set out in both the Corporate Plan 2018/19 to 2022/23 and in the Community Planning Partnership Anti-Poverty Strategy 2018 to 2023.</p> <p>The support for the food network is being delivered via the power to advance well-being, as set out in the Local Government in Scotland Act 2003, Section 20 (1), which states that a local authority has the power to do anything which it considers is likely to promote or</p>

improve the well-being of its area and persons within the area.

<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	The report proposes delegated authority to the Head of Finance and Property Services to authorise the second quarter payment of up to £70,000.
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	The funding to the Food Network assists in meeting targets in the Community Planning Partnership anti-poverty strategy.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	We live longer, healthier lives; We have tackled significant inequalities in West Lothian society; We have improved the life chances for people at risk; We take pride in a strong, fair and inclusive society.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	Budget provision of £1.2m for the Food Network from 1 April 2021 to March 2023 was agreed at the meeting of West Lothian Council on 25 February 2021. Council agreed funding of £600,000 for 2022/23 on 15 February 2022.
<b>VII</b>	<b>Consideration at PDSP</b>	None.
<b>VIII</b>	<b>Other consultations</b>	Economic Development and West Lothian Food Bank

## **D. TERMS OF REPORT**

### **D.1 Background**

West Lothian Council, at its budget setting meeting on 15 February 2022, agreed the Revenue Budget for 2022/23 including time limited funding of £600,000 in 2022/23 to provide additional payments to the West Lothian Food Network. Council also agreed an additional £300,000 funding for the Food Network to extend the period the funding will cover to April 2023 to March 2024. A total budget provision of £1.8 Million from April 2021 to March 2024 has been provided or committed to the West Lothian Food Network from West Lothian Council.

In April 2022, the UK government launched the UK Shared Prosperity Fund (UKSPF). The UKSPF is a central pillar of the UK government's Levelling Up agenda and provides £2.6 billion of funding for local investment across the UK by March 2025. The UKSPF provides an opportunity to boost productivity, enhance employment opportunities, tackle inequalities and deliver change to local communities. Through support from the Anti-Poverty Service WLFN have successfully managed to secure £100,000 from the UK Shared Prosperity Funding with £50,000 for 2023/2024 and £50,000 for 2024/25.

The majority of households accessing community food providers since October 2022 indicate it is because they are financially at risk, on a low income and/or unemployed. 4,634 people were provided with food by the 47 organisations in the last week in December 2022, compared to 4,536 people four weeks prior, representing a 2% overall upward trending shift. In comparison to this time last year, there is a 13% increase in the number of people accessing network services. It is expected that this demand for food support will remain for some time due to the

on-going pressure on household budgets, slow wage growth, real term cuts to social security benefits and the increase in living costs.

## **D.2 West Lothian Food Network (WLFN)**

The West Lothian Food Network was formed in Spring 2020 with 24 organisations. Membership has now grown to 47 organisations the newest members being St. Johns Church in Linlithgow, the new Well in Linlithgow and West Lothian Bike Library from Crofthead Community Centre in Livingston. The network aims to support low income households who face on-going food insecurity over a period of time. The distribution includes a combination of cooked food, emergency food parcels, specific foods to meet the requirements of BAME groups, and access to fresh, frozen and ambient foods as well as providing toiletries, cleaning products, baby food and pet food.

From May 2020 to the end of December 2022, the West Lothian Food Network has provided a total of 4,007,661 meals (an average of seven meals per week to 4,157 people). 85% of recipients indicated they were financially at risk, on a low income and/or unemployed.

## **D.3 Food Waste**

Successful development of a WLFN food hub has resulted in 144T of food being acquired by donation from 53 local food businesses, charities and Fare Share. This food has been saved from being disposed of as waste and instead re-directed to 41 of the 47 West Lothian Food Network member organisations for the benefit of local communities.

Research is regularly undertaken to update the contact database with details of local food companies in West Lothian who may have surplus stock. Local businesses have received a letter to outline the aims of WLFN and the benefits of donating surplus food to the WLFN food hub. This approach has been successful with over 50 businesses donating to the WLFN community food hub.

## **D.4 Supporting Local People**

WLFN aims to support households not just with food but also to link people to local organisations which can offer further help. The network actively refers to advice agencies to ensure that all benefit entitlement is accessed, works with households to find solutions to debt and enable households to better manage finances. Working in partnership with West Lothian Council's Anti-Poverty Service an advisor worked with food network members to maximise income, deal with debt and offer practical help and tools to reduce expenditure. From April 2022 to Feb 2023, 138 food network users have benefited from this approach with total financial gains of £387,946.

The Food Network made a commitment to supporting community wealth building. Food orders are being placed with local businesses instead of larger, national companies. For example, meat is ordered from Campbells Meats in Linlithgow and bread from JJ Bakehouse in Broxburn. The network will look to maximise the amount of money that can be spent with West Lothian businesses, through the food network grant, whilst ensuring value for money.

The network also supports BAME communities within West Lothian. One of the network members, Fair Justice System Scotland (FJSS) have specifically requested Afro-Caribbean foods to support their community. Working together with FJSS, has resulted in orders for African style butcher meat being placed with Tailford Meats in

Broxburn. Tailford Meats have been based in West Lothian since 1975.

Emergency food provision has been developed and held centrally for circumstances where the individuals affected have little or no access to food. There are 200 boxes each containing enough ambient food for two people for one week. The provision was there to help those who needed to self-isolate as part of the Track and Trace scheme and to support when there is an emergency such as the flash floods experienced in Broxburn or if there are house fires etc. However more recently this provision has been used to support Ukrainian guests arriving in West Lothian.

#### **D.5 Contingency Funding Spend**

Due to reduced public donations, network members can incur extra costs to purchase specific items for example fresh foods. The Food Network funding has a contingency fund built into the funding application to legislate for unforeseen circumstances and demand due to the increase in food and fuel prices as well as real term cuts to social security benefits. Of the £75,000 contingency fund awarded for April 2022 to September 2022 the spend was as follows:

<b>Contingency Fund</b>	<b>Spend £ (April 2022 to September 2022)</b>
Fresh Food	£40,606
Ambient Food	£29,814
Volunteer Expenses	£2,400
Toiletries, cleaning materials & Baby Products	£680
Grants	£1,500
<b>Total</b>	<b>£75,000</b>

Due to the cost of living increase and donations of food to the network decreasing from the public and businesses, the cost of purchasing goods for the network and the cost of distributing food within the network is also increasing. This is proving to be a challenge for the network as they try to move towards sustainability.

#### **D.6 Future of West Lothian's Food Network**

The West Lothian Food Network members have had focused discussion on the future of the West Lothian Food Network given the increased costs and reduction in donations. During this time, the management team and trustees at West Lothian Foodbank undertook internal analysis and discussions regarding coordination of the network. The foodbank's internal review concluded that due to increasing management time and other internal costs dedicated to delivering coordination and logistics support within the food network it was no longer sustainable for them. In early November 2022 the Foodbank served a four month notice period confirming they will no longer provide co-ordination to the WLFN from 1 April 2023.

From December 2022, West Lothian Food Network agreed to the establishment of a dedicated Steering Group of members to lead discussion and actions required towards a new look Food Network from April 2023. The steering group will act as the executive of the WLFN, until a governance model has been set up and more permanent arrangements are in place. The steering group meetings are minuted and shared with the wider Food Network members at monthly network meetings. The steering group agreed that the CEO of the Voluntary Sector Gateway West Lothian (VSGWL) would act as the independent interim chair during this transition period.

The aims of the Steering Group are:

- Lead on creating a vision and strategy for a new-look Food Network
- Lead on securing a sustainable future for the Food Network
- Devise a governance and delivery structure for the network
- Liaise with external and internal partners towards the above
- Ensure that all of the tasks required to achieve the above are carried out timeously

The West Lothian Food Network are receiving support from the Anti-Poverty Service, Economic Development and Community Enterprise through this period of transition, WLFN's transition plan is attached in Appendix 1.

A graduate has also been recruited by the council to further support and work alongside the WLFN. They will research the requirements for West Lothian to become a sustainable food place. This will include researching what is already exists within West Lothian including the work of the Food Network and the Foodbank. In addition, they will undertake a mapping exercise of local food producers and food manufacturers focusing on supply chains as this work will then inform options around food sustainability.

## **D.7 Funding Application**

As previously stated West Lothian Council is providing a total of £280,000 to support the Food Network from April 2023 to March 2024 and there is additional funding totalling £100,000 from the Shared Prosperity Fund Overall there is a £380,000 budget for the distribution of food from April 2023 to March 2025.

The funding bid is for a total of £140,000 covering the period April 2023 to September 2023 and to be paid to the WLFN in two quarterly instalments. This funding application seeks to enable 14 community food providers to continue to address food insecurity from April through to September 2023, whilst enabling the organisations to ensure Food with Dignity principles are being embedded into the delivery of all community food provision.

Community food providers will continue their transition to more sustainable models of service. For example, from the provision of meal or food parcel delivery for free or donation, to a modest price plan; and from a community fridge and pantry model that offers all food for free or small donation, to a modest but more robust structured price arrangement.

A number of network members decided not to apply for funding within quarter one of 2023/24 however will continue with food provision by other means. The reduction in the number of community providers accessing funding is due to the criteria set in the application requiring all community food providers to give basic limited data to enable both the food network and the council to better understand the scale of food insecurity and where there is most need. Some food providers did not wish to provide this basic level of data or decided they did not have the means to collect it at this stage.

The bid comprises the following elements:

Food Supplies	£66,338
Contingency Fund (to be utilised for unexpected emergencies usually additional food during Q1 2023/24)	£3,662
<b>Total</b>	<b>£70,000</b>

It is proposed that the payment of the first quarter of £70,000 is paid by the end of March 2023 and that delegated authority is approved for the Head of Finance and

Property Services to authorise a further payment for quarter 2 of 2023/24 (up to a maximum of £70,000). This will allow community providers to focus on this period of transition and time will be given to support other providers to apply for a share of this funding. It is proposed that a further paper is brought back to Council Executive in September 2023 to give an update on progress made and a further bid for the remaining funds.

Providing community food provision across West Lothian remains a key action of the network. The organisations who have applied for funding will ensure that support is available within all council wards. Given the extent and volume of the activities being delivered by the Food Network, it is recommended that the application is approved.

#### **D.8 Future Funding**

The network will continue to support partners to transition to more sustainable delivery models, for example, from growing fresh produce, free provision of meals or food to introducing a modest price plan.

The WLFN will continue to seek additional funding from a range of sources including the Robertson Trust and Esmee Fairbairn Foundation who have previously supported initiatives bringing together third-sector partners.

#### **E CONCLUSION**

The council, partners and the network members acknowledge and recognise the good work that the West Lothian Food Bank have undertaken in providing the co-ordination of the network since May 2020 through the challenges presented by Covid19.

The West Lothian Food Network continues to grow in membership and covers the whole of West Lothian. It is providing a valuable service in reducing food waste and, with the ongoing cost of living crisis, it is supporting low-income households to be able to access good quality, nutritious food on an on-going basis.

If approved, the network's application for funding until September 2023 will enable network members work on their transition plans as well as working towards becoming more sustainable whilst providing a continued service to those facing food insecurity.

#### **F BACKGROUND REFERENCES**

Revenue Budget 2022/23 – report by Head of Finance and Property Services to West Lothian Council 15 February 2022

Appendices/Attachments: none

Contact Person: Nahid Hanif, Anti-Poverty Manager,  
[Nahid.Hanif@westlothian.gov.uk](mailto:Nahid.Hanif@westlothian.gov.uk)

**Donald Forrest**  
**Head of Finance and Property Services**  
**21 March 2023**



DATA LABEL: PUBLIC

## Appendix 1: West Lothian Food Network Transition Action Plan February 2023 – July 2023

Actions	Responsible	Deadline date :
Key terms of funding for member organisations in Q1 defined and communicated to members.	Steering Group	9 February (Complete)
All Expressions of Interest submitted by members seeking funding in Q1 2023-24	Members to send Eols to Steven Turnbull	9 February (complete)
Allocation of funds for Q1 2023/24	Steering Group  CEO of VSGWL in role as independent chair of Steering Group	9 February (Complete)
Transition plan submitted to West Lothian Council.	Steering Group	16 February (Complete)
Council approval and transfer of first quarter funds	West Lothian Council	Before 31 March
Final grant documentation confirmed and funds for Q1 2023-24 paid out	VSGWL (in role of temporary financial host)	31 March
Handover of all Food Network data and systems from Food Bank to temporary financial host	Steven Turnbull (Outgoing Food Network Coordinator)  VSGWL	31 March
Transfer of web domain, Wordpress login, <a href="mailto:support@westlothianfood.org">support@westlothianfood.org</a> mailbox and social media account login to VSGWL	Steven Turnbull (Outgoing Food Network Coordinator)  VSGWL	31 March
Training in use of FORT as required	Steering Group/ Active Members	30 April

## Appendix 1: West Lothian Food Network Transition Action Plan February 2023 – July 2023

	West Lothian Council Anti-Poverty Manager	
Confirm scope of Development Worker role and prepare application for Shared Prosperity Fund	Steering Group	30 April
Outline for further nine months spend (Q2-4 2023/24)	Steering Group	30 April
SCIO registration: membership structure confirmed, office bearers nominated, constitution written, all documents submitted to OSCR	Steering Group & Development Worker	31 May
Set up Scottish Charitable Incorporated Organisation (SCIO) Bank Account and confirm financial procedures	Food Network SCIO Board	Once SCIO registration is complete
Key expectations and standards agreed – e.g. definition of ‘healthy’ food provision at Members’ Development Day	Steering Group & Development Worker	31 May
Identify other potential funding sources, including grant funders, crowdfunding ‘match’ platforms (as used in some English Local Authority areas), corporate partners.	Steering Group & Development Worker	30 June
Consultation with users on future support.	Steering Group & Development Worker	31 July
Develop brand resources for members to display (NB some members may not be able to do this, e.g. Women’s Aid at refuges)	Steering Group & Development Worker	31 July
Confirm vision and update action plan	Steering Group & Development Worker	31 July



DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **CALL FOR VIEWS: ADDRESSING CHILD POVERTY THROUGH PARENTAL EMPLOYMENT**

#### **REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES**

##### **A. PURPOSE OF REPORT**

The purpose of the report is to inform Council Executive of the Social Justice and Social Security Committee call for views on addressing child poverty through parental employment and to agree a response to be returned by 5 April 2023.

##### **B. RECOMMENDATION**

It is recommended that the Council Executive:

1. Notes the content of the proposed response at appendix 1; and
2. Approves the proposed response to be submitted on behalf of West Lothian Council.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I</b>	<b>Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; making best use of our resources; working in partnership
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Reducing inequalities and poverty are key priorities set out in both the Corporate Plan 2018/19 – 2022/23 and in the Community Planning Partnership Local Outcome Improvement Plan 2013 - 2023
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None.
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	None.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	Outcome 2 - We are better educated and have access to increased and better quality learning and employment opportunities; Outcome 7 – we have tackled significant inequalities in West Lothian society; Outcome 8 – we have improved the life chances for people at risk;

Outcome 13 – we take pride in a strong, fair and inclusive society

<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	None.
<b>VII</b>	<b>Consideration at PDSP</b>	The proposed consultation response was circulated to members of the Economy, Community Empowerment and Wealth Building PDSP for comment
<b>VIII</b>	<b>Other consultations</b>	The consultation was circulated to key stakeholders including Anti-Poverty Practitioner's Network partners, the Local Employability Partnership, the Experts by Experience panel linked to the CPP Anti-Poverty Strategy 2018-23 and through a wide-reach survey shared on the council social media

## **D. TERMS OF REPORT**

### **D.1 Background**

The Scottish Government has set out its plans to tackle child poverty in the Best Start, Bright Futures Tackling Child Poverty Delivery Plan 2022 – 2026. The plan places emphasis on secure and sustainable employment as a key route out of poverty.

The Social Justice and Social Security Committee is carrying out an inquiry to look at how the Scottish Government is working with local authorities, employers and other stakeholders to support parents to find suitable or better paid work and to sustain employment. The inquiry is focused on the Scottish Government's 'parental employment offer', the policies and delivery plans connected to it, including local delivery approaches and how these are targeted toward those at highest risk of poverty.

To inform the outcome of the inquiry, the Committee has opened a call for views to people across Scotland, including parents, employers and organisations who provide support.

The call for views is seeking feedback in these particular areas of interest;

1. Opportunities for employment, training and upskilling
2. Barriers to employment including childcare and transport
3. Support available for parental employment

### **D.2 Consultation**

The Call for Views opened on 8 February 2023 and closes on 5 April 2023. The questions have been raised with key stakeholders to gather feedback including the Local Employability Partnership and local services who provide advice and support for parents. Feedback has also been sought from those most at risk of poverty through the Experts by Experience panel made up of individuals with lived experience of poverty and through a wide reach survey.

It is clear from stakeholder feedback that there is much that could be put in place to support parents into secure and sustainable employment. Views from both parents and support organisations indicate that availability of reliable, flexible and affordable childcare is a key barrier to work. In particular, the availability of childcare before/after-school, during the school holidays and wrap around care has been identified as a gap, particularly for parents of children at primary school and up to early high school. A need for childcare availability at the weekend has also been highlighted as a barrier for parents looking to work in sectors such as retail and care, this is particularly an issue for parents do not have family support nearby. Co-ordinated, long-term Scottish Government funding has been identified as a potential solution to offer more flexible options for parents seeking employment.

Access to financial advice has also been highlighted in stakeholder feedback, particularly for parents with low income who receive Universal Credit. Some parents have reported being worse off financially for the first one to two assessment periods after starting work because of the need to pay full childcare costs up front to be claimed back at the end of the Universal Credit assessment period. In many cases, the assessment period does not match the invoice period for the childcare provider meaning that parents may have to wait up to two months to be reimbursed for out of pocket costs. This issue can escalate into longer term financial difficulty as parents often fall behind with childcare bills meaning that their Universal Credit never covers the full 80% of their costs as they are only reimbursed for the amount they manage to pay. Income maximisation and financial capability advice can help parents to forward plan their household budget when moving into work and alleviate some anxiety. It is also suggested that the Scottish Government could support parents in this position through the provision of transitional grants to bridge the gap between benefits and work.

There is a clear desire for more flexible employment opportunities to meet the needs of working parents. Not all parents want to work full time, but many report a lack of opportunities that would support the work life balance they are looking for. They suggest that employers should give more consideration to offering part time, term time or job share opportunities or provide more flexibility around working hours and locations by considering home or hybrid working models or a standardised four-day week. This can be supported by the promotion of the business benefits of flexible working opportunities, including better staff retention, reduced absence and increased productivity.

A response to the consultation was drafted taking account of this feedback and this has been circulated to members of Economy, Community Empowerment and Wealth Building PDSP for comment, as the response has to be submitted before it could be considered at a Panel meeting, responses received from the PDSP members have been incorporated within the response set out in Appendix 1.

It is acknowledged that with current severe financial pressures facing local government, there is very limited scope for council to fund additional provision. It would be important for many options to be costed and additional Scottish Government funding provided.

## **E. CONCLUSION**

Responses have been collated from anti-poverty practitioners in West Lothian and individuals with lived experience of poverty through the Experts by Experience panel linked with the West Lothian Anti-Poverty Strategy and through a wide-reach survey. These key stakeholders have provided valuable feedback taking account of wider issues of inequalities and the ways in which local services, the Scottish Government and employers can help the parents to secure sustainable employment that promotes a good work/life balance.

The Council Executive is asked to agree the submission to the consultation as set out in Appendix 1.

## **F. BACKGROUND REFERENCES**

<https://yourviews.parliament.scot/sjssc/child-poverty-parental-employment/>

Appendices/Attachments: Appendix 1 Response to Social Justice and Social Security Committee call for views on addressing child poverty through parental employment

Contact Person: Nahid Hanif, Anti-Poverty Manager, [nahid.hanif@westlothian.gov.uk](mailto:nahid.hanif@westlothian.gov.uk) 01506 283022

**Donald Forrest**  
**Head of Finance and Property Services**  
**21 March 2023**

## Appendix 1 Response to Social Justice and Social Security Committee call for views on addressing child poverty through parental employment

### 1. What changes to childcare provision in Scotland could have the greatest impact on child poverty?

An option to have children (aged 1-15) in affordable/free childcare that covers the working week, Mon-Fri 8am-6pm with more flexibility around times on a daily basis.

Many teachers are facilitating after school clubs on a voluntary basis. A structured offering across primary and secondary with hours to suit common working hours could be of value.

Investment/subsidy to support private activity clubs/private nurseries to run primary school age after school clubs and holiday programmes.

Flexible childcare that offers weekend availability to parents working in sectors that require them to work weekend shifts.

Better arrangements for parents in receipt of Universal Credit to avoid the need to pay upfront out of pocket and claim back through Universal Credit.

Provision of free or subsidised meals in childcare settings could help families facing food insecurity.

With West Lothian having a number of opportunities within the retail sector consideration should be given to affordable weekend childcare for single parent households to allow them the option of working weekends.

### 2. Who should any extension of free or subsidised childcare be offered to?

It would be most beneficial if the offer of free/subsidised childcare was available to all parents with primary school age & youth/breakfast clubs for early high school.

Additional subsidised hours for parents that need to extend out with the 1140 nursery hours.

More availability of subsidised childcare for parents who are working and have a low income. Many families are reporting financial difficulties in light of the rising cost of living, but fail to qualify for means tested benefits as their household income is above the threshold. The costs of childcare, transport, food and other living costs are pushing people into poverty. Means testing based on minimum income standards could support more parents experiencing in-work poverty to sustain employment.

### 3. What age groups should be prioritised for further expansion of childcare?

Although there is appetite for increased provision across all ages up to senior high school age, primary age and the first two years of high school have been highlighted by the majority of parents. This is especially needed during the school holidays when parents struggle to find stable/reliable childcare.

### 4. What type of childcare could work best to serve the needs of parents in employment or seeking employment?

Wrap around school care that will allow parents to work a standard week Monday-Friday 9-5 factoring in travel time and affordable or subsidised holiday clubs for out with term time.

In West Lothian the school and nursery provision finish at lunchtime on a Friday. Affordable childcare provision to cover this period, until 6pm on a Friday, would be of assistance

For parents seeking employment creche facilities in community settings that will allow parents time and facilities to actively seek employment would be beneficial.

#### **5. What improvements to public transport could support parents?**

Within West Lothian the main public transport option is bus and routes, times and service are important for accessibility.

Live tracking of buses at stops on screens would be beneficial as buses do not always run on time and this information can be used to plan best route or inform employer if this is going to delay arrival at work.

A bus tracking via phone on app to advise where bus is on route may be more cost effective than screens but not accessible to all.

#### **6. What can the Scottish Government do to increase the supply of well-paid, secure employment that works for parents?**

The creation of employer incentives such as wage subsidies and grants for companies that are willing to provide flexible hours that cater to childcare constraints including flexi time, part time hours and term time contracts that have minimum salary requirements.

Encourage employers to have in place hybrid working models that were introduced as a pandemic response which can provide more flexibility for parents regarding required hours of childcare provision, whilst meeting business needs.

#### **7. Are population changes in your area affecting local employment opportunities? If so, how?**

There has been an increased demand from employers advertising social care positions due to aging population in West Lothian. This is a profession that could utilise the skill sets some parents have however the hours may not be ideal for parents. These positions tend to have shift patterns that start before the school day or finishing times in the evening.

New housing developments resulting in increasing population are potentially leading to more competition for local job opportunities but may also bring a better mix of skills and widen the candidate pool for hard to fill posts.

#### **8. What steps would be helpful at ensuring those not currently employed, and are looking for work, are supported?**

Parents that are currently in receipt of benefits can become anxious about moving from the security of the benefit system into paid employment. Sometimes, moving into work from Universal Credit can actually reduce money coming into the household in the first month depending on the Universal Credit assessment period. Income maximisation advice and support with budget planning can help with this. A transitional grant to support individuals moving from supported benefit to earnings would also help to create reassurance for parents and would provide a greater chance of them sustaining employment. This grant could be used to help with childcare, travel and housing costs.

Travel can often be a barrier for parents trying to secure employment. Help with gaining a driving licence could help eradicate that barrier and allow parents to feel that they would be able to get children to childcare and them to work easier than relying solely on public transport. The ability to drive also allows parents to search for employment further afield and for positions that require a driving licence.

**9. Do you feel that parents who want to improve their employment options have sufficient access to education and training in your area? If not, what could be improved?**

Support and promotion will help address the gaps in basic digital skills. Courses should be offered at times that are suitable for parents with creche facilities for young children.

There is a demand for English as a Second or Other Language (ESOL) courses at a beginner's level to allow parent to gain a better understanding of English at a basic level to allow them to work and communicate effectively.

Traditionally intakes are only once or twice a year with applications six months in advance for a place, staggered start dates throughout the year may help parents to access education.

A high percentage of training placements are full time with limited flexibility to accommodate parental constraints. More parents could participate in training opportunities if there was a flexible approach to the options offered regarding working hours.

**10. What can employers do to offer more family friendly and flexible working conditions?**

Employers can give consideration to whether flexible working options could work for the role being advertised. This could include part time and/or term time contracts, hybrid working, four day working week, flexible hours within school hours and job share opportunities. Not all parents want to work full time. These types of flexible options may entice many parents into the work place and allow a steady progression as their children age.

Form partnerships with local childcare/ activity clubs to allow continued working beyond 3pm and throughout school holidays.

A culture in workplaces where part time staff are valued for their contribution.

**11. What do employers need from the Scottish Government to offer family friendly and flexible working conditions?**

Raising awareness to employers of the value of parent's skills and the potential benefits of flexible working for the business, such as savings on office space/overheads, reduced rates of absence, wider candidate pools for new vacancies and better staff retention. The Scottish Government could offer incentives such as small business grants or wage subsidy programmes for employers to increase the number of family friendly positions available.

The Scottish Government could do more to promote employment rights/ laws protecting parents, particularly those with disabled children. Parents who are also carers to disabled children often struggle to find suitable, often specialist childcare, flexible work and appropriate leave. Parents of disabled children are more likely to turn down opportunities for promotion or even accept a demotion in order to balance the demands of work and

caring. It would also be beneficial to parents if more could be done to highlight good practice with regard to leave including parental leave to deal with family emergencies and annual leave to make this easier to work around school holidays.

**12. What could the Scottish Government prioritise to help parents into work and better paid jobs?**

Reducing barriers to employment through provision of improved transport options, funded childcare/ activity clubs and the availability of family friendly hours.

Do more to address low pay and promote the benefits of a living wage based on the cost of living. This should include working with employers to promote the business benefits of paying the real Living Wage or above.

**13. If the Scottish Government wants to help parents into work and better paid jobs, which changes should be its priority?**

Helping to provide certainty to parents in advance that reliable childcare can be sought by utilising all childcare and activity services to full potential to offer more spaces that work for parents.

Co-ordinated long-term funding on a national level rather than each area relying on finding funds on an annual basis to support parents with very limited spaces.

Normalising flexible work by promoting the benefits of options including part time, term time, job sharing and hybrid working.

**14. Is there anything else you would like to tell us?**

In order to gain sustainable employment parents, require the knowledge that their children will be looked after in reliable, affordable childcare that will offer flexibility and understanding that one option does not accommodate all. When parents know that they will have childcare during term time and holidays they will become more secure in employment.

A shift in culture is required to normalise flexibility and alternative working patterns to promote better work/life balance. This step is much needed to support anyone who wants and is able to work into suitable and sustainable employment that meets their needs.

In the current financial climate, there is very limited scope for councils to expand provision. Any options for increased provision would need to be costed and additional funding provided by the Scottish Government.

DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

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

#### **REPORT BY HEAD OF OPERATIONAL SERVICES**

##### **A. PURPOSE OF REPORT**

To update Council Executive on the survey undertaken to gauge support for the renaming of the Beecraigs Field Archery Area in memory of Jim Greig and approve this proposal.

##### **B. RECOMMENDATION**

It is recommended that Council Executive approves the proposal to rename the Beecraigs Field Archery Area in Memory of Jim Greig.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I</b>	<b>Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Protocol for the renaming of Council Buildings / Public Spaces
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	None
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	None
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	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 and Council Executive is asked to support this proposal.

Resource

The funding required to erect a sign at the Beecraigs 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

Contact Person: **Eirwen Hopwood**, Parks & Woodland Manager - NETs, Land and Countryside Service Email: [eirwen.hopwood@westlothian.gov.uk](mailto:eirwen.hopwood@westlothian.gov.uk)

**Jim Jack**, Head of Service - Operational Services

E-mail: [jim.jack@westlothian.gov.uk](mailto:jim.jack@westlothian.gov.uk)

Date of meeting: 21 March 2023

## APPENDIX 1. SURVEY RESULTS

### Beebraigs Field Archery Range - Name Change Proposal

1. Please tell us who you represent

Number of participants: 49

8 (16.3%): Political Group Leader

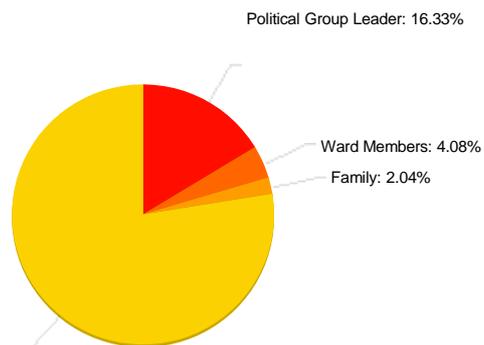
2 (4.1%): Ward Members

- (0.0%): Legal

Services 1 (2.0%):

Family

38 (77.6%): Park User Group



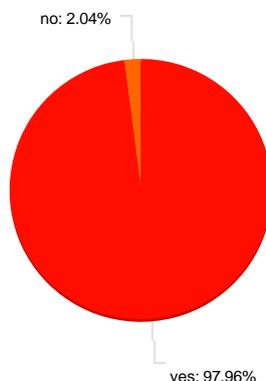
2. Would you support this proposal?

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.

Thank you

- 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



## COUNCIL EXECUTIVE

### ROADS ASSET SAFETY INSPECTION MANUAL – 2023 REVIEW

#### REPORT BY HEAD OF OPERATIONAL SERVICES

#### A. PURPOSE OF REPORT

The purpose of this report is to update the Council Executive on the review of the safety inspection procedure and manual.

#### B. RECOMMENDATION

It is recommended that the Council Executive endorses the decision not to change the safety inspection procedure and approves the revised 2023 Road Asset Safety Inspection Manual version 1.3.

#### C. SUMMARY OF IMPLICATIONS

I	<b>Council Values</b>	Being honest, open and accountable and making best use of our resources
II	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	<p><b>Policy</b> – the development and implementation of the strategy will contribute to the council's asset management practice.</p> <p><b>Legal</b> – the strategy will contribute to the council's statutory duties to maintain roads.</p> <p><b>Risk Assessment</b> – the new Code of Practice requires authorities to adopt a risk based approach to highway infrastructure management.</p>
III	<b>Implications for Scheme of Delegations to Officers</b>	None
IV	<b>Impact on performance and performance Indicators</b>	None
V	<b>Relevance to Single Outcome Agreement</b>	<p>We live in resilient, cohesive and safe communities</p> <p>We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>

<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	The safety inspection activity is funded within the Roads and Transportation Revenue Budget and the revised manual will have no direct financial implications.
<b>VII</b>	<b>Consideration at PDSP</b>	The report was considered by the Environment and Sustainability PDSP on the 16 <sup>th</sup> March 2023.
<b>VIII</b>	<b>Other consultations</b>	Officers participated in the Society of Chief Officers in Transportation (SCOTS) focus group for the development of the model documents.

#### **D. TERMS OF REPORT**

The Council, as Roads Authority has powers and duties to maintain public roads within its boundary. The establishment of a cost-effective regime of inspections provides the information for addressing the core objectives of road maintenance, provides data for the development of maintenance programmes and the roads asset management plan. It also helps the council to demonstrate compliance with its statutory duties.

On 13 November 2018, Council Executive approved the current Roads Asset Safety Inspection Manual which sets out the council's approach to safety inspections on public roads. The manual came into operation on 1 January 2016. It complies with the code of practice (CoP), "Well Managed Highway Infrastructure" published in October 2016 and additional guidance from The Society of Chief Officers of Transportation in Scotland (SCOTS).

The Road Asset Safety Inspection Manual approved in 2018 defined the safety inspection process and fully embedded the risk-based approach used in assessing every road defect found. The intention is to review the manual every two years, however due to the Covid pandemic, this was not undertaken and reported in 2020.

A review has been undertaken dated 1 February 2023 by the Roads Network Manager and the key findings are listed below:

- Road Network Categories (hierarchy) – The hierarchy we use is from the code of practice and is considered to be best practice.
- Inspection frequency – These vary depending on the importance of the road and are considered to be appropriate.
- Safety Inspection Routes – The Confirm asset management system is used to manage our inspection routes. Every asset that requires a safety inspection is included on a route to ensure they receive the required inspections. New assets are added to the routes when they are adopted by the council.
- Inspection Methodology – The best practice for safety inspections remains the same. Driven inspections (with a driver and a second person to complete the inspection) are used for carriageways and footway inspections are walked.

- Risk Management Process – The risk matrix used is from the SCOTS guidance document “Road Asset Inspections: A Risk Based Approach” and is considered to be best practice.
- Inspection records – All inspection records are held in the Confirm asset management system, including dates and any defects found. Any jobs raised are also managed in this system providing an audit trail from inspection, to defect and job. Inspections following enquires are also recorded in the same way so that a maintenance history for each asset is being built up.
- Response times – The response times are set locally and are consistent with other council’s with similar road networks.
- Inspector competency – All new staff are provided with the same training to ensure a consistent approach to safety inspection. As a minimum we use a training module provided by SCOTS with every new start and this is followed up with an accredited Highway Safety Inspector course at the first opportunity.
- Performance Monitoring – Using the data held in the Confirm asset management system inspections and jobs are monitored monthly. The information is prepared by the senior engineer and reviewed by the Roads and Transportation Management team.

Following the review, it is not considered necessary to make any changes to the safety inspection procedure.

Now that the risk based approach is well established, the dated sections in the 2019 Road Asset Safety Inspection Manual titled “Application of revised risk matrix” and “Defect response times” are no longer required and have now been removed from the revised 2023 Road Asset Safety Inspection Manual (version 1.3).

A copy of the new document can be found in Appendix 1.

## **E. CONCLUSION**

A review of the 2019 Road Asset Safety Inspection Manual has been undertaken and the safety inspection procedure will not change. Only minor changes to the Road Asset Safety Inspection Manual have been carried out resulting in the revised 2023 Road Asset Safety Inspection Manual, version 1.3 shown in Appendix 1.

## **F. BACKGROUND REFERENCES**

Well Managed Highway Infrastructure – A Code of Practice, UK Roads Liaison Group. Available at: [https://www.ciht.org.uk/media/11915/well-managed-highway-infrastructure-combined\\_-28-october-2016-amended-15-march-2017\\_.pdf](https://www.ciht.org.uk/media/11915/well-managed-highway-infrastructure-combined_-28-october-2016-amended-15-march-2017_.pdf)

Road Asset Safety Inspection Manual, West Lothian Council, August 2019. Available at: [https://www.westlothian.gov.uk/media/5131/Road-Asset-Safety-Inspection-Manual/pdf/2019\\_Road\\_Asset\\_Safety\\_Inspection\\_Manual\\_1.2.pdf?m=637018951911430000](https://www.westlothian.gov.uk/media/5131/Road-Asset-Safety-Inspection-Manual/pdf/2019_Road_Asset_Safety_Inspection_Manual_1.2.pdf?m=637018951911430000)

Appendices/Attachments:

Appendix 1 - Road Asset Safety Inspection Manual (version 1.3, Feb 2023)

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Date of meeting: 21 March 2023



## **West Lothian Council**

# **Road Asset Safety Inspection Manual**

**Version: 1.3**

**Date: 1 February 2023**

## Document Information

<b>Title</b>	Road Asset Safety Inspection Manual
<b>Author</b>	Roads Network Manager
<b>Description</b>	This document sets out West Lothian Council's policies and procedures for road safety inspection. It is based upon a template produced by the Society of Chief Officers of Transportation in Scotland (SCOTS).

## Document Control

Version	SCOTS Template Version	Date	Author	Changes from Previous Version
1.0	1.0	October 2018	KH	Version approved by Council Executive on 13 November 2018.
1.1	1.1	December 2018	KH	Amendment to Table 8 – Risk Likelihood following amendment to SCOTS template document.
1.2	1.1	August 2019	KB	Minor format changes.
1.3	1.1	February 2023	KB	Appendix A updated following review.

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## Introduction

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This Road Safety Inspection Manual has been developed with the primary aim of providing operational guidance to those officers responsible for managing road asset safety inspections. This is in order to encourage a consistent approach by utilising a formalised system that recommends the frequency of inspections as well as the method of assessing, recording and responding to defects in the road asset.

This manual is based on the SCOTS Risk Based Approach (RBA) guidance and compiled using their Road Safety Inspection Strategy template.

The 'Well-Managed Highway Infrastructure: A Code of Practice'<sup>1</sup> has specific recommendations regarding inspections of all road elements. This document specifically relates to the procedure for carrying out road safety inspections. Recommendation 7 of the code of practice is that Road Authorities should adopt a Risk Based Approach to all aspects of road maintenance.

A Risk Based Approach is also recommended by the Institute of Highway Engineers in their guidance on managing risk and liability, 'Well Managed Highway Liability Risk'<sup>2</sup>.

The establishment of an effective regime of safety inspections is a crucial component of road maintenance in accordance with the Code of Practice, The Society of Chief Officers of Transportation in Scotland (SCOTS) seeks to encourage the benefits that will be gained by harmonising such procedures across Scotland. Recommendation 6 within the Code of Practice refers to Consistency with Other Authorities and is stated below:

"To ensure that users' reasonable expectations for consistency are taken into account, the approach of other local and strategic highway and transport authorities, especially those with integrated or adjoining networks, should be considered when developing highway infrastructure maintenance policies."

This Road Safety Inspection manual has been developed in partnership with the roads authorities associated through SCOTS to focus on safety inspections and categorisations, and is now being made available for all Scottish roads authorities to consider adopting for their network.

Officers across all Scottish Local Authorities recognise that Councils are currently faced with delivering services within an environment of increasing fiscal austerity and are aware of the benefits that can be achieved by adopting a common approach which follows the principles of 'Well-Managed Highway Infrastructure'.

Adoption of this manual will provide a consistent methodology for the management of the road network, while focusing on delivering a proactive programme of

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<sup>1</sup> 'Well-Managed Highway Infrastructure: A Code of Practice', UKRLG, October 2016

<sup>2</sup> 'Well Managed Highway Liability Risk', IHE, March 2017

permanent repairs. It is intended that its implementation will also allow performance to be monitored and reviewed, implementing any necessary improvements identified through its use.

## **STATEMENT OF POLICY**

West Lothian Council has a statutory duty to manage and maintain public roads within the district. The council is responsible for nearly 1,000km of carriageways and over 1,300 km of footpaths but has finite resources for managing and maintaining these. An effective road safety inspection procedure is needed to maximise the safety of road users within the constraints of resources available to the council.

The council aims to ensure that the safety inspection activity identifies and rectifies hazardous defects on public roads in a timely manner, in line with best practice where reasonable and within available resources.

## **ROLES AND RESPONSIBILITIES**

The Safety Inspection activity is carried out by the Road Maintenance team within the Network Management function of the Roads and Transportation Service. The strategic management of this function, including performance review and policy development, is the responsibility of the Roads Network Manager. Day-to-day operational management of the safety inspection activity is the responsibility of the Senior Engineer – Road Maintenance.

Safety Inspections are undertaken by Safety Inspection Officers within the Road Maintenance Team. Throughout this manual they are referred to as 'Inspectors'.

Repairs of defects are carried out by the council's Roads Operations team under the responsibility of the Roads Operations Manager. Specialist permanent repairs (for example repairs to vehicle restraint systems) are undertaken by third-party contractors. Rectification of defects in relation to overhanging vegetation or trees is undertaken by NETS, Land and Countryside Services.

## **SCOPE OF ROADS SAFETY INSPECTION ACTIVITY**

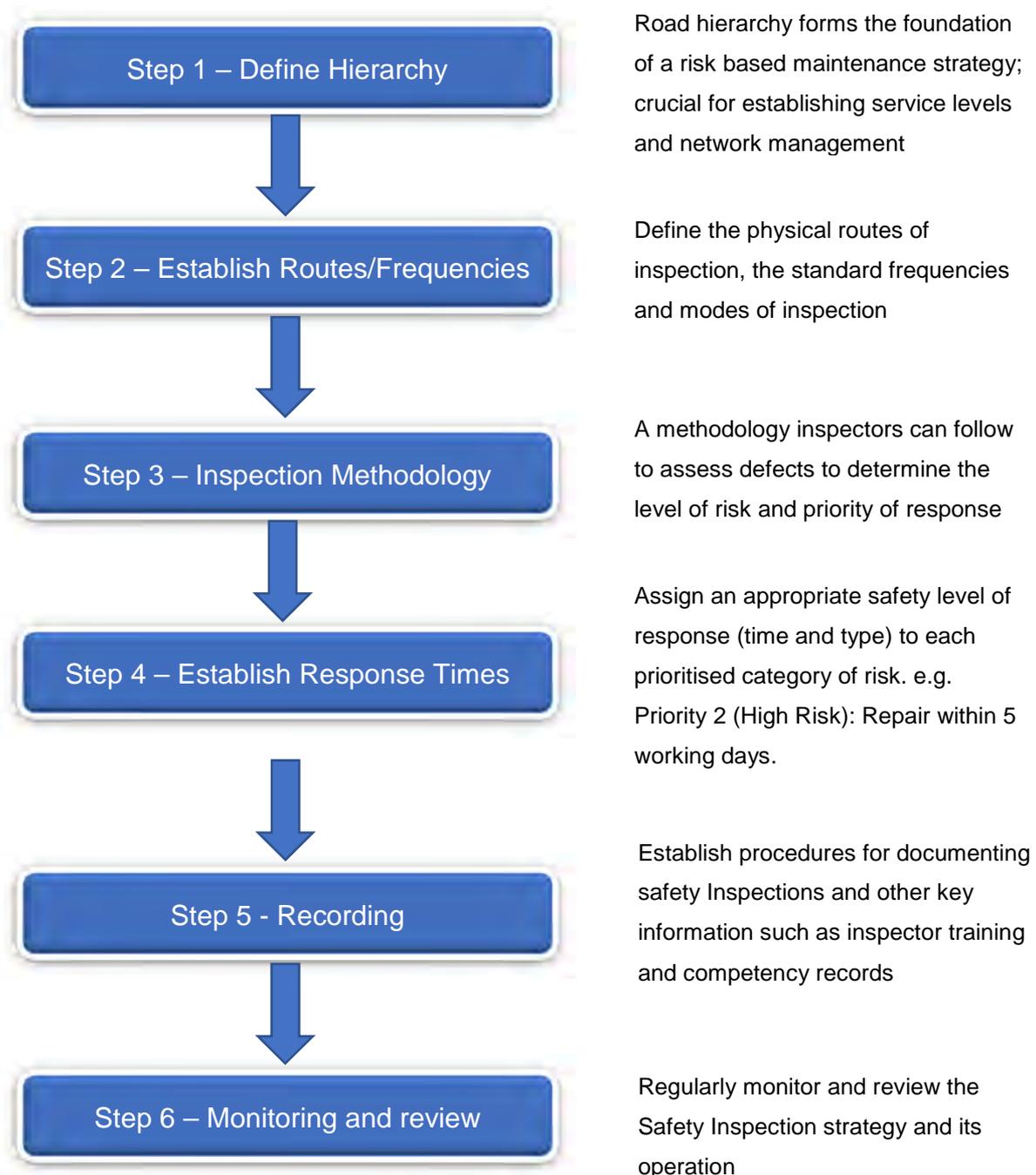
The council is responsible for managing and maintaining roads within West Lothian which are public roads, maintained on the council's List of Public Roads as required by Section 1 of the Roads (Scotland) Act 1984. The definition of a road includes footpaths, footways, cycleways and associated verges.

Roads Safety Inspection activity is limited to roads (including remote footpaths) which are on the list of public roads.

Roads Safety Inspection activity is not carried out on private roads, in car parks or any land under the control of the council which is not a public road.

## Overview

The safety inspection strategy involves requires several key steps, explained in detail within this document. They are:



## Hierarchy

“Well-Managed Highways Infrastructure – Code of Practice” (WMHI CoP) indicates that a network hierarchy is the foundation of a risk based maintenance strategy; crucial for establishing service levels and network management.

The hierarchy definitions adopted are those provided in the SCOTS guidance which, in turn, were based upon the definitions in the Code of Practice. These are listed in Tables 1 to 3 below.

### Carriageways

Table 1 below provides descriptions for carriageway categories based on those in ‘Well-Managed Highway Infrastructure: A Code of Practice’.

**Table 1 Carriageway Hierarchy**

Category	Hierarchy	Description
1	Strategic Route	Routes for fast moving long distance traffic with little frontage access or pedestrian traffic. Speed limits generally in excess of 40mph with few junctions. Parked vehicles are generally not encountered outwith urban areas.
2	Main Distributor	Routes between strategic routes and linking urban centres to the strategic network with limited frontage access. In urban areas speed limits are usually 40mph or less.
3	Secondary Distributor	In residential and other built up areas these roads have 20 or 30 mph speed limits and very high levels of pedestrian activity with some crossing facilities including zebra crossings. On- street parking is generally unrestricted except for safety reasons. In rural areas these roads link the larger villages, bus routes and HGV generators to the Strategic and Main Distributor Network.
4	Link Road	In urban areas these are residential or industrial interconnecting roads with 20 or 30 mph speed limits, random pedestrian movements and uncontrolled parking. In rural areas these roads link the smaller villages to the distributor roads. They are of varying width and not always capable of carrying two-way traffic.
5	Local Access Road	In rural areas these roads serve small settlements and provide access to individual properties and land. They are often only single lane width and unsuitable for HGVs. In urban areas they are often residential loop roads or cul-de-sacs.

### Footways

Table 2 below is based on the recommendations of ‘Well-Managed Highway Infrastructure: A Code of Practice’ and should be used as a starting point when allocating a footway / footpath to a particular category.

The following should also be taken into consideration:

- pedestrian volume,
- designation as a traffic sensitive pedestrian route,

- current usage and proposed usage,
- contribution to the quality of public space and streetscene,
- age and distribution of the population, proximity of schools or other establishments attracting higher than normal numbers or specific groups of pedestrians,
- accidents and other risk assessments and
- character and traffic use of adjoining carriageway.

**Table 2 Footway Hierarchy**

Category	Category Name	Description
1	Prestige Walking Zones	Very busy areas of town centres with high public space and Streetscene contribution.
2	Primary Walking Routes	Busy urban shopping and business areas and main pedestrian routes, including links to significant public transport locations.
3	Secondary Walking Routes	Medium usage routes through local areas feeding into primary routes, local shopping centres etc.
4	Link Footways / Footpaths	Linking local access footways through urban areas and busy rural footways.
5	Local Access Footways / Footpaths	Footways associated with low usage, short estate roads to the main routes and cul-de-sacs.

## Cycle Routes

Cycle routes are categorised by location and a proposed hierarchy is shown in Table 3 below.

**Table 3 Cycle Route Hierarchy**

Category	Description
1	Cycle lane forming part of the carriageway, commonly a strip adjacent to the nearside kerb. Cycle gaps at road closure point (no entry to traffic, but allowing cycle access).
2	Cycle track - a designated route for cyclists not contiguous with the public footway or carriageway. Shared cycle/pedestrian paths, either segregated by a white line or other physical segregation, or un-segregated.
3	Cycle trails, leisure routes through open spaces, remote from carriageway or footway / path where on the list of public roads.

## Road Network Assessment

It is important that the road network categorisation reflects the needs, priorities and actual use of the network and infrastructure assets.

The carriageway and footway networks have been assessed by the Senior Engineer – Road Maintenance and categorised in accordance with the hierarchy definitions in the code of practice utilising local knowledge.

Further work is required to identify and categorise designated Cycle Routes. It is expected that this will be completed by the time of the next inspection strategy review in 2024/25.

## **Review of Road Network Categories**

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Road networks are dynamic, therefore network categories should be regularly reviewed, considering any changes in the network as it evolves, to ensure that assigned categories remain relevant.

### **Review Frequency**

The hierarchy will be reviewed every 3 years.

### **Continuity of safety and serviceability with neighbouring Highway Authorities**

The adoption of the WMHI code of practice hierarchy and common SCOTS safety inspection methodology should, while allowing for management of hierarchies with regard to local circumstances, enable a high degree of continuity of safety and serviceability across neighbouring authorities.

## Inspection Frequencies

The frequency of inspections adopted by West Lothian Council is as follows:

**Table 5 Frequency of Inspection – Carriageways**

Category	Hierarchy Description	Frequency
1	Strategic Route	Monthly
2	Main Distributor	Monthly
3	Secondary Distributor	Monthly
4	Link Road	Quarterly
5	Local Access Road	Annually

**Table 6 Frequency of Inspection – Footways & Footpaths**

Category	Category Name	Frequency
1	Prestige Walking Zones	Monthly
2	Primary Walking Routes	Monthly
3	Secondary Walking Routes	Quarterly
4	Link Footways / Footpaths	Reactive only
5	Local Access Footways / Footpaths	Reactive only

**Table 7 Frequency of Inspections – Cycle routes**

Category	Frequency
1	As carriageway
2	As footway
3	As footway

The frequencies above differ from the SCOTS guidance in relation to Category 4 and 5 footways and Category 2 and 3 Cycle Routes. The justification for this variance is set out in Appendix A.

## Safety Inspection Routes

Inspection routes are determined and managed within the council's roads asset management software (CONFIRM).

Safety Inspections on carriageways and cycleways forming part of a carriageway are undertaken in a slow moving vehicle with two personnel, one driving and the other inspecting. Consideration must be given to the safety of the inspection personnel and other road users during the driven inspections. The inspection covers all areas within the council's boundary along that road.

Inspections on footways and cycleways remote from carriageways are undertaken on foot.

### Inspection Tolerances

All road safety inspections will be carried out to the frequencies detailed in the following tables and should be completed within the tolerances shown in Table 4, as follows:

**Table 4 Inspection Tolerances**

Frequency of Inspection	Inspection Tolerances
Monthly	± 5 working days of the Due Date
Quarterly	± 10 working days of the Due Date
Six Monthly	± 15 working days of the Due Date
Annual	± 20 working days of the Due Date

### Definition of above terms

- **Frequency of Inspection - Monthly** indicates that twelve regular spaced inspections will be carried out per year.
- **Frequency of Inspection - Quarterly** indicates that four regular spaced inspections will be carried out per year.
- **Frequency of Inspection - Six Monthly** indicates that two regular spaced inspections will be carried out per year.
- **Frequency of Inspection - Annual** indicates that one regular spaced inspection will be carried out per year.
- **Due Date** is the programmed date of an inspection.

### Staff Contingency and Alterations to the Inspection Programme

- Due to the nature of the weather in Scotland it is probable that the road surface will be wet with some elements of standing or running water whilst an inspection is in progress. However if the quantity of water is excessive or across the full width of the carriageway then the inspection should be abandoned and an entry should be made to document the circumstances.
- If an inspection Due Date falls during an extended period of absence e.g. inspector holiday or illness, then the inspection should be allocated to another suitably experienced member of staff who has the capacity to undertake the inspection.
- If and for reasons beyond the control of the roads authority (e.g. substantial snow fall), any inspection cannot be carried out in compliance with Table 4

the roads authority will decide on the viability of a safety survey being undertaken, taking into account the availability of staff and the prevailing weather conditions.

- As soon as reasonably practicable following the above events a deferred programmed safety inspection should be carried out on the affected length of road.
  - Where a monthly inspection is more than 2 weeks late due then the programmed inspection will be missed and the cycle resumed at the next due inspection date.
  - Where substantial unavoidable delays are incurred to other inspection frequencies the manager may assess the impact and adjust the programme.
  - A record must be kept of change decisions and reasons for them.

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## Inspection Methodology

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### Safety Inspections

Road Safety Inspections are designed to identify defects likely to cause a hazard or serious inconvenience to users of the network or the wider community. Such defects include those that require urgent attention as well as those where the locations and sizes are such that longer periods of response are appropriate.

### Planned Cyclic Safety Inspections

The Safety Inspection regime forms a key aspect of the road authority's strategy for managing liability and risk. Planned, cyclic safety inspections are carried out to identify defects which are hazardous (to any user of the road including drivers, pedestrians, equestrians and cyclists) so that an effective repair can be carried out within a predetermined response time.

The specified frequency of these inspections is dependent upon the **hierarchy category** of each section of road but may be varied after a documented risk assessment.

During safety inspections, observed defects that provide any foreseeable degree of risk to users will be recorded and processed for repair as appropriate following the methodology detailed in the 'Defect Risk Assessment' section of this document. The degree of deficiency in the road elements will be crucial in determining the nature and speed of response. Judgement will always need to take account of particular circumstances. For example, the degree of risk from a pothole depends upon not only its depth but also its surface area, location within the road network and usage of the road or footway.

The objectives of safety inspection activity are to:

- Minimise the risk of injury and disruption to road users as far as is reasonably practicable,
- Provide a regular, structured inspection of the public road network, within available resources,
- Deliver a consistent, reliable response to identified defects, within available resources,
- Maintain accurate and comprehensive records of inspections and response and
- Provide a clear, accurate and comprehensive response to claims.

### Items for Inspection

The following are examples of the types of defect which, when identified, should be assessed and an instruction for repair issued with an appropriate response time specified. The list identified below is not exhaustive.

### **Carriageways**

- Surface defects
- Abrupt level differences in running surface
- Edge deterioration of the running surface
- Excessive standing water, water discharging onto and / or flowing across the road
- Blocked gullies and obstructed drainage channels or grips which could lead to ponding or flooding
- Debris and/or spillages likely to be a hazard
- Missing road studs
- Badly worn Stop, Give Way, double continuous white line or markings associated with TRO's
- Missing or significantly damaged covers

### **Footways, Footpaths and Cycleways**

- Surface defects
- Excessive standing water and water discharging onto and or flowing across the foot/cycleway
- Dangerous rocking paving slabs
- Large cracks or gaps between paving slabs
- Missing or significantly damaged covers
- Debris and / or spillages likely to be a hazard
- Damaged kerbs

### **Street Furniture**

- Damaged vehicle restraint systems, parapets, handrails or guardrails
- Damaged boundary fence where animals or children could gain access
- Damaged or missing signs, such as Give Way, Stop, Speed Limit

### **Road Lighting**

- Damaged column, cabinet, control pillar, wall mounting
- Exposed, live electrical equipment

### **Others**

- Overhead wires in dangerous condition
- Sight-lines obstructed by trees and other vegetation,
- Trees in a dangerous condition
- Earthslips where debris has encroached or is likely to encroach the road or causing the road to fall away
- Rocks or rock faces constituting a hazard to road users
- Damaged road structures

## Risk Management Process

Inspectors undertaking safety inspections or responding to reported incidents require to use judgement in determining likelihood and consequences of the observed or reported defects. This approach is consistent with 'Well-Managed Highway Infrastructure: A Code of Practice' recommendation that roads authorities adopt a system of defect risk assessment for determining the response categories to road defects. However, it represents a step change in the way that defects are assessed. Taking a risk based approach, as per the above code of practice, means that there are NO prescriptive investigation or intervention levels to apply. The rationale for removing these is that the same defect will represent a different level of risk in a different context. In the past this has led to inappropriate and often unnecessary, costly, temporary repairs. Instead, by using a risk based approach, councils can reduce such reactive interventions and target more of their scarce resources towards programmed work that in the longer term will lead to an overall improvement of road condition.

So while not providing any minimum or default standards, the code of practice does support the development of local levels of service in accordance with local needs, priorities and affordability.

## Establishing Context

Establishing context requires the inspector to utilise experience and knowledge during the inspections to assess the road characteristics, such as giving consideration to environment (speed limit, width, rural/urban, road hierarchy, visibility, bend, hill - incline/decline, road camber/crossfall, etc.), relevant road user types (pedestrians, cyclists, horse riders, cars, LGV's, HGV's, PSV's, etc.), traffic volumes, maintenance history, historical incidents/claims/complaints (e.g. experience/knowledge of similar hazards being a contributory factor to incidents/claims within the authority or a neighbouring authority), demographics and key local amenities (proximity to doctors surgery, hospitals, shopping areas, schools, etc.).

## Risk Assessment

Taking the context into consideration, Risk Assessment is a three step process:

### 1. Hazard Identification

An inspection item for which the inspector identifies road asset defects which may pose a risk to road users i.e. lead to a negative consequence. The types of asset to be inspected and the potential associated hazards from defects are detailed in the Inspectors Operations Manual.

### 2. Risk Analysis

All risks identified through this process must be evaluated in terms of their significance which means assessing the **likelihood** of encountering the

hazard and the **most probable** (not worst possible) **consequence** should this occur.

The procedure is designed to mitigate ‘worst scenario’ thinking and ensure an objective assessment is carried out. It is important therefore that the analysis is carried out in this defined step sequence to determine the appropriate level of risk and corresponding priority response.

### Risk Likelihood

The risk likelihood is assessed with regard to how many users are likely to pass by or over the defect, consequently the network hierarchy and defect location are important considerations in the assessment.

The likelihood of encountering a hazard, within the established context, will be quantified on a scale of Remote to Almost Certain as follows:

**Table 8 Risk Likelihood**

Likelihood / Probability	Likelihood Description	
Almost Certain	Will undoubtedly happen	Daily
Likely	Will probably happen, but not a persistent issue	Monthly
Possible	May happen occasionally	Annually
Unlikely	Not expected to happen, but it is possible	10 years
Remote	Improbable	20 years

## Risk Consequence

The risk consequence is assessed by considering the most probable (NOT worst possible) outcome (impact) should the risk occur and will be quantified on a scale of Negligible to Catastrophic as follows:

**Table 9 Consequence (Impact/Severity) Score**

Consequence (Impact/Severity)	Description			
	Impact on Service Objectives	Financial Impact	Impact on people	Impact on Reputation
<b>Catastrophic</b>	Unable to function, inability to fulfil obligations	Severe financial loss	Death	Highly damaging, sever loss of public confidence
<b>Major</b>	Significant impact on services provision	Major financial loss	Extensive injury, major permanent harm	Major adverse publicity, major loss of confidence
<b>Moderate</b>	Service objectives partially achievable	Significant financial loss	Medical treatment required, semi-permanent harm up to 1 year	Some adverse publicity, legal implications
<b>Minor</b>	Minor impact on service objectives	Moderate financial loss	First aid treatment, non-permanent harm up to 1 month	Some public embarrassment, no damage to reputation
<b>Negligible</b>	Minimal impact, no service disruption	Minimal financial loss	No obvious harm/injury	No interest to the press, internal only

### 3. Risk Evaluation

The risk factor for a particular risk is the product of the risk impact and risk. It is this factor that identifies the overall seriousness of the risk and consequently therefore the appropriateness of the speed of response to remedy the defect. Accordingly, the priority response time for dealing with a defect can be determined by correlation with the risk factor as shown in the risk matrix, table 10:

**Table 10 Risk Matrix**

Consequence	Negligible	Minor	Moderate	Major	Catastrophic
Likelihood					
Remote	NR	NR	NR	NR	P3
Unlikely	NR	NR	P4	P4	P3
Possible	NR	P4	P4	P3	P2
Likely	NR	P4	P3	P2	P1
Almost Certain	NR	P3	P2	P1	P1

#### Risk Management Response

Having identified a particular risk, assessed the likelihood of it occurring and most probable consequence (impact/severity) and thus calculated the risk factor, the appropriate response is identified in the form of a risk management (response) matrix, Table 11.

**Table 11 Risk Management Matrix**

Risk Category	Priority Response
Critical Risk	Priority 1 response
High Risk	Priority 2 response
Medium Risk	Priority 3 response
Low Risk	Priority 4 response
Negligible Risk	No response

## **Intersections and Multiple Road Users Types**

The hazard context considers the location and the types of road users which could be impacted by the defect. Inspectors should consider the different impacts and consequences for each road user type (e.g. pedestrians, cyclists, vehicle drivers, etc.) and at intersections, consider the hierarchy of each route. Inspectors **must therefore assess the likelihood and consequence for each road user type and/or route hierarchy**. The priority of the response is based on the highest priority determined from the risk matrix (Table 10).

## **Utility Company Defects**

Section 140 of the New Roads & Street Works Act 1991 places a duty on undertakers (utilities) to maintain their apparatus to the reasonable satisfaction of the Roads Authority. However recent case law has shown that Roads Authorities have a joint liability with the undertakers.

If a defective utility apparatus or works cause a hazard, the inspector will record this and contact the council's Public Utilities (PU) team. The PU team will contact the appropriate utility company who will be given the opportunity to commence repairs or make safe the defect within the timescales and in accordance with the process set out in the "Code of Practice for Inspections", Scottish Roadworks Commissioner, November 2012.

In the case of Category 1 (dangerous) defects (as defined in the SRWC CoP as a 2 hour response ), the council's Inspector will make safe if practicable. If the utility company cannot be identified or cannot attend within the required timescales, the Inspector will arrange for work to be undertaken by the council. In the appropriate circumstances, the council will seek to recover reasonable costs of remedial work from public utilities.

## **Inspection Records**

All information obtained from safety inspections, together with the nature of response, including nil returns, shall be recorded consistently. The data obtained shall be able to be reviewed independently and in conjunction with other survey information. It shall be collected on electronic mobile devices (tablets or phones) and automatically transferred to the CONFIRM asset management system. Service requests, complaints, reports or information from users and other third parties shall also be recorded in the CONFIRM system, along with the nature of response, including nil returns.

All inspection records shall include the date, time and the name of the person conducting the inspection. Any defects identified will be recorded on the CONFIRM system with photographs (if practicable) and again will include the date, time and name of person raising the defect.

## Priority Response Times

### Safety Levels

The Priority Response Times for each Defect Category are shown in Table 12 below.

**Table 12 SAFETY LEVELS - Defect Priority and Response Times**

Defect Priority	1	2	3	4	NR
Standard Response Time	24 Hours	5 Working Days	60 Working Days	Programmed work	No Action required
Islands or Remote Locations Response Times	n/a	5 Working Days	60 Working Days	Programmed work	No Action required

#### Priority 1: Make safe within 24 Hours

Priority 1 represents a critical risk to road users and should be corrected or made safe at the time of inspection, if reasonably practicable. In this context, making safe may constitute displaying warning signs and / or coning off to protect the public from the defect. Where reasonably practicable, safety defects of this Priority should not be left unattended until made safe or, a temporary or permanent repair has been carried out.

When a Priority 1 defect is identified within a larger group / area of defects, only that particular element shall be treated as a Priority 1 defect. The remaining defects shall be categorised accordingly.

#### Priority 2: Repair within 5 Working Days.

This allows a more proactive approach to be adopted for those defects that represent a high risk to road users or because there is a risk of short-term structural deterioration. Such defects may have safety implications, although of a lesser significance than Priority 1 defects, but are more likely to have serviceability or sustainability implications.

#### Priority 3: Action within 60 Working Days.

Defects that require attention although they represent a medium risk to road users. This allows defects of this nature to be included in medium term programmes of work.

#### **Priority 4: Consider for Planned Works Programme**

The defect is considered to be of low risk; no immediate response is required. Defects in Priority 4 are not classed as safety defects and are collected to assist the development and prioritisation of Planned Maintenance Works Programmes.

#### **NR: No Action Required**

The defect is considered to be of negligible risk, no intervention is required and monitoring will continue as per the inspection regime

#### **Meeting Target Response Times**

It may not be possible, particularly at certain times of year, to meet target response times, due to pressure on resources. This could, but not exclusively, be due to the high number of defects that can arise in a short period of time after periods of adverse weather, such as prolonged spells of heavy rain or snow, or freeze / thaw conditions. Prolonged periods of adverse weather may also prevent remedial measures being carried out.

The appropriate response time commences from the time that the defect was identified and categorised by an Inspector.

#### **Performance Monitoring**

Monitoring of safety inspection performance is undertaken at two levels: Weekly reports on the number of inspections are reviewed by the Senior Engineer – Road Maintenance and compared with the expected number of inspections to be undertaken in line with the programme.

Monthly reports on inspections undertaken, number undertaken on time, defects raised, jobs completed and times for job completion are produced and reviewed by the Roads and Transportation Management team on a monthly basis. A specific performance indicator for the percentage of priority 1 jobs completed within 24 hours is reported monthly. The performance information is used to identify issues and drive continual improvement within the service.

Each Roads Inspector shall have a sample of inspections re-inspected to ensure consistency and quality of the Safety Inspection regime is maintained. These re-inspections shall be carried out within 24 hours of the original inspection and will cover various sections of the hierarchy over the year. The results will be reviewed by the Senior Engineer – Road Maintenance and additional training if required will be identified.

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## Inspector Competency

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For the purpose of this document, the term 'Inspector' is defined as 'a person who the road authority has assessed and certified as competent to identify and undertake a risk assessment of a road asset defect and if required, determine the risk treatment'. Therefore, within this document, 'inspector' is not utilised exclusively for a person who mainly completes the routine road asset safety inspections, but can include technicians, engineers or other staff within the authority who have been assessed by the authority to achieve the authority's required level of competency.

### Training

Road Authorities must ensure that all Road Asset Safety Inspectors are competent in carrying out safety defect inspections.

As a minimum, Inspectors within West Lothian Council will undergo the SCOTS Risk-based Approach to Safety Defect Inspections training and be required to achieve a pass grade on the course assessment to demonstrate competency in assessing risk. Training will be delivered by senior staff (Engineer/Senior Engineer) trained utilising the SCOTS training toolkit. The person delivering the training will be required to have been trained and assessed as competent, through SCOTS.

In addition, inspection staff whose day-to-day activities involve identifying defects and assessing risk will undergo additional training to the equivalent to the Scottish Credit and Qualifications Framework Level 6 National Highway Safety Inspectors Training and Certification Scheme, operated by the Institute of Highway Engineers where reasonably practicable. New inspectors joining the organisation without this level of training will be given in-house training provided by the safety inspection team (and assessed by the Engineer/Senior Engineer) to achieve consistency in the identification of safety defects and the prioritisation of defect repairs in accordance with the guidance set out in this policy.

### Training Plans

Courts accept that there may be circumstances where an inspector is new to the role and will have to build up their experience, training and competency. In such cases, or where an existing inspector does not meet the required standard, the Senior Engineer – Road Maintenance shall work with the inspector to develop, document and implement a Training Plan to assist them to meet the necessary level of competency.

The Training Plan is evidence that the road authority is supporting the inspector, assisting them to achieve the level of competency required and ensuring consistency across the authority's inspectors.

Review of inspector training plans will be conducted at regular intervals to ensure the plan is progressing as anticipated, to sign off key areas completed and to amend the plan, if required.

Records of the reviews and any actions shall be maintained and held against the inspector's "Training and Competency" record.

### **Training and Competency Records**

Inspector training and competency records will be maintained and reviewed annually for completeness and to identify when inspector re-assessment is due to ensure that they continue to meet the road authority's minimum competency requirements.

The Training and competency records are held in the council's records management system (currently Objective).

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## Other Inspections

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### Service Request Inspections – Externally Reported Defects

Road authorities receive reports of defects from a number of different sources, such as the Police, Emergency Services, general public, public utilities and other agencies; these Service Request reports are managed as follows:

Service requests or reports of defects will be inspected within 5 working days of receipt and any identified defects will be prioritised in the same way as for defects identified through programmed inspections.

### Road Condition Inspections (or Structural Condition Surveys)

Undertaken to consider the general condition of the individual roads and footways and the need for planned structural maintenance which can be programmed accordingly. Inspections for the carriageway asset are presently undertaken through the national Scottish Road Maintenance Condition Survey (SRMCS). Visual condition surveys of assets may also be undertaken with SCOTS guidance.

Visual condition surveys for carriageways will be undertaken as and when resources allow and the results recorded in the council's CONFIRM asset management system.

Visual condition surveys for footways will be programmed and undertaken with the aim of achieving full network coverage approximately every five years. However, this will be dependent on resources.

### Safety Inspection of Highway Trees

Any defective trees, hedges or shrubs or feature likely to cause an obvious danger by encroachment, visibility obstruction, damage, ill health or trip hazard is recorded and the appropriate action taken. Under Section 83, or 91, of the Roads (Scotland) Act 1984, West Lothian Council deals, by consultation with the owners and if required a Notice, with hedges, trees and shrubs growing on adjacent land which overhang the road.

West Lothian Council carries out additional tree inspections with qualified arboriculturalists.

All Safety Inspectors receive some basic arboricultural guidance but a qualified arboricultural advisor carries out an inspection when specialist knowledge is required. Their advice is also sought before any work is carried out on tree roots causing a problem to a footway surface. Qualified tree surgeons will be used when conducting tree maintenance work for West Lothian Council.

## APPENDIX A – ASSESSMENT OF RISK

This document provides an assessment of risk to West Lothian Council associated with key aspects of the Roads Asset Safety Inspection Manual 2023 where it deviates from SCOTS guidance.

### FOOTWAY INSPECTIONS

#### Description of risk

The council procedures will not include scheduled inspections of footpaths defined as link or local access in the CoP and SCOTS guidance. There is a risk of increased claims experience due to the council's decision not to adopt a fully proactive system of inspection.

#### Assessment

SCOTS recommends scheduled inspections of footpaths defined as link or local access as shown in Table 1.

Footpath hierarchy	SCOTS recommendation	WLC Inspection Frequency
Town Centre	1 month	1 month
Primary	1 month	1 month
Secondary	3 months	3 months
Link	6 months	Reactive
Local access	1 Year	Reactive

**Table 1 – Footpath inspection frequency**

The recommendations recognise that the risk to road users is dependent on the footfall on different categories of footway. Therefore, the busiest footpaths are inspected most often.

West Lothian Council currently undertakes scheduled inspections in line with the SCOTS recommendations on Town Centre, Primary and Secondary footpaths. The designation of Primary and Secondary routes considers the location of facilities such as schools, community centres, health centres and care homes. The hierarchy routes are reviewed every two years. The council does not currently undertake scheduled inspections on Link or Local Access footpaths. These link and local access footpaths make up approximately 1000km of the council's footway network, representing around 87% of the total footway network. However, they will be the footpaths with the least footfall and therefore, the least exposure to risk for pedestrians if a defect is present.

The total number of claims in relation to roads in the past 6 years (1 Jan 2017 – 31 Dec 2022) is shown in Table 2:

Type Description	No. of Claims	% Share	Total Experience	Annual Average	% Share
C/way Pedestrian	36	4	£60,637.80	£10,106.30	16
C/way Vehicular	700	79	£115,086.47	£19,181.08	31
Edge Pedestrian	14	2	£24,832.40	£4,138.73	7
Edge Vehicular	12	1	£9,387.50	£1,564.58	2
F/way Pedestrian	106	12	£164,156.95	£27,359.49	44
F/way Vehicular	3	0	£1,611.50	£268.58	0
Other	17	2	£815.15	£135.86	0
<b>Grand Total</b>	<b>888</b>	<b>100</b>	<b>£376,527.77</b>	<b>£62,754.63</b>	<b>100</b>

**Table 2 - Claims 2017-2022 (6 years)**

It can be seen that there were 106 claims in the six year period in relation to pedestrians on footway. That means that on average there were under 20 claims per annum amounting to an average cost of just under £27,400 per annum. This figure includes claims on all footways – including those which are currently inspected on a monthly or 3 monthly basis. It is worth noting that both the number of footway claims and total expense has reduced since the last time the policy was reviewed in December 2018.

Current resources for safety inspection amount to 4.0FTEs and two vehicles. It is estimated that to provide the coverage of the entire footway network in line with the code of practice guidance would require an additional 2.0FTEs and one additional vehicle. This is estimated to cost an additional £77,000 per annum.

The undertaking of inspections on link and local access footways in line with the SCOTS recommendations would be expected to reduce the claims experience to some degree. However, many of the footway claims occur in areas where there is already a proactive inspection regime. Therefore, introducing a proactive regime on lower tier footways would be expected to result in a reduction in claims experience of considerably less than £27,400 per annum. It is clear that the cost of providing a full proactive inspection regime would be considerably greater than the estimated reduction in claims cost associated with providing the service.

### **Mitigating Factors**

Of the claims relating to slips and trips on footways, over 55% are in areas with slabs or similar pavements. These tend to be in town centres which are already covered by the regular inspection regime. Plans are already in place to remove slabs in some areas and replace with asphalt footways. It is anticipated that further areas may be replaced as maintenance costs of slabbed areas increase in coming years. This is likely to lead to a reduced level of claims in future years.

The footway condition survey programme has now inspected 46% of the council's network with a target of re-inspecting every footway within a rolling 5 year period. The introduction of a rolling programme of condition surveys will strengthen the council's case in successfully defending claims. Very few defects are identified through these condition surveys, again indicating that the footway network is in good condition. The overall results from the inspections are shown in Table 3:

Condition Rating	Count	%
Acceptable	6478	70.09
Visually Impaired	2359	25.52
Minor Deterioration	381	4.12
Major Deterioration	24	0.26
<b>Total</b>	<b>9242</b>	<b>100.00</b>

Table 3 – Footway condition surveys

The footway network is therefore considered to be in a relatively good condition at present with the condition expected to improve further as areas suffering major deterioration are gradually rectified.

Finally, the council responds to reports of defects within 5 working days. This goes some way to reduce the risk of danger to pedestrians and thereby the claims experience.

### Conclusions

The historic claims experience for slips and trips on footways amounts to an average cost of just under £27,400 per annum. This has reduced significantly since last reviewed in 2018. The cost of introducing scheduled inspections in line with the SCOTS guidance is estimated to be £77,000 and it is estimated that this would reduce the annual claims experience by less than £27,400.

The existing footpath condition is considered to be satisfactory and the ongoing programme of improvements will maintain this condition.

A footway condition survey programme has now been implemented with a target of re-inspecting every footway within a rolling 5 year period.

The evidence suggests that the cost of introducing inspections in line with the SCOTS guidance would not be justified by the expected reduction in claims experience at the present time but this position should be reviewed in line with future reviews of the inspection manual.

## **CYCLE TRACK INSPECTIONS**

### **Description of Risk**

The council procedures will not include scheduled inspections of cycle routes separately from inspections of carriageways or footways. This differs from the CoP and the SCOTS guidance which recommends inspections either 6 monthly or annually. There is a risk of increased claims experience due to the council's decision not to adopt a fully proactive system of inspection.

### **Assessment**

Currently, we do not have a defined cycle route network within our asset inventory. There are significant challenges in identifying routes that have been properly designated as for cyclists as opposed to routes which are footpaths but used by cyclists. We currently undertake inspection as if cycle routes are either a carriageway (where the cycle lane is on a carriageway) or a footpath (where the cycle track is not on a carriageway). This means that if the footpath is designated as a primary or secondary walking route it will be inspected monthly or quarterly respectively. However many cycle routes will not be included in this regime and therefore will be subject to reactive inspection.

Claim data for the past 6 years indicates that the number of claims relating to cycle routes is very small. Only 3 claims specifically related to cycle routes representing just 0.5% of all claims. It is therefore considered that the current reactive regime is appropriate for the present time.

However, active travel is being promoted both nationally and locally and it is expected that cycling rates will increase in the coming years. Work will therefore be required to identify a designated cycle network within our asset management system and give further consideration to the inspection regime in due course. It is anticipated that progress will have been made on this by the time of the next review, due in 2024/25.

### **Conclusion**

The council's current roads asset management system does not contain an identified cycle route network. Cycle routes will therefore be inspected as per carriageways where the route is on a road and as per footways where it is not.

DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **REVOCAION OF BROXBURN AIR QUALITY MANAGEMENT AREA**

#### **REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION**

##### **A. PURPOSE OF REPORT**

The purpose of the report is to make the Council Executive aware of the proposal to revoke the air quality management area in Broxburn and seek approval for the process to begin.

##### **B. RECOMMENDATION**

It is recommended that the Council Executive:

1. notes the content of the report;
2. notes that the air quality objectives in Broxburn have been met continuously over a number of years since the designation of the air quality management area;
3. approves the proposal to start the process of revoking the air quality management area declared in Broxburn;
4. agrees that council officers from Environmental Health and Trading Standards submit the report in Appendix 1 to Scottish Government seeking agreement to start the process of revoking the air quality management area in Broxburn; and
5. if the Scottish Government agree with the proposal to revoke, agrees that council officers can begin the process of consultation to produce the draft revocation report which will then be presented to the Council Executive for a final determination on revocation.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I</b>	<b>Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; developing employees; making best use of our resources; working in partnership.
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	West Lothian Council has legal obligations in regards to monitoring air quality, and putting in place actions to ensure air quality objectives are met. The council has a duty to report progress on achieving air quality objectives and activities being carried out to the Scottish Government.
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	There are no implications for the Scheme of Delegation.

<b>IV</b>	<b>Impact on performance and performance Indicators</b>	EH046_9b.1a reports the levels of particulate matter per cubic metre of air measured at the Broxburn monitoring unit as a 3 year average.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	<p>We live longer, healthier lives and have reduced health inequalities.</p> <p>We make the most efficient and effective use of resources by minimising our impact on the built and natural environment</p>
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	Monitoring is carried out using existing resources. External funding bids are sought from the Scottish Government for equipment, additional studies or action plans.
<b>VII</b>	<b>Consideration at PDSP</b>	The report was presented to the Public and Community Safety PDSP on 23 February 2023. The panel were advised the report would be submitted to the Council Executive with a recommendation to start the process of revocation and submit a report to Scottish Government for approval of proposal. The panel noted the recommendation in the report. As a result of some questions and comments from panel members it was felt necessary to provide some further background information on general air quality issues. This is provided in Appendix 3 of this report.
<b>VIII</b>	<b>Other consultations</b>	No other consultations have taken place at this stage in the process.

**D. TERMS OF REPORT**

**D1 Background**

West Lothian Council has statutory obligations to monitor air quality and to take corrective action where specified pollutant concentrations are above permitted objective levels. The council has a statutory duty to provide an annual progress report to the Scottish Government in regard to air quality standards and any action being taken by the council to fulfil statutory obligations.

The air quality objectives being monitored are Nitrogen Dioxide (NO<sub>2</sub>) and particulate matter which is 10 microns (μ) or smaller, and 2.5 microns (μ) or smaller (referred to as PM<sub>10</sub> and PM<sub>2.5</sub> respectively).

Due to historical exceedances of air quality objectives, three air quality management areas were declared in West Lothian. These are still in place. The air quality management areas were declared in 2011 for Broxburn, and 2016 for Linlithgow, and Newton. However, monitoring data has been showing a continuing improvement, and in recent years, levels consistently below the air quality objectives. There is no specifically identifiable reason for improvements in air quality over this time, but it is reasonable to assume that, as vehicle pollution is the most significant factor causing poorer air quality, the “greening” of vehicles and newer, less polluting, vehicles on our roads will be a significant influence in the improvement noted. This could also be considered alongside changes in driving behaviour, move from diesel vehicles, less vehicle use and similar. There was also a noticeable change in air quality during periods of limited social engagement and people movement during the COVID pandemic.

Air quality management areas are not intended to be in place for any longer than is necessary. As air quality improves, and air quality objectives are being met there is an expectation that local authorities will take steps to revoke these controlled areas, in part or fully. As trends of improving air quality have been noted in previous annual progress reports, the Scottish Government are recommending the council completes a review with a mind to revoke air quality management areas in West Lothian.

The review of the three areas has been completed and supported by the additional consideration of detailed assessments carried out by an external air quality consultant. At this stage only Broxburn is able to proceed to further consideration for revocation. This is mainly due to procedural reasons as Linlithgow and Newton still have to complete finalised action plans, and this process will proceed for these areas in due course.

A link to the air quality information for West Lothian is found in Section F of this report. This includes copies of the detailed assessments for the three air quality management areas, and the annual progress reports submitted to Scottish Government.

## **D2 Broxburn Air Quality Management Area Revocation**

The Broxburn Air Quality Management Area was established on 31 March 2011 by The West Lothian Council (Broxburn) Air Quality Management Area Order 2011. A link to the order is provided in Section F of this report. The order provides a map with the details of the area covered by the air quality management area.

As air quality within the air quality management area has been improving and meeting air quality objectives it is appropriate for the council to begin the process to revoke this order and remove the air quality management area within Broxburn. The first step in this process will be to seek Scottish Government agreement to the proposal to revoke. The report provided in Appendix 1 of this report will be submitted to the Scottish Government as evidence of the review completed to determine that revocation is appropriate for this air quality management area.

It is necessary for this process to be agreed and approved by the Council Executive, and if Scottish Government agree with the proposal to revoke then further consultation will be required with local elected members and other interested parties before a final report is presented to the Council Executive for determination. Appendix 2 of this report provides an overview of the consultation and determination process.

There is an ongoing budget impact for the council in meeting air quality monitoring obligations in terms of equipment and staff time. These impacts are increased when fulfilling obligations in terms of air quality management areas. So, it is important that steps are taken to reduce, or ensure proper focus of, the burden on the council, particularly when evidence shows that air quality standards and objectives are being achieved. The initial review has considered the potential need to continue the current monitoring in this area for a bit longer due to some pending research being completed for Scottish Government on the equipment used to monitor particulate matter, and general preference of Scottish Government to continue monitoring, but that obligation will be reliant on either Scottish Government providing grant funding, or budget and staff being provided at the expense of other public health priority obligations. Further consideration of this will be addressed during the consultation process, but it is not in itself a determining factor in whether the air quality management area should be revoked.

## **E. CONCLUSION**

It is positive to note that air quality in Broxburn is meeting air quality objectives and has improved since the air quality management area was established in 2011. It is important to now take steps to acknowledge that and follow the process to revoke the air quality management area.

## **F. BACKGROUND REFERENCES**

1. [The West Lothian Council \(Broxburn\) Air Quality Management Area Order 2011](#)
2. [West Lothian air quality website information.](#)

Appendices/Attachments: Two

Appendix 1 – Report to Scottish Government – Proposed revocation of the West Lothian Council (Broxburn) Air Quality Management Area Order 2011. (Provided separately to report).

Appendix 2- Process for consultation and determination of revocation of Broxburn air quality management area.

Appendix 3 – Further background information on air quality.

Contact Person: Craig Smith, Environmental Health & Trading Standards Manager, 01506 282385, [craig.smith@westlothian.gov.uk](mailto:craig.smith@westlothian.gov.uk)

**Craig McCorrison**

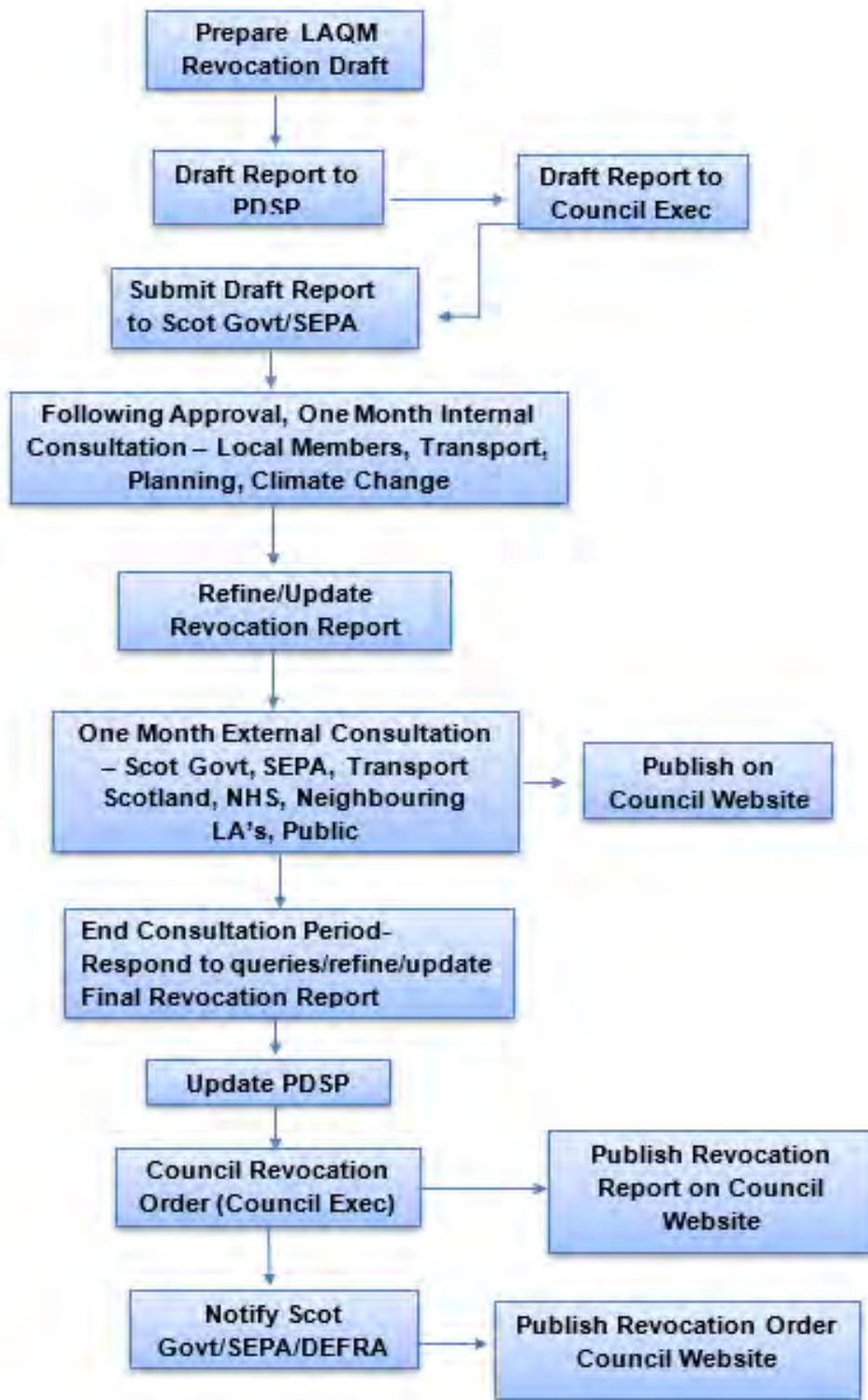
**Head of Planning, Economic Development and Regeneration**

21 March 2023

**Appendix 1**

Attached separately.

**Appendix 2 – Process for consultation and revocation**



## Appendix 3

### Further background information on air quality

#### Legal duties on local authorities and air quality standards.

Local authorities have legal obligations in terms of the Environment Act 1995 to monitor and review air quality within their areas, in particular where any review considers air quality standards or objectives are likely to be exceeded. The objectives or standards to be considered are set out in the Air Quality (Scotland) Regulations 2000 (as amended). Where air quality objectives are not being achieved in the relevant time periods prescribed, then the local authority has a duty to designate an appropriate air quality management area.

The key air quality objectives being monitored in West Lothian are Nitrogen Dioxide (NO<sub>2</sub>) and particulate matter which is 10 microns (μ) or smaller, and 2.5 microns (μ) or smaller (referred to as PM<sub>10</sub> and PM<sub>2.5</sub> respectively).

Once an air quality management area has been designated the local authority is required to produce an action plan to improve air quality within the designated area.

Local authorities are required to provide an annual progress report on air quality to the Scottish Government by the 30 June each year. This report will provide information on standards of air quality, and any requirements for the declaration of air quality management areas, progress with air quality action plans, and potential for revoking of air quality management areas.

Air quality management areas are not intended to be permanent. They are intended to be a means of achieving improvements in air quality to meet air quality objectives.

#### How sites for monitoring are identified

There are a number of different factors which contribute to the potential for the air quality objectives being exceeded in an area. Consideration needs to be given to the potential sources of the pollutants which require to be considered, these could be domestic, commercial, industrial, vehicle etc. The potential volume of pollutants created and the location, and whether there is potential for high retention, are also important considerations. For example, high traffic volumes in a town with buildings either side of the road, and high pedestrian and domestic dwellings is likely to be more of an issue than higher traffic volumes in a more open setting where levels of pollution are more easily dispersed.

Sites can be identified due to active concerns in an established area, or through future plans for development, or predictive modelling indicating the likelihood of changes to existing air quality or the introduction of new residential exposure to existing air quality in an area associated with future developments.

#### How air quality is monitored in West Lothian.

There are currently 23 sites in West Lothian which are being monitored using diffusion tubes to give an indication of whether levels of NO<sub>2</sub> are being exceeded. The details of the location of these tubes can be found on the [Scottish Air Quality website](#). Diffusion tubes provide a very useful and cost-effective means of determining if a more detailed monitoring approach is required within an area of potential concern.

There are also three automated air quality monitoring stations located in the three air quality management areas. These stations contain sophisticated monitoring equipment to ensure

continuous real time monitoring data is captured. This live data is also provided directly to the Scottish Air Quality website. These units are significantly more expensive as outlined under costs below.

#### How air quality will be monitored once an air quality management area is revoked.

The duty to keep air quality under review and to ensure appropriate monitoring is in place will continue. The determination of which monitoring approach will be taken will be one of the considerations of the consultation process undertaken for the purpose of revocation. There are significant costs associated with the automated air quality stations currently deployed in the air quality management areas, and indicative costs are set out below.

#### Costs of monitoring air quality in West Lothian

There are budget and staff resource costs in monitoring air quality within West Lothian. It is not possible to quantify all costs involved or staff time, but the following provides some indication of those involved.

An annual maintenance contract is in place to ensure the upkeep of the three automated air quality monitoring stations. This has limited cover for replacement and repair costs for the units. Annual costs are in the region of £10,000 to £12,000.

Repair and replacement costs for the equipment within automated air quality monitoring stations will vary. There were significant costs for the service in 2021/22 as a number of pieces of equipment failed due to age or condition. The spend on these units separate from the maintenance contract in the last 3 years is set out below –

2022/23 £22,538  
 2021/22 £43,391  
 2020/21 £6,276

The supply and testing of the diffusion tubes on a monthly basis has an annual cost to the service of £1,500.

The service will apply to the Scottish Government for grant support on an annual basis. This has been provided to assist with the delivery of action plan improvements within the air quality management areas, and latterly to help partly with the costs of maintenance and replacement of air quality station equipment. However, most funding has gone to action plan activities in recent years, e.g. Ecostars, bikeability, and development of detailed assessments for the air quality management areas.

There is officer time required in ensuring daily checks on data capture, fortnightly calibration visits, and reactive visits for the automated air quality monitoring stations and monthly site visits to recover and replace the diffusion tubes to send away for analysis. There is also officer time involved in contract agreement and monitoring service delivery by maintenance service provider, and work required to manage air quality management area obligations, e.g. action planning, and annual progress report preparation and submission.

#### Reporting on air quality standards in West Lothian

There is a duty to provide an annual progress report on air quality to the Scottish Government. This is reviewed by Scottish Government and SEPA and a response provided to the council in terms of aspects for consideration for managing air quality. The annual

progress report and comments received from Scottish Government have been reported to the Public and Community Safety PDSP, and previously Environment PDSP.

Data on air quality in West Lothian is publicly available. This is available as real time and historical data. It is available through the Scottish Air Quality website.

Information on air quality, including annual progress reports, and information relating to the air quality management areas (detailed assessments, action plans etc.) is available on the council website.

The council also comes under the scrutiny of Environmental Standards Scotland (ESS), as a body obligated to comply with environmental legislation, and also as a body tasked with enforcing environmental legislation. West Lothian Council was one of a number of Scottish local authorities involved in a review of air quality regulations by ESS. The outcomes of the review was reported to the [Public and Community Safety PDSP](#), and is publicly available from the [ESS website](#).

## **West Lothian Council**



### **Proposed revocation of The West Lothian Council (Broxburn) Air Quality Management Area Order 2011**

**In fulfilment of Part IV of the Environment Act 1995 Local  
Air Quality Management (LAQM)**

**January 2023**

<b>Department</b>	Environmental Health & Trading Standards
<b>Officer</b>	Brian Carmichael
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<b>Report Reference</b>	057961
<b>Date</b>	January 2023

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## 1. Introduction

Part IV of the Environment Act 1995 required the UK Government and the devolved administrations, to publish a national Air Quality Strategy (see Ref.1) and establish the system of Local Air Quality Management (LAQM) and Air Quality Objectives for specified pollutants.

The air quality objectives for Scotland are set out in;

- The Air Quality (Scotland) Regulations 2000 (see Ref. 2);
- The Air Quality (Scotland) Amendment Regulations 2002 (see Ref. 3); and
- The Air Quality (Scotland) Amendment Regulations 2016 (see Ref. 4).

The LAQM process places an obligation on all local authorities to regularly review and assess air quality in their areas, and to determine whether or not the air quality objectives are likely to be achieved. Where an exceedance is considered likely, the local authority must declare an Air Quality Management Area (AQMA) and prepare an Air Quality Action Plan (AQAP) setting out the measures it intends to put in place in pursuit of the objectives.

West Lothian Council fulfils its LAQM duties by maintaining 3 automatic air quality stations across its area. There is also a network of passive NO<sub>2</sub> diffusion tubes. Results from this monitoring are assessed and an annual progress report is produced each year, in line with statutory guidance.

Due to the potential for the air quality objective to be breached, three AQMAs were declared within West Lothian. One of these AQMA's is in Broxburn town centre – see Map 1 for an outline of the AQMA. Following monitoring, modelling and extensive consultation, this AQMA was declared in 2011 by issuing **The West Lothian Council (Broxburn) Air Quality Management Area Order 2011** (see Ref. 10). The AQMA was declared for Nitrogen Dioxide (NO<sub>2</sub>) and Particulate Matter (PM<sub>10</sub>).

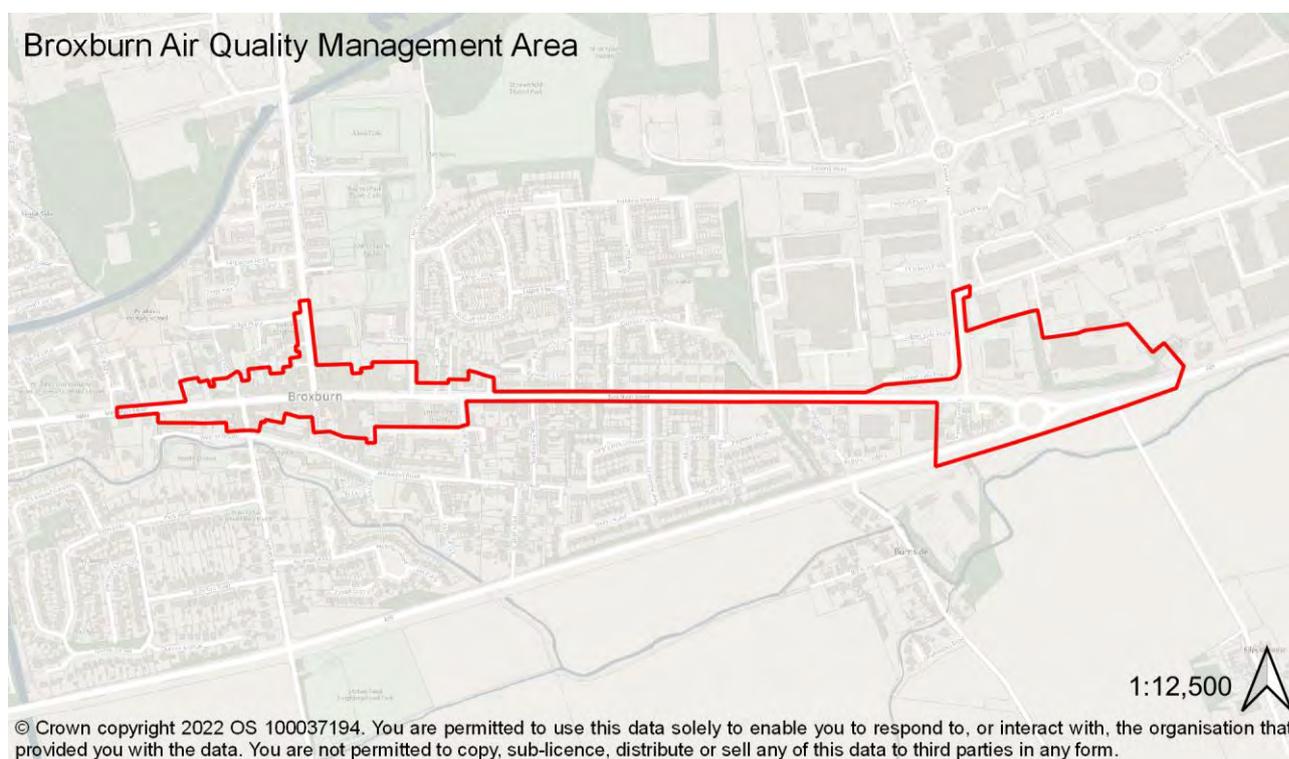
Following completion of the most recent annual progress report (see Ref. 6), and a review of historic monitoring data over previous years, it was noted that the air quality objectives (see Table 1) for both NO<sub>2</sub> and PM<sub>10</sub> have been met within the Broxburn AQMA for several consecutive years as highlighted in Figures 1 and 2.

As such, West Lothian Council propose to revoke the Broxburn AQMA Order 2011 for both NO<sub>2</sub> and PM<sub>10</sub>. This report brings together all the relevant monitoring information to support the revocation.

**Table 1 – Summary of Air Quality Objectives for NO<sub>2</sub> and PM<sub>10</sub> in Scotland**

Pollutant	Air Quality Objective Concentration	Air Quality Objective Measured as	Date to be Achieved by
Nitrogen dioxide (NO <sub>2</sub> )	200 µg/m <sup>3</sup> not to be exceeded more than 18 times a year	1-hour mean	31.12.2005
Nitrogen dioxide (NO <sub>2</sub> )	40 µg/m <sup>3</sup>	Annual mean	31.12.2005
Particulate Matter (PM <sub>10</sub> )	50 µg/m <sup>3</sup> , not to be exceeded more than 7 times a year	24-hour mean	31.12.2010
Particulate Matter (PM <sub>10</sub> )	18 µg/m <sup>3</sup>	Annual mean	31.12.2010
Particulate Matter (PM <sub>2.5</sub> )	10 µg/m <sup>3</sup>	Annual mean	31.12.2021

**Map 1 – Broxburn Air Quality Management Area**



## 2. Monitoring Equipment in Broxburn

The following monitoring equipment is currently installed at our Broxburn automatic air quality monitoring site;

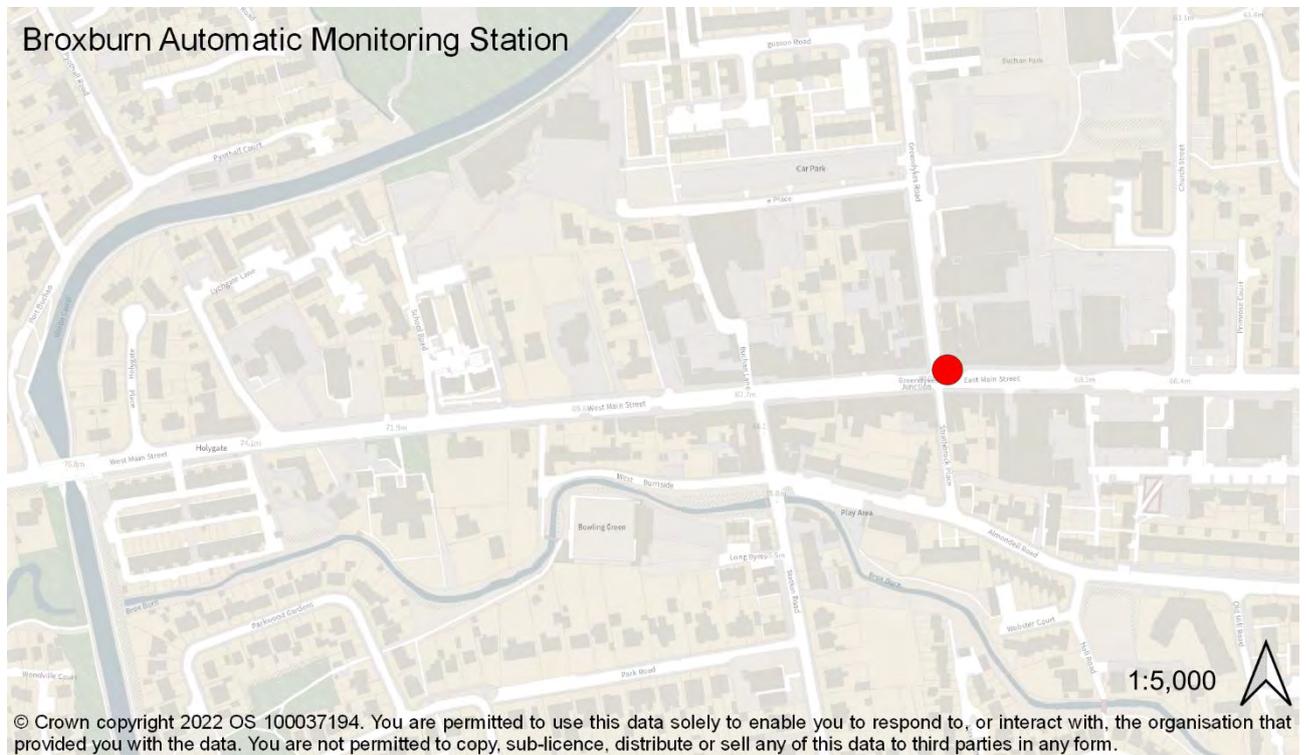
**Table 2 – Broxburn Air Quality Station - Automatic Monitoring Equipment (Current and Historical)**

Site ID	Site Type	Grid Ref	Pollutants Measured	Equipment	Distance to relative exposure (m)	Distance to kerb of nearest road (m)	Inlet height (m)	Date of Installation
CM2 Broxburn CNC Roadside	Roadside	308314, 672231	NO <sub>2</sub>	ET Chemiluminescent NOx analyser	3.5	2.2	2.36	7.9.21
CM2 Broxburn CNC Roadside	Roadside	308314, 672231	PM <sub>10</sub> , PM <sub>2.5</sub>	PALAS FIDAS 200	3.5	2.2	2.36	13.9.17*
CM2 Broxburn CNC Roadside	Roadside	308314, 672231	NO <sub>2</sub>	Thermo 42(i) NOx analyser	3.5	2.2	2.36	Installed between 2010 & 6.9.21
CM2 Broxburn CNC Roadside	Roadside	308314, 672231	PM <sub>10</sub>	TEOM FDMS	3.5	2.2	2.36	Installed between 2010 & 12.9.17

\* A hot spare PALAS FIDAS was installed on 8.7.22 due to a fault with the Councils own FIDAS monitor

There are also 3 diffusion tubes co-located at the automatic monitoring site. The location of the Broxburn automatic monitoring station is shown in Map 2 below;

**Map 2 – Location of Broxburn Automatic Monitoring Station**



### 3. Air Quality Management Area – NO<sub>2</sub> (annual mean objective)

The Council's Detailed Assessment of NO<sub>2</sub> in Broxburn (see Ref. 9), completed in 2011, found exceedances of the Air Quality Objective at the continuous monitoring site, and also at one of the diffusion tube monitoring sites within Broxburn. NO<sub>2</sub> monitoring results from 2010 are shown in Table 3 below;

**Table 3 – NO<sub>2</sub> monitoring results 2010**

Site	Site Type	Data Capture (%)	Annual Mean (µgm <sup>-3</sup> )
East main Street (Automatic Monitor)	R	99.7	46
Diffusion Tube at Automatic Monitor	R	58%	42.4*
R = Roadside site (1-5m from the kerb)			
* = Period adjusted mean as diffusion tubes were not present for whole year			

Annual Mean NO<sub>2</sub> values for the year were then modelled for the Broxburn study area and the findings compared to the results of NO<sub>2</sub> monitoring. The modelling exercise found that NO<sub>2</sub> concentrations at various residential receptors within the study area, had been estimated to exceed the annual mean objective of 40 µgm<sup>-3</sup> for the 2010 calendar year. As such, West Lothian Council declared an AQMA for NO<sub>2</sub> in the Broxburn study area.

#### 3.1 More Recent NO<sub>2</sub> monitoring results

Over a number of years, within the Councils Annual Progress report, it has been noted that NO<sub>2</sub> levels are consistently below the Air Quality Objective annual mean level of 40 µgm<sup>-3</sup> at both at the automatic monitoring site and diffusion tube sites within Broxburn. The results of a number of years of monitoring are shown in Table 4 below;

**Table 4 – NO<sub>2</sub> monitoring results since 2010 in Broxburn (annual mean µgm<sup>-3</sup>)**

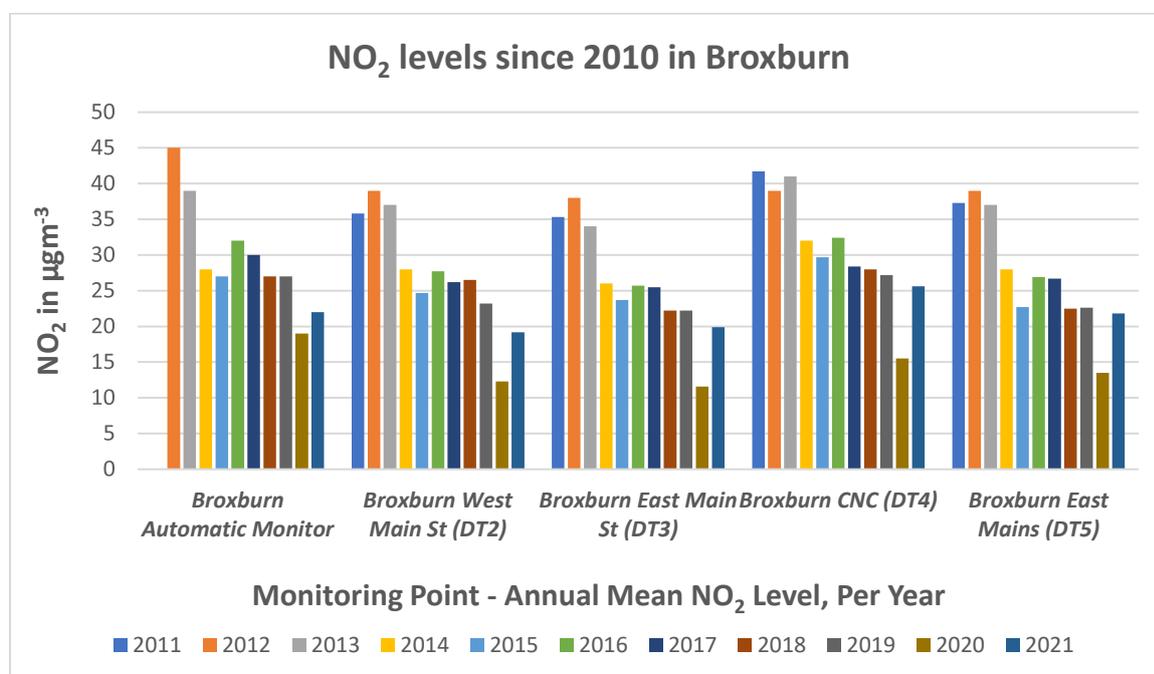
Site	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Broxburn Automatic Monitor	<b>43</b>	<b>45</b>	39	28	27	32	30	27	27	19	22
Broxburn West Main St (DT2)	35.8 34.4*	39	37	28	24.7	27.7	26.2	26.5	23.2	12.3	19.2
Broxburn East Main St (DT3)	35.3 36*	38	34	26	23.7	25.7	25.5	22.2	22.2	11.6	19.9
Broxburn CNC (DT4)	<b>41.7</b> <b>41.6*</b>	39	<b>41</b>	32	29.7	32.4	28.4	28	27.2	15.5	25.6

Broxburn East Mains (DT5)	37.3	39	37	28	22.7	26.9	26.7	22.5	22.6	13.5	21.8
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Numbers in bold indicate an exceedance of the Air Quality Objective ( $40\mu\text{g}\text{m}^{-3}$ )  
 \* = 2 results as the 2 tubes were placed at the same location

It is evident that measured levels have been significantly below the Annual Air Quality Objective for many years. Measured results for 2020 are lower due to the Coronavirus pandemic, however, several years of data before this have remained below the objective level. As the pandemic eased and traffic levels increased in 2021, it is notable that the measured NO<sub>2</sub> level, also returned to its pre-pandemic level.

**Figure 1 – NO<sub>2</sub> levels Since 2010 in Broxburn**



**4. Air Quality Management Area – PM<sub>10</sub> (Annual Mean)**

Following exceedances of the air quality objective noted in the 2010 annual progress report (see Table 5), the 2011 detailed assessment considered whether an air quality management area should be declared for PM<sub>10</sub> as well as NO<sub>2</sub>. The detailed assessment utilised modelling to determine PM<sub>10</sub> levels at different receptors throughout the Broxburn study area. The modelling exercise found that PM<sub>10</sub> concentrations at various residential receptors within the study area, had been estimated to exceed the annual mean objective of  $18\mu\text{g}\text{m}^{-3}$  for the 2010 calendar year. As such, West Lothian Council declared an AQMA for PM<sub>10</sub> in the Broxburn study area in 2011.

**Table 5 – PM<sub>10</sub> monitoring results 2010**

Site	Site Type	Data Capture (%)	Annual Mean (µgm <sup>-3</sup> )
East Main Street (Automatic Monitor)	R	95	21
R = Roadside site (1-5m from the kerb)			

**4.1 More recent PM<sub>10</sub> monitoring results**

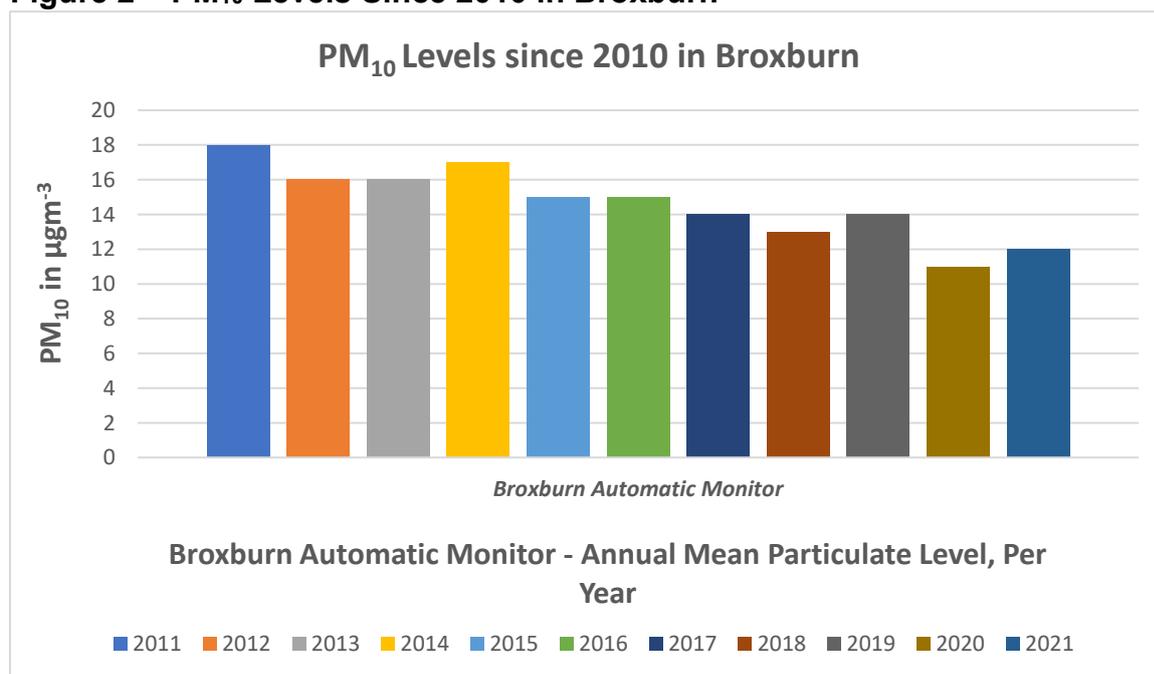
Over a number of years, within the Councils Annual Progress reports, it has been noted that PM<sub>10</sub> levels are consistently below the Air Quality Objective annual mean level of 18 µgm<sup>-3</sup> at the Broxburn automatic monitoring site. The results of a number of years of monitoring are shown in Table 6 below;

**Table 6 – PM<sub>10</sub> monitoring results since 2010 (annual mean µgm<sup>-3</sup>)**

Site	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Broxburn Automatic Monitor	18	16	16	17	15	15	14	13	14	11	12
Numbers in bold indicate an exceedance of the Air Quality Objective (18µgm <sup>-3</sup> )											

It is clear that measured levels over a number of recent years have been significantly below the Annual Air Quality Objective. Measured results for 2020 are lower due to the Coronavirus pandemic, As the pandemic eased and traffic levels increased in 2021, it is notable that the measured PM<sub>10</sub> also increased to pre-pandemic levels.

**Figure 2 – PM<sub>10</sub> Levels Since 2010 in Broxburn**



## 5. Air Quality Action Plan 2017

During 2017, an air quality action plan was developed for Broxburn (see Ref. 8). The development of an action plan is a statutory requirement, following the declaration of an AQMA. A steering group across West Lothian Council was established and a number of strategic measures were outlined. These measures were also the subject of a public consultation exercise. Many of the measures set out in the action plan have been actioned since 2017. For example;

- Supplementary guidance on air quality and planning has been produced (see Ref. 12);
- The ECO stars scheme has expanded in its membership across West Lothian;
- Electric vehicle charging points have continued to be installed, both by the Council and via planning conditions for residential and commercial developments;
- Developers have been encouraged to include active travel measures into their plans – included in air quality and planning guidance and general planning condition requirements;
- Environmental Health have continued to deal with environmental nuisance (including dust and smoke) complaints across the Councils area

In addition to this, much of the previously planned residential development in and around Broxburn has not progressed and is unlikely to do so.

## 6. Detailed Assessment 2022

In considering whether the revocation of the Broxburn AQMA is appropriate, a detailed assessment of air quality in Broxburn was also undertaken and subsequently published in October 2022 (see Ref. 11). The detailed assessment considered;

- A review of measured NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations within the AQMA over recent years;
- Detailed dispersion modelling of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations for a baseline year of 2017;
- A sensitivity analysis of potential fluctuations in annual mean pollutant concentrations attributable to meteorological conditions;
- Detailed dispersion modelling of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations in a future year of 2025 reflecting anticipated changes in traffic levels associated with projected growth or planned local developments.

The detailed assessment concluded that West Lothian Council may wish to:

1. Consider revocation of the Broxburn Air Quality Management Area for exceedances of the NO<sub>2</sub> annual mean objective;
2. Delay revoking the AQMA for exceedances of the PM<sub>10</sub> annual mean objective until Scottish Government guidance regarding AQMA revocation and the use of FIDAS analysers for particulate measurements is updated.

## 7. Conclusion

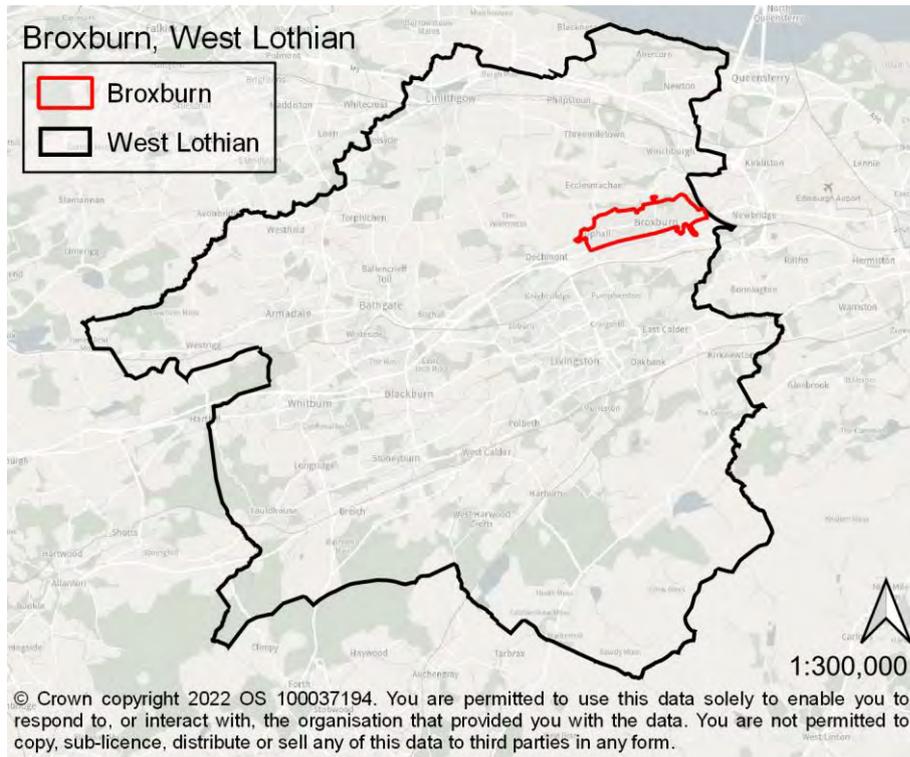
The Broxburn AQMA was declared on the 29<sup>th</sup> March 2011 after monitoring and modelling found exceedances of NO<sub>2</sub> and PM<sub>10</sub> air quality objective levels, at various residential receptors in the Broxburn study area. Since the AQMA was declared, measured concentrations of both NO<sub>2</sub> and PM<sub>10</sub> have consistently been below the air quality objectives for several consecutive years – (9 years for NO<sub>2</sub> and 10 years for PM<sub>10</sub>).

As stated within the Air Quality in Scotland (LAQM) website in relation to AQMA Revocation: 'Where a local authority feels that it has sufficient evidence to justify the need to amend/revoke an AQMA at any time, it should submit that evidence to the Scottish Government for appraisal. For those authorities that have continuous monitoring, the Scottish Government would expect them to keep the AQMA under regular review, and to take action where necessary, rather than await the next round of reviews and assessments.'

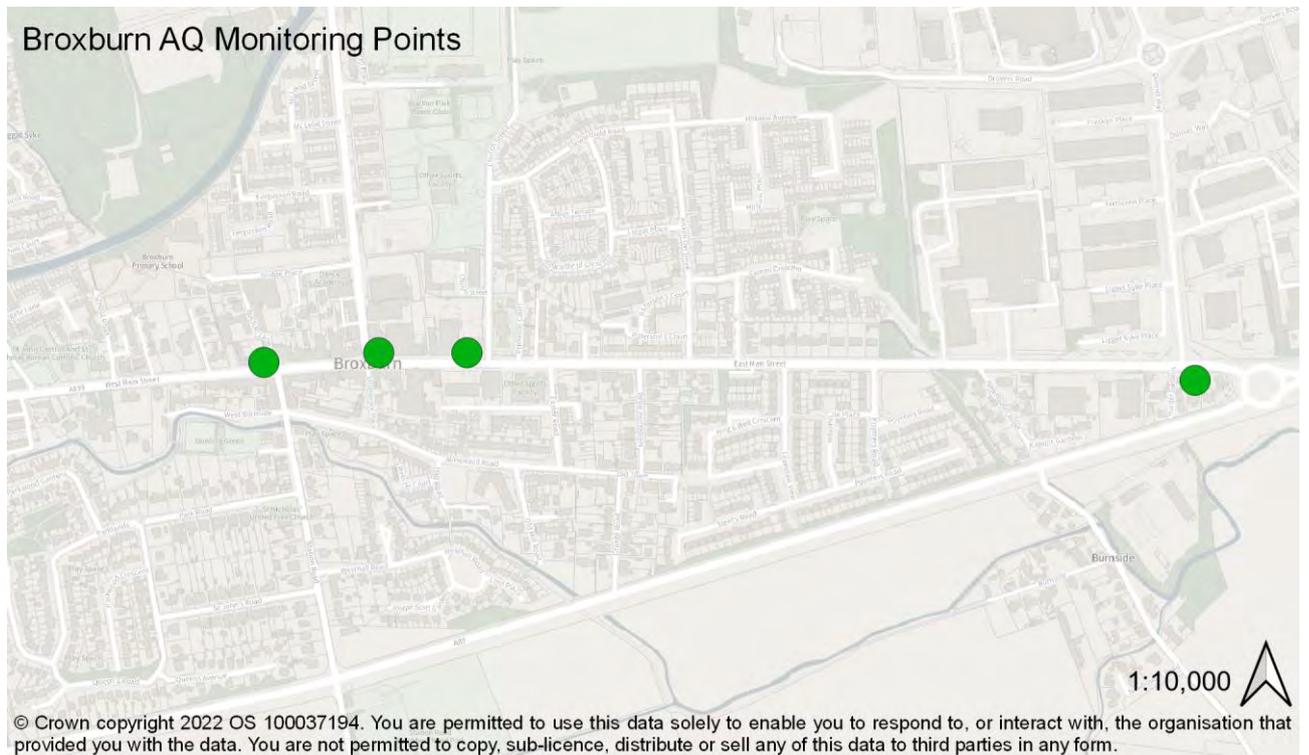
In considering all the information available from several years of monitoring and from modelling carried out in the 2022 detailed assessment, West Lothian Council intend to revoke the AQMA for both NO<sub>2</sub> and PM<sub>10</sub>. The Council will, however, continue to monitor NO<sub>2</sub> and PM<sub>10</sub> within Broxburn. If measured levels remain below the objective levels, West Lothian Council may utilise the monitoring equipment at other potential areas of poor air quality within the Council area. West Lothian Council is also aware of the ongoing pilot research by RICARDO, to investigate particulate matter monitoring techniques in Scotland. It is the Council's intention to continue with monitoring at Broxburn until such time as this research is complete. The Council will note any requirements and/or recommendations of this research once it is complete, and take any action deemed appropriate with regard to particulate matter monitoring.

West Lothian Council is therefore requesting the permission of the Scottish Government and Scottish Environment Protection Agency (SEPA) to revoke the Broxburn AQMA. Pending approval, West Lothian Council will notify all other statutory consultees and publicise the revocation through local / social media, so that the public, local businesses and other stakeholders are fully aware of the revocation proposal.

**Map 3 – Map of Broxburn within West Lothian**



**Map 4 - Map of AQ monitoring points in Broxburn**



## 10. References

1. The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (Volume 1, July 2007, Department for Environment, Food and Rural Affairs in partnership with the Scottish Executive, Welsh Assembly Government and Department of the Environment Northern Ireland)
2. The Air Quality (Scotland) Regulations 2000 (31st March 2000, The Scottish Government)
3. The Air Quality (Scotland) Amendment Regulations 2002 (11th June 2002, The Scottish Government)
4. The Air Quality (Scotland) Amendment Regulations 2016 (1st April 2016, The Scottish Government)
5. The Scottish Air Quality Database QA/QC Process (28th March 2012, AEA Ricardo / The Scottish Government)
6. Annual Progress Report 2022 - (June 2022 West Lothian Council)
7. Pilot Research Study to Investigate Particulate Matter Monitoring Techniques in Scotland – RICARDO – 19.8.21  
  
<https://www.scottishairquality.scot/technical-reports/pilot-research-study-investigate-particulate-matter-monitoring-techniques>
8. Broxburn Air Quality Action Plan – RICARDO – 31.1.17  
  
[https://www.westlothian.gov.uk/media/17039/2017-Broxburn-Air-Quality-Action-Plan-Approved/pdf/2017\\_Broxburn\\_Air\\_Quality\\_Action\\_Plan\\_final\\_for\\_consultation.pdf?m=638012653202700000](https://www.westlothian.gov.uk/media/17039/2017-Broxburn-Air-Quality-Action-Plan-Approved/pdf/2017_Broxburn_Air_Quality_Action_Plan_final_for_consultation.pdf?m=638012653202700000)
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11. Broxburn Detailed Assessment 2022  
  
[https://www.westlothian.gov.uk/media/55357/2022-Broxburn-Detailed-Assessment-of-Air-Quality/pdf/2022\\_Broxburn\\_Detailed\\_Assessment\\_of\\_Air\\_Quality.pdf?m=638035871374600000](https://www.westlothian.gov.uk/media/55357/2022-Broxburn-Detailed-Assessment-of-Air-Quality/pdf/2022_Broxburn_Detailed_Assessment_of_Air_Quality.pdf?m=638035871374600000)
12. West Lothian Council - Air Quality Planning Guidance

[https://www.westlothian.gov.uk/media/33857/PG-Planning-Guidance-Air-Quality-Adopted-April-2019/pdf/Air\\_Quality\\_-\\_Planning\\_Guidance.pdf?m=637074440000830000](https://www.westlothian.gov.uk/media/33857/PG-Planning-Guidance-Air-Quality-Adopted-April-2019/pdf/Air_Quality_-_Planning_Guidance.pdf?m=637074440000830000)



DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **REVIEW OF THE PLANNING ENFORCEMENT CHARTER**

#### **REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION**

##### **A. PURPOSE OF REPORT**

The purpose of this report is to seek Council Executive's approval of the proposed revisions to the Planning Enforcement Charter. The charter sets out the duties and responsibilities of the planning enforcement service within the Development Management section of Planning Services.

##### **B. RECOMMENDATION**

It is recommended that Council Executive:

1. notes that enforcement is a discretionary power and that formal enforcement action should be seen as a last resort in terms of dealing with unauthorised development and activities;
2. notes the detail of the proposed Planning Enforcement Charter (Appendix 1);
3. agrees the proposed responses to the comments received during consultation on the revised charter (Appendix 2); and
4. approves the content of the reviewed Enforcement Charter.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	<p>Enforcement is a discretionary activity delivered within the framework of the Planning Act and related regulations and guidance.</p> <p>The charter does not raise any Strategic Environmental Assessment (SEA), equality or health risk issues, although these might be considerations in individual enforcement cases.</p>
<b>III Implications for Scheme of Delegations to Officers</b>	There are no implications for the Scheme of Delegation to officers.
<b>IV Impact on performance and performance Indicators</b>	Measures about the speed and effectiveness of enforcement activity are part of the annual Planning Performance Framework reporting and KPI monitoring.

<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	<p><b>Outcome 3</b> - Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.</p> <p><b>Outcome 4</b> – We live in resilient, safe and cohesive communities</p> <p><b>Outcome 8</b> – We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	No specific financial implications for the council are identified.
<b>VII</b>	<b>Consideration at PDSP</b>	The draft Enforcement Charter was considered at the Economy, Community Empowerment and Wealth Building PDSP on 8 November 2022. The panel supported the terms of the proposed charter.
<b>VIII</b>	<b>Other consultations</b>	None.

## **D. TERMS OF REPORT**

### **D1 Background**

Planning legislation gives local authorities enforcement powers to deal with a range of unauthorised land use activities. These generally involve the failure to obtain planning consent in advance of carrying out works or changes of use on land or to property, or failure to comply with a condition of a planning consent. The powers also allow the council to respond issues of loss of amenity resulting from with land or property which is in an untidy or derelict state.

### **D2 The Enforcement Charter**

The council is required, under section 158A of the Town and Country Planning (Scotland) Act 1997, to produce and distribute an Enforcement Charter, which sets out:

- a statement of the authority's policies for taking enforcement action;
- an account of how members of the public are to bring any suspected breach of planning control to the attention of the council;
- how any complaint to the authority over a suspected breach is to be made; and
- the council's procedures for dealing with any such complaint.

The council's charter was previously reviewed in 2021. The Act requires the charter to be updated and republished at the most biennially and this review discharges that requirement.

There have been no significant changes to the legislative framework within which the enforcement service operates since the last review of the charter and no significant changes are proposed to the charter through this review with the changes being:

- Page 4 Non Planning Breaches Bullet 1  
 “Property ~~Services~~” name updated to “Property Management & Development”.
- Page 5 paragraph 1  
 “~~the carrying out development without having first established the requirement for, and then having obtained~~ the necessary planning permission or approvals”  
 has been amended to  
 “the carrying out of development without first obtaining the necessary planning permission or approvals for that development”.
- Page 7 paragraph 2  
 “the Planning Enforcement Team undertake to visit the site of all alleged breaches of planning control within 10 working days of receiving a complaint”  
 has been amended to  
 “the Planning Enforcement Team undertake to either visit the site of all alleged breaches of planning control within 10 working days of receiving a complaint or to request additional photographic or other evidence to allow an assessment of the case”
- Page 7 paragraph 3  
 “An investigation begins with an officer visiting the site to gather information, before a decision is made on how to proceed.”  
 has been amended to  
 “An investigation begins with an officer visiting the site to gather information or an officer requesting additional information from the complainant or developer, before a decision is made on how to proceed”

The charter continues to set out the relevant matters which the council can take enforcement action against, those matters which cannot be addressed under the legislation, and the circumstances under which the enforcement service will act. It sets out the enforcement process and indicates the timescales for responses to initial complaints.

The charter continues to set out the relevant matters which the council can take enforcement action against, those matters which cannot be addressed under the legislation, and the circumstances under which the enforcement service will act. It sets out the enforcement process and indicates the timescales for responses to initial complaints

During 2021/22, the council received around 425 enforcement related complaints and the reviewed charter, in line with government guidance, sets out the nature of those complaints that will be investigated and those which will not be pursued, having regard to the wider public interest and the impact of a breach of planning control on residential and visual amenity.

Subject to council executive approval, the reviewed Enforcement Charter will be placed on the council's website and a copy will be sent to all elected members, community councils and amenity bodies within West Lothian.

### **D3 Consultation Arrangements**

Consultation on the revised charter was held for six weeks, the reviewed Enforcement Charter was published on the council's web site and sent to all community councils by email. An invitation to comment was issued through social media and to all community councils.

7 responses were received to the consultation all from the public. The comments received and the proposed response to them are set out in Appendix 2. No significant changes were required as a result of the comments received during consultation.

### **E. CONCLUSION**

The reviewed Enforcement Charter, which contains no significant changes, sets out a clear route for reporting suspected breaches of planning control and provides an update on service contact details. The charter sets out the actions which can be taken in an attempt to resolve matters in advance of progressing enforcement action. It also sets out the public interest tests that will be applied when deciding if action is warranted.

### **F. BACKGROUND REFERENCES**

Town and Country Planning (Scotland) Act 1997

[http://www.legislation.gov.uk/ukpga/1997/8/pdfs/ukpga\\_19970008\\_en.pdf](http://www.legislation.gov.uk/ukpga/1997/8/pdfs/ukpga_19970008_en.pdf)

The Planning (Scotland) Act 2019

<https://www.legislation.gov.uk/asp/2019/13/section/44/enacted>

Appendices/Attachments: Two

Appendix 1: Enforcement Charter 2023

Appendix 2: Consultation Responses

Contact Person: Jim McGinley, Planning Services Manager, 01506 282395

Email: [jim.mcginley@westlothian.gov.uk](mailto:jim.mcginley@westlothian.gov.uk)

**Craig McCorrison**  
**Head of Planning, Economic Development & Regeneration**

21 March 2023

DATA LABEL: PUBLIC

# PLANNING ENFORCEMENT CHARTER



2023

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## INTRODUCTION

Planning permission is required for all development that takes place in Scotland, but some of it is 'permitted development' and, therefore, does not require a planning application. Sometimes, however, landowners, developers or householders carry out development which does requires planning permission without submitting an application or having their application approved, or fail to keep to the terms of a permission which has been granted.

Councils, as Planning Authorities, have powers to enforce planning controls in such cases, if they consider it is in the public interest to do so. Councils monitor developments to ensure planning controls are being followed but there is also a role for the public in alerting the council to any problems they become aware of.

Enforcement is one of the most complex parts of the planning system and can affect many members of the community. Therefore, it is important that the council's adopted procedures are fair, reasonable, and consistent, and that interested parties are fully aware of the procedures involved in the process, the powers available to the council, and the limits of those powers.

The aim and objectives of the Planning Enforcement Charter are, therefore, as follows:

- To provide a framework for the investigation of alleged breaches of planning control.
- To set out the range of action that can be taken where it is considered appropriate to do so.
- To monitor proactively the implementation of planning permissions.

The council has statutory powers to investigate breaches of planning control and the conditions attached to planning consents, and to take formal action where a satisfactory outcome is not achieved by negotiation. However, enforcement is a discretionary power which means that, even where there is a breach of planning control, the council has to consider if it is in the public interest to take enforcement action. The council is not obliged to take any particular action on a specific breach of planning control and, indeed, can decide that no action is necessary. There is also a right of appeal and the council should have regard to the likelihood of a case being sustained at appeal before it commences such action.

We hope you will find this charter useful. Please let us know if you think it is unclear or have any suggestions about how we could improve the service further.

# WHAT IS A BREACH OF PLANNING CONTROL?

## PLANNING BREACHES

The majority of planning enforcement investigations involves one of the following alleged breaches:

- Building work or engineering operations carried out without planning permission;
- Unauthorised change of use of land or buildings;
- Development which has not been carried out in accordance with an approved planning permission;
- Failure to comply with a condition or legal agreement attached to a planning permission; or
- Any contravention of permitted development rights, which are set out in the [General Permitted Development Order](#).
- Demolition taking place in conservation areas where permission is required;
- Works carried out to a listed building which affect its historic character or setting, without listed building consent being granted;
- Removal of, or works carried out, to protected trees without consent being granted or proper notification given; and
- The unauthorised display of advertisements. (Please note that the wording and images on an advertisement are not covered by planning control, but by the Advertising Standards Authority, Mid City Place, 71 High Holborn, London WC 1V 6QT. Complaints should be sent to [enquiries@asa.org.uk](mailto:enquiries@asa.org.uk) or online at [www.asa.org.uk](http://www.asa.org.uk))

## NON PLANNING BREACHES

The council regularly receives correspondence about matters which are not breaches of planning control. While the Planning Enforcement Team may not be able to deal with such matters there may be other legislative controls open to a complainant. The most common examples are:

- Neighbour nuisance, boundary and land ownership disputes. These are civil matters rather than planning matters. Further advice can be obtained from a solicitor, or, if the property is owned by the council, [Property Management & Development](#) should be contacted.
- Unauthorised development on the highway, footway or verge that is covered by highway legislation is the responsibility of the council's [Roads and Transportation Service](#).
- [Dangerous structures](#) are investigated by [Building Standards service](#).
- Anti-social behaviour including noise and smell are the remit of the council's [Environmental Health service](#).

These services can also be contacted via the Council's Customer Contact Service on 01506 280000.

If we receive a complaint which involves another council service we will pass it to the relevant service and we will inform you who we have contacted on the matter. If it involves an external agency - an agency out with the council - we will advise you who should be contacted.

## PRINCIPLES OF GOOD ENFORCEMENT

The council does not condone the carrying out of development without first obtaining the necessary planning permission or approvals for that development. That said, the main purpose of the Planning Enforcement Team is not to punish mistakes but to remedy the undesirable effects of unauthorised development, particularly on the amenity of neighbours, to bring unauthorised activities under control as soon as practicable and to maintain public confidence in the credibility of the planning system. It is important to be aware that planning enforcement is a discretionary power and that it is for the council to take a view on whether or not to exercise that power. In making that decision the council will carefully consider whether the degree of harm the unauthorised development is causing, or is likely to cause, warrants its intervention.

'Harm' can be defined in many different ways but is generally considered to arise through a combination of factors, including;

- Adverse impact on visual amenity due to poor design or inappropriate materials.
- Loss of privacy or overshadowing and loss of natural light.
- Inappropriate development that is harmful to the landscape or the setting of a heritage asset.
- Untidy land and run down or derelict buildings that present a very poor-quality environment and/or prejudice community safety.
- Failure to comply with a condition of a planning permission leading to an adverse impact on amenity.
- Danger and disturbance due to significantly increased traffic flows.
- Loss of protected trees.
- Loss or damage to listed buildings and demolition of buildings in a conservation area.
- Disruption or nuisance arising from the construction or operation of the development.

Harm, for the purposes of planning, does not however include:

- Breaches of title deeds or restrictive covenants.
- Private disputes.
- Competition between businesses.
- Ownership disputes, loss of an individual's view or trespass onto their land.
- Damage to property.
- Reduction in value of land or property.
- Loss of a view.

The council follows these guiding principles in relation to planning enforcement:

- Consistency:* To ensure that similar enforcement activities are dealt with in the same manner.
- Fairness:* To ensure equitable and fair enforcement.
- Proportionality:* To ensure that enforcement action relates directly to the degree of breach of planning control.
- Clarity:* To ensure that any enforcement action taken by the council is easily understood by citizens, organisations and businesses.
- Equality:* To ensure that any decision is not influenced by the ethnic origin, gender, age, religious or political beliefs or sexual orientation of the offender or interested parties.

Provided that there is the prospect of an appropriate resolution being achieved, and in a timely manner, the council will first seek to negotiate compliance before pursuing formal enforcement action in all but the most serious cases. Negotiations aim to achieve one or more of the following outcomes:

- To have the developer undertake work to comply with the planning permission granted.
- To have the owner / developer apply for retrospective planning permission for the works undertaken, or a variation to the works that are more likely to secure permission.
- To remove an unauthorised development.
- To cease an unauthorised use.
- To remove disruption or nuisance arising from the construction or operation of the development.

However, negotiations will not be allowed to impede or delay whatever formal enforcement action may be required to make the development acceptable in planning terms, or to compel it to stop.

**In considering whether to take enforcement action, the decisive issue for the council will be whether the breach of planning control would unacceptably affect amenity. In other words, the council will need to be satisfied that the breach of planning control is causing harm, and that enforcement action to remedy that harm would be in the public interest, and ultimately defensible if the action is appealed or otherwise challenged. The council will not take enforcement action solely to regularise an otherwise acceptable development which is causing no demonstrable harm.**

## **HOW WE INVESTIGATE POSSIBLE BREACHES OF PLANNING CONTROL**

### ***Registration***

**Each new case is recorded on our database and given a unique reference number within three working days. As part of this process the priority will be assessed and a case officer will be allocated. An acknowledgement email or letter will be sent to the complainer.**

We encourage people who contact us to give full contact details, as this allows us to provide updates, or to contact them for further information if necessary.

In accordance with the Environmental Information (Scotland) Regulations 2004 we will treat the identity of complainants in confidence. The council will only release information regarding the identity of a complainant where it is in the public interest to do so, as a result of a ruling by the Scottish Information Commissioner or directed to do so by a court of law.

### ***Priorities***

The resources available to respond to reports of alleged breaches of planning control are finite and the Planning Enforcement Team must, therefore, ensure that it makes the most

effective use of these by prioritising what it does according to the seriousness and the degree of harm being caused.

Notwithstanding the above, the Planning Enforcement Team undertake to either visit the site of all alleged breaches of planning control within 10 working days of receiving a complaint or to request additional photographic or other evidence to allow an assessment of the case. If it is of a particularly serious nature a visit will be made by an officer on the same day wherever possible.

### ***Investigation***

An investigation begins with an officer visiting the site to gather information or an officer requesting additional information from the complainant or developer, before a decision is made on how to proceed. The complainer will be informed of the initial site visit findings and the action proposed or taken.

The service standards relating to these steps, including timescales can be found in Appendix 1. If the council cannot meet this timescale, the complainer will be contacted within the given timescale, informing of the reason(s) for the delay and the likely timescale for a response.

The length of time required to resolve a case or take action can be affected by a number of factors. Progress can be delayed because of the need to gather further evidence, to allow negotiations to take place or for formal procedures to be concluded. Similarly, an application to regularise the breach of control or an appeal against a decision of the planning authority can also delay resolution of the case.

The council recognises that delays can be a source of considerable frustration to those submitting information, particularly if they consider their amenity is affected. Consequently, interested parties will be kept informed of significant stages in the progress of a case and contact details of the officer handling the case will be provided. You may wish to contact the case officer directly for a more regular update.

### ***Closing an enforcement complaint***

Complainants will be notified of the outcome of a case within 10 working days of the case being closed, with an account of the outcome provided.

## **WHAT HAPPENS WHEN A BREACH IS CONFIRMED?**

### **INITIAL ACTION**

#### ***Voluntary Compliance through Negotiation***

Where it is considered that the breach of planning control is unacceptable, the council will initially attempt to negotiate a solution without recourse to formal enforcement action, unless the breach is causing irreparable harm. Negotiations may involve the reduction or cessation of an unauthorised use or activity, or the modification or removal of unauthorised development.

#### ***Retrospective Planning Application***

Where a breach of planning control has occurred and any harm being caused might be removed or alleviated by the imposition of conditions on a planning permission, a

retrospective planning application will be sought. If a retrospective application is not submitted and registered within one calendar month of a written request to do so, the council will consider taking formal enforcement action.

### ***No Further Action***

Scottish Government Circular 10/2009: Planning Enforcement explains that on conclusion of the initial investigation a council may decide that there has been no breach of planning control or that there is insufficient evidence to pursue the matter further. In situations where there has been a breach, the council may nevertheless come to the view that it is of such a minor nature or so insignificant that it would not be in the wider public interest to take formal action. Generally, the council will not take action against a breach of planning control which does not cause demonstrable harm.

## **FORMAL ACTION**

### ***Enforcement Notice***

If development has been carried out without planning permission an Enforcement Notice can be served on all parties with an interest in the land requiring remedial works to be carried out to deal with any harm caused by the breach. Failure to comply with the terms of an Enforcement Notice within the time specified is an offence, and may lead to the imposition of a fine in the Sheriff Court.

There is a right of appeal to the Scottish Government's Planning & Environmental Appeals Division (DPEA) against an enforcement notice; if an appeal is lodged the notice will be suspended until the appeal has been determined, and will be actioned if the notice is upheld.

### ***Temporary Stop Notice***

These can be issued if the council considers that an unauthorised activity is causing such immediate and serious harm that it should cease immediately. The notice must be displayed on the land to which it relates and ceases to have effect after 28 days. It is a criminal offence to fail to comply with its requirements.

### ***Stop Notice***

Where a breach of planning control consists of an activity considered to be causing serious harm, a Stop Notice can be served, in conjunction with an enforcement notice. There is no right of appeal against a Stop Notice, and it is a criminal offence to fail to comply with its requirements.

### ***Breach of Condition Notice***

If planning permission has been granted subject to conditions and these have not been complied with, a Breach of Condition Notice can be served on the person(s) responsible for carrying out the development, or on the owner of the land, requiring compliance with the condition. There is no right of appeal against a Breach of Condition Notice and it is a criminal offence to fail to comply with its requirements.

### ***Notice requiring an application for planning permission***

These can be issued on a landowner, requiring the submission of a planning application to rectify development which has been carried out without permission. Whilst there are no

penalty provisions for failing to comply with this notice it constitutes formal enforcement action under the planning act and leaves it open to the council to pursue further action in terms of an enforcement notice. The notice will also appear on any property enquiry should the owner seek to sell the property.

### ***Notice requiring information as to interests in land***

These can be issued on any occupier of land requiring them to confirm in writing their interest in the land along with details of any other party with an interest in land. In addition, it can require information on what the land is being used for, when that use began and the time when any activities being carried out began. It is often used to gather information prior to pursuing enforcement action. It is an offence under Section 272(5) (Town and Country Planning (Scotland) Act 1997) to fail to comply with its requirements.

### ***Planning Contravention Notice***

This can be served on an owner of land, any person carrying out operations on land, or who is using the land for any purpose. The notice requires the recipients to confirm whether the use or activities alleged in the notice are being carried out, when they began and details of those engaged in the use/activities. The notice also seeks information on any planning permission that may exist for the use/activities, or any reason why permission is not required. It is a criminal offence to fail to comply with its requirements.

### ***Amenity Notice***

These can be served on anyone with an interest in land where the condition of the land is considered to have an adverse impact on the amenity of an area. There is a right of appeal to the DPEA.

### ***Listed Building Enforcement Notice***

This is similar to an Enforcement Notice but relates specifically to unauthorised works affecting the character of a listed building. It is a criminal offence to fail to comply with the requirements of a listed building enforcement notice. There is a right of appeal to the DPEA.

### ***Advertisement Enforcement Notice***

This is similar to enforcement notice but relates to unauthorised advertisements. There is a right of appeal to the DPEA.

### ***Advertisement Discontinuance Notice***

Where an advertisement enjoys deemed consent under the advertisement regulations (which means it is exempt from having to apply for advertisement consent) but the council requires its removal, a discontinuance notice may be served. This can be appealed to the DPEA.

### ***Replacement Tree Notice***

Where a tree protected by a Tree Preservation Order (TPO) is removed, damaged, uprooted or destroyed the planning authority can issue a replacement tree notice requiring the owner of the land to plant a replacement tree or trees. A notice can be appealed to the DPEA.

It is a criminal offence to remove, damage, uproot or destroy a tree protected by a TPO and anyone who carries out such actions can be reported to the Procurator Fiscal for prosecution.

### ***Interdict***

The council can apply to the Courts to restrain a breach of planning control and the court may grant an interdict if it is considered appropriate in terms of public interest to prevent the breach.

## **WHAT HAPPENS AFTER A NOTICE IS SERVED?**

The recipients of a notice/order will respond in one of three ways:

- Comply fully with the notice/order – at which point the Planning Enforcement Team will close the case.
- Contest the notice/order by way of an appeal to the Scottish Government's [Planning and Environmental Appeals Division](#).
- Fail to comply, fully or in part, with the notice.

Where a case goes to appeal there can be a significant delay in reaching a resolution. If the appeal against the notice is allowed and/or planning permission is granted this will normally be the end of the matter. If the appeal is dismissed, or no appeal is made, continued failure to comply with the requirements of the notice/order result in the council pursuing a prosecution.

### ***Fixed Penalty Notice***

Where an enforcement or breach of condition notice has not been complied with, the council can issue a fixed penalty notice as an alternative to prosecution. The fixed penalty amounts to £2,000 for each step not complied with in an enforcement notice and £300 for each step not complied with in a breach of condition notice. There is no right of appeal against these notices, although timeous payment prevents the council from reporting the non-compliance with the original notice to the Procurator Fiscal.

### ***Direct Action***

Failure to comply with the requirements of an Enforcement Notice, Breach of Condition Notice or an Amenity Notice may result in the council carrying out works required by that notice. Any costs incurred in carrying out such works can be recovered from the landowner.

### ***Prosecution***

Most breaches of planning control are not a criminal offence. However, non-compliance with the requirements of a formal notice is a criminal offence and on conviction the person served with the notice could be subject to a fine. Where a transgressor has failed to comply with a formal notice the council may report the matter to the Procurator Fiscal, the body responsible for instigating prosecution proceedings.

A prosecution report will normally only be submitted to the Procurator Fiscal regarding a business or individual, where one or more of the following criteria exists:

- Endangering the health, safety or wellbeing of people.
- Deliberately, negligently or persistently breaching legal obligations likely to cause material loss, harm or nuisance to others.
- Deliberately or persistently failing to act on, or comply with, previously issued formal warnings or notices, having been given reasonable opportunity to do so.

- There is a history of similar breaches and/or previous convictions.
- Assault or obstruction of an enforcement officer in the course of their duties.
- It is considered that the defendant will be unlikely to establish any relevant statutory defences.

A prosecution report will only be prepared when the case has passed both the evidential test and the public interest test.

The principles outlined below apply equally to the other types of enforcement action that are available:

#### Evidential Test –

- The enforcement officer must be satisfied that there is enough evidence to provide a ‘realistic prospect of conviction’ against an accused on each charge.
- A ‘realistic prospect of conviction’ is an objective test that means that the Procurator Fiscal, and ultimately the Sheriff, is more likely than not to convict the accused of the charge/s alleged.

#### Public Interest Test –

- The public interest must be considered in each case where there is enough evidence to provide a ‘realistic prospect of conviction’.
- Before submitting a report to the Procurator Fiscal consideration must be given to balance the factors for and against any proposed report carefully and fairly.
- Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the accused.
- Some factors may increase the need to submit a report to the Procurator Fiscal but others may suggest that another course of action would be more appropriate.

### ***The decision to prosecute***

The decision whether or not to prosecute is one entirely for the Procurator Fiscal (PF). Before proceeding with a case, the PF must be satisfied by way of corroborated evidence

- that the case is within the jurisdiction of the court;
- that an offence has been committed;
- that the alleged offender committed that offence and is therefore liable to prosecution; and
- that there is sufficient evidence to prove beyond reasonable doubt both that the offence was committed, and by whom.

The criteria that the PF will consider are explained in the Crown Office and Procurator Fiscal Service Prosecution Code. This sets out the criteria for decision making and the range of options available to prosecutors dealing with reports of crime. When reporting agencies send the PF reports of crime, the PF will decide whether to begin criminal proceedings or whether to take alternative action. Such decisions must reflect the values of the department namely:

- impartiality;
- thoroughness;
- integrity;
- sensitivity;
- co-operation;
- professionalism

If any one of these criteria is not met, the case must be marked "no proceedings". The PF may, however, request further information or clarification before reaching a decision. If the PF is satisfied that all four have been met, he or she has a number of options open to them and discretion is very wide. The PF may choose to prosecute and the choice of court is one entirely for the PF.

Even if there is sufficient evidence to justify proceeding the PF can still decide that it is not in the public interest to prosecute

## IMMUNITY FROM ENFORCEMENT ACTION

### Time Limits

- For building, engineering, mining or other operations unauthorised development becomes immune from enforcement action four years after the operations are substantially completed.
- For the change of use of a building, or part of a building, to use as a single dwellinghouse, development becomes immune from enforcement action four years after the change of use first occurred.
- For all other changes of use and breaches of conditions, development becomes immune from enforcement action ten years from the date the breach of planning control first commenced.

These time limits do not apply where the council considers that the unauthorised development has been deliberately concealed or where the council commences any action within the 4 or 10 year time limits.

### Lawful Development Certificates

If owners of land or property consider that a breach of planning control has become immune from enforcement action they may apply for a Certificate of Lawfulness (CLU) for an existing use. The decision to approve or refuse an application for a CLU will be dependent on the applicant submitting sufficient documentation to establish that the existing development has been in place for at least four years (in the case of a building operation) or for at least ten years (for a change of use). In the case of a change of use, evidence of 10 years' continuous use must be submitted.

## WHAT HAPPENS IF YOU ARE THE SUBJECT OF AN INVESTIGATION?

The council understands that in many cases a breach of planning control is not intentional and can be the result of a misunderstanding or a lack of an awareness of planning legislation. Therefore, if you receive a letter from the council or a visit from a Planning Enforcement Officer, the council encourages you to respond positively and provide the information which we need to resolve the matter. It is in the interests of all parties if an identified breach can be addressed at an early stage.

The council has a duty to investigate complaints alleging a breach of planning, even if they prove to be unfounded. If you are contacted about an alleged breach you are entitled to know what the allegation is and to have the opportunity to explain your side of the case. However, please be aware that the council will not disclose the identity of complainants unless it is statutorily or legally required to do so. The matter can be resolved quickly if it is determined that there is no breach. In other cases, a resolution may be negotiated, however this does not mean that you can delay any response or action. The council expects you to respond within the stated timescales and we will pursue prosecutions for failures to respond to formal notices. The council will not allow protracted negotiations to distract it from taking appropriate action.

In many cases, particularly where the development is likely to be acceptable, the council might invite you to submit a retrospective planning application, although this is on the understanding that it will not prejudice any decision the council may take. In cases where planning permission has been obtained and the deviation from the approved plans is minor, you may be entitled to apply for a [non-material variation](#) to your planning permission.

You should be aware that Planning Enforcement Officers have legal rights of entry to land and property in order to investigate alleged breaches of planning or compliance with Enforcement Notices. The Planning Enforcement Officer will make themselves known to the landowner/tenant/developer when they visit a site but will not normally give advance warning of a visit.

The council will use the information gained from a site visit to help assess the harm being caused and what further action, if any, needs to be taken. In addition, you may be served with a Planning Contravention Notice which requires you to provide information concerning the alleged breach, and ownership of the land.

If negotiations are unsuccessful or are not appropriate, Planning Enforcement Officers will explain the implications of any action the council may pursue. Whilst we will endeavour to advise you on the planning merits or otherwise of an unauthorised development, Planning Enforcement Officers will not act as your advisor and cannot make decisions on your behalf.

If you receive a letter or notice from the Planning Enforcement Team, you may wish to consider seeking independent advice from a qualified planning consultant, architect, or another appropriate property or legal professional. Alternatively, there is the option of contacting Planning Aid, a voluntary service offering free independent, professional planning advice.

It is important to be aware that if you decide to try and sell a property which has been subject to unauthorised works or an unauthorised change of use, there is a strong likelihood that you will encounter significant delays and legal difficulties. Potential purchasers who instruct standard property searches will be provided with the details of any notices which have been served on the property and also made aware of any breaches of planning permission. It is, therefore, in the best interests of sellers to ensure that any outstanding planning breaches are satisfactorily resolved before any sale is initiated.

## REPORTING BREACHES OF PLANNING CONTROL

Members of the public have a vital role in reporting breaches of control. Any concerns should be raised with the council at the earliest opportunity. The council has an [online interactive complaint form](#) for reporting any suspected breaches of planning control.

The council will do its best to honour requests for confidentiality, including refusing requests for disclosure of the identity of complainers under the Freedom of Information Act. It should be borne in mind; however, that total confidentiality cannot be guaranteed if the Information Commissioners Officer requires the release of the information or if the case leads to court proceedings. This is an extremely unlikely outcome in most cases.

Members of the public can have an important role in monitoring conditions placed on planning consents, which are detailed on the decision notice and can be viewed in the case file on the council's website. The council dealt with over 1,000 planning and other applications in 2018 and it is not possible for us to monitor all conditions attached to them. Your involvement is invaluable in providing information where it is believed that conditions attached to a consent are not being complied with. To report conditions which aren't being complied with, please use the enforcement complaint form.

## MONITORING MAJOR DEVELOPMENTS

The Planning (Scotland) Act 2019 was passed by Royal Assent on 25 July 2019 and the implementation of the legislation is to be enacted by early 2021. This includes the requirement for planning authority enforcement charters to include a statement on the authority's monitoring of compliance with planning permission for major developments to be brought into force by Quarter 1 2021, together with guidance on such monitoring.

It is anticipated at this stage that the planning officer handling the major planning application would receive, discharge and monitor conditions for prior and post development and would be the point of contact for the developer.

- If the planning officer is unable to resolve matters for any outstanding conditions, within a reasonable timescale, the planning officer would advise the developer that the matter was being referred to the Planning Enforcement team for further action. The planning officer would notify the Planning Enforcement team and an enforcement case would then be created and investigated.
- If there are specific conditions that the planning officer would like monitored during the course of construction works i.e. landscaping works, external materials, boundary treatment, the planning officer would notify the Planning Enforcement team and an enforcement case would be created and monitored at regular intervals. This may involve site visits being undertaken and in consultation with the planning officer, identifying whether there are any significant changes from the approved drawings.

## **MAKING A SUGGESTION OR COMPLAINT ABOUT THE ENFORCEMENT SERVICE**

The council tries hard to meet customers' expectations and we hope that you will be satisfied with the service you receive. However, if you have any concerns or difficulties, we want to hear from you. We are committed to improving our service and dealing promptly with any failures or shortcomings.

We will consider seriously any complaints made about the way an enforcement enquiry was dealt with. In the first instance, complaints should be discussed with the member of staff involved. If you are still dissatisfied, you can submit a [formal complaint via our website](#).

Written complaints about the enforcement service will be acknowledged and then fully and promptly investigated. If you are unsatisfied with the outcome from the council's complaints process, you have the right to take your complaint to the Scottish Public Services Ombudsman, at: Freepost SPSO, telephone: 0800 377 7330, or [spsso.org.uk/online-contact](https://spsso.org.uk/online-contact)

Generally, you must contact the Ombudsman within 12 months of the date of the complaint.

## **FURTHER INFORMATION – ENFORCEMENT POWERS**

The council's authority to take enforcement action comes from government legislation. Fuller information on the use of enforcement powers can be found in the Scottish Government publication [Planning Circular 10/2009: Planning Enforcement](#).

## APPENDIX 1 - PLANNING ENFORCEMENT SERVICE STANDARDS

- Sites which are the subject of a complaint will either be visited by an enforcement officer or additional photographic evidence or information will be sought from the relevant parties within 10 working days.
- A further response, detailing the findings of the initial visit and any action that is proposed or has been taken to remedy the alleged breach, will be sent to the complainer within 5 days of the initial visit. If the alleged breach is not to be the subject of any further action this response will give the reasons for that decision.
- If it proves impossible or impractical to respond within the above timescale, the complainer will be contacted giving information on the reason(s) for the delay and indicating the likely timescale for response.
- The complainer will be notified of the outcome of the case within 10 working days of the case being closed by the case officer, with an account of the outcome.

## APPENDIX 2

## Planning Enforcement Charter 2023 Review

## Summary of Comments Received and Proposed Responses.

RESPONDENT	SUMMARY OF COMMENTS	RESPONSE
A	<p>Experience around this process gives the impression that good citizens who try to follow the rules are penalised while non-compliers are given plenty of options to avoid enforcement consequences.</p> <p>We've seen unreasonable planning conditions imposed on community projects while breaches of rules are not prosecuted and the perpetrators advised to submit retrospective applications.</p>	<p>The council does not condone the carrying out of development without first obtaining the necessary planning permission or approvals for that development. That said, the main purpose of the Planning Enforcement Team is not to punish mistakes but to remedy the undesirable effects of unauthorised development, particularly on the amenity of neighbours, to bring unauthorised activities under control as soon as practicable and to maintain public confidence in the credibility of the planning system.</p>
B	<p>Yes, I would like to see more consistency in relation to protecting Open Space</p>	<p>This point does not relate to planning enforcement but more generally to planning applications and the implementation of planning policies from the development plan.</p>
C	<p>Services have been undermined so badly they're almost pointless.</p>	<p>The council does not condone the carrying out of development without first obtaining the necessary planning permission or approvals for that development. That said, the main purpose of the Planning Enforcement Team is not to punish mistakes but to remedy the undesirable effects of unauthorised development, particularly on the amenity of neighbours, to bring unauthorised activities under control as soon as practicable and to maintain public confidence in the credibility of the planning system.</p>
D	<p>Better help for communities wanting to create /Participate local plans</p>	<p>This point does not relate to planning enforcement but more generally to development planning and the development plan process.</p> <p>Information on how to participate in the preparation of the next local development plan will be made available on the council website at the appropriate time.</p> <p>Information on the preparation of local place plans can be found at <a href="#">Local Place Plans - West Lothian Council</a>.</p>
E	<p>FP on P11 is a typo.</p>	<p>This has been amended to read PF.</p>



DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **WEST LoTHIAN LOCAL DEVELOPMENT PLAN (LDP): DEVELOPMENT PLAN SCHEME No.15**

#### **REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION**

##### **A. PURPOSE OF REPORT**

The purpose of this report is to advise Council Executive of the proposed Development Plan Scheme (DPS No. 15) for the West Lothian Local Development Plan (LDP 2).

##### **B. RECOMMENDATION**

It is recommended that Council Executive:

1. Approves the content of Development Plan Scheme No.15 (Appendix 1).

##### **C. SUMMARY OF IMPLICATIONS**

<b>I</b>	<b>Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	A Development Plan Scheme (DPS) is a legislative requirement set out by the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006. The Planning (Scotland) Act 2019 was passed by Scottish Parliament in June 2019. The Planning (Scotland) Act 2019 carries forward the requirement to carry out a Development Plan Scheme albeit with slight changes. These changes will be outlined in secondary legislation and further guidance issued by the Scottish Government. These changes are expected to be in place by Spring 2023.
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None.
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	The West Lothian LDP provides the policy and development framework to support improving opportunities in West Lothian and sustainable growth. The Development Plan Scheme sets out a programme for replacement of the LDP.

<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	Outcome 3 - Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business. Outcome 6 – We live longer healthier lives and have reduced health inequalities. Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	Much of the development required as part of in West Lothian LDPs will require new supporting infrastructure. This is expected to be funded in part by the council through the capital programme but also by the development industry itself. The council's Local Infrastructure Fund and City Region Deal may also have a part to play in assisting with forward funding some improvements.
<b>VII</b>	<b>Consideration at PDSP</b>	Due to time constraints DPS No. 15 has not been reported to the Economy, Community Empowerment and Wealth Building Policy Development and Scrutiny Panel.
<b>VIII</b>	<b>Other consultations</b>	No consultations were required in the preparation of this report.

## **D. TERMS OF REPORT**

### **D1 Background**

Section 20B of the Planning etc. (Scotland) Act 2006 requires planning authorities to prepare a development plan scheme (DPS) at least annually for the LDP. The DPS is a document which sets out the programme for preparing, reviewing and consulting on the next LDP and it must be in place by 31 March each year. Once agreed it requires to be publicised and lodged with Scottish Ministers.

LDP 1, prepared in the context of SDP, was adopted by the council on 4 September 2018 and provides the spatial land use policy and development framework for West Lothian. The LDP is a vital component in ensuring economic growth and business support, seeking to meet housing need in all tenures, and ensuring the protection/enhancement of built and natural heritage resources, all within an overarching aim of protecting and enhancing the environment.

The council's strategy for preparing the next LDP requires to be informed by, and indeed compliant with The Planning (Scotland) Act 2019 which was enacted in July 2019 and which makes substantive changes to the Town & Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

The most significant relevant changes include:

- removing the requirement to prepare Strategic Development Plans (SDP);
- making the National Planning Framework (NPF) part of the Development Plan;

- introducing Regional Spatial Strategies (RSS) to provide long term spatial development frameworks at regional level;
- introducing potential for local communities to prepare new Local Place Plans

Following the removal of SDP's, there is now a requirement for all authorities, working together, to prepare Regional Spatial Strategies (RSS) setting out strategic development priorities. Details of requirements for the preparation of RSSs are to be set out in secondary legislation. The council has, nevertheless, been working collaboratively with the other SESplan member authorities to prepare an RSS. An 'interim' RSS was drafted and submitted to Scottish Government at the end of 2021.

National Planning Framework 4 was adopted on 13 February 2023 and is now a part of the statutory 'development plan' alongside the West Lothian LDP and its associates Supplementary Guidance.

To guide the implementation of the Planning (Scotland) Act 2019, Scottish Government published [proposals for secondary legislation and draft guidance](#) for consultation in December 2021. The consultation period closed on 31 March 2022. It is expected that the new development planning regulations and guidance will be brought into force this Spring.

Another new element introduced by the Planning (Scotland) Act 2019 which will require to be addressed in LDPs is the concept of 'Local Place Plans' (LPPs). While LPPs are not part of the development plan, they are intended to stimulate and encourage debate in local communities about the future of a place and the planning authority is required to have regard to them in the preparation of LDPs. Guidance on the preparation of LPPs was published by the Scottish Government in January 2022. LPPs are the communities' plans and planning authorities will not be leading this process.

## **D2 Development Plan Scheme No.15**

LDP 2 requires to be progressed and adopted under the new regulatory regime introduced by The Planning (Scotland) 2019 Act. The policy framework to which LDP 2 requires to adhere to is set out in NPF4 which has recently been adopted (13 February 2023).

The regulatory framework that LDP 2 requires to be progressed under is due to be brought into force in Spring this year. The timetable proposed in DPS No. 15 (Appendix 1) for progressing LDP 2 reflects our understanding of the various stages and anticipated processes.

Officers in the Development Planning and Environment team are presently gathering data for the Evidence Report and will formalise a Participation Statement setting out proposals for engagement and interaction with interested parties in due course.

## **E. CONCLUSION**

There is a legislative requirement for the council to prepare a DPS for the LDP at least annually. The DPS sets out the council's programme for preparing and reviewing the LDP and indicates what will be involved at each stage. Once the council has agreed and adopted the DPS it requires to be given publicity and sent to Scottish Ministers.

DPS No.15 advises that LDP 2 is to be prepared in the context of the new regulatory regime introduced by The Planning (Scotland) 2019 Act.

Officers will engage with communities and stakeholders and initiate a programme of consultation events when it is meaningful to do so and a formal Participation Statement will be prepared and published in due course.

## **F. BACKGROUND REFERENCES**

- [West Lothian Local Development Plan](#)

Appendices/Attachments: One – West Lothian Local Development Plan Development Plan Scheme No.15 (DPS No. 15)

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**Head of Planning, Economic Development & Regeneration**

21 March 2023

# WEST LOTHIAN

## Development Plan Scheme and Participation Statement

DPS No.15 - 2023



Approved by West Lothian Council Executive, 21 March 2023

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During the plan-making process, regular progress updates will appear on the council's [website](#).

## What is a Development Plan Scheme (DPS)?

As a local planning authority, West Lothian Council is required by planning law to prepare a Development Plan Scheme (DPS) at least annually. The previous DPS was published in March 2022.

A DPS sets out the timetable for preparing and reviewing the Local Development Plan (LDP) and what is likely to be involved at each stage. It also includes a *Participation Statement* outlining when, how and with whom consultation on the plan will take place.



## What is a Development Plan?

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National Planning Framework 4 (NPF4), LDPs and any associated Supplementary Guidance (SG) form part of the statutory 'development plan'. Together, they set out policies and proposals for future development and the use of land.

Planning is a 'plan-led' system, meaning that decisions are made in accordance with the 'Development Plan', unless material considerations indicate otherwise.

## The Current Development Plan for West Lothian

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The adopted 'development plan' for West Lothian consists of;

- [National Planning Framework 4, \(NPF4\)](#) [Adopted 13<sup>th</sup> February 2023]
- [West Lothian Local Development Plan 2018](#) (LDP 1) [Adopted 4 September 2018]
- [Supplementary Guidance](#) associated with West Lothian Local Development Plan (2018).

The council has also prepared and adopted a suite of [Planning Guidance](#) associated with the adopted LDP. These do not have the elevated status as being a part of the statutory 'development plan', however they will continue to be material considerations and will be taken into consideration when assessing planning applications.

The adoption of NPF4 on 13 February 2023 has had the effect that all Strategic Development Plans (SDPs) and any associated SG ceased to have effect and no longer forms part of the 'development plan'. This includes SDP [\(SESplan\)](#) [Adopted 2013] and its associated [Housing Land Supplementary Guidance](#) [Adopted November 2014].

Also following the adoption of NPF4 in February 2023 [Scottish Planning Policy \(SPP\) 2014](#) and [NPF3](#) have ceased to have effect, both of which were previously material considerations.

## Planning Scotland Act (2019)

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The [Planning \(Scotland\) Act 2019](#) set the future structure of the modernised planning system. The Act includes a broad range of changes to be made across the planning system including:

- arrangements for the preparation of development plans
- proactive master planning

- development management procedures and considerations
- strengthening enforcement
- a focus on improved performance and positive outcomes

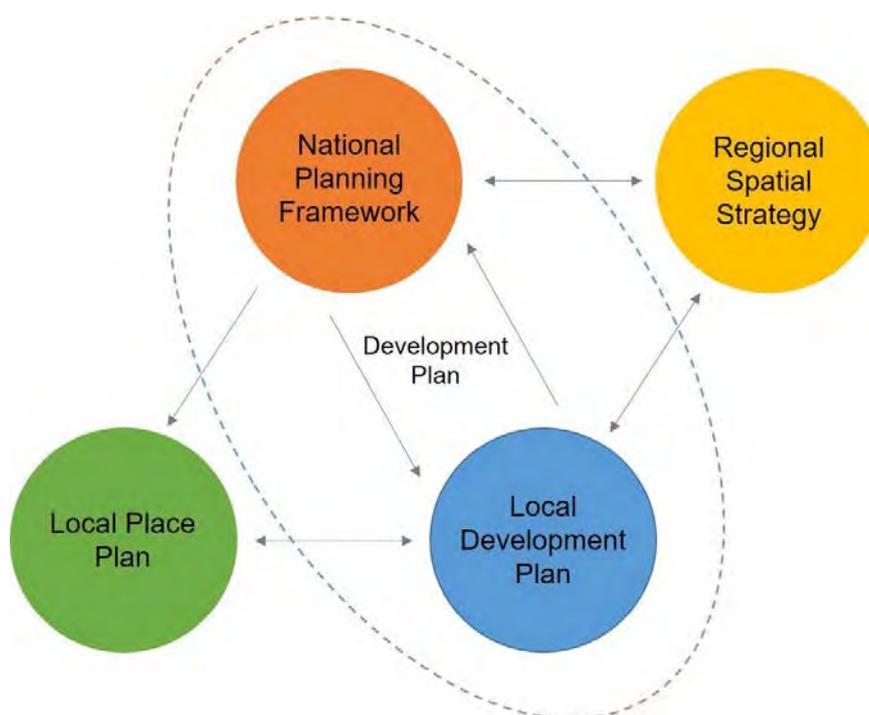
The Planning (Scotland) Act 2019 introduced significant changes to the way LDPs are to be prepared. The period of longevity of LDPs has been increased to ten years from the previous five with opportunity for interim reviews on certain matters such as housing and now has a streamlined, front-loaded preparation process.

The new style plans are expected to be place-based with a greater emphasis on maps, site briefs and masterplans, with minimal policy wording. It is envisaged that the policies and proposals within the LDP will be focused on places and locations, working within the context provided by NPF4.

To guide the implementation of these changes Scottish Government published [proposals for secondary legislation and draft guidance](#) for consultation in December 2021. The consultation period closed on 31 March 2022. It is expected that new development planning regulations and guidance will come into force in Spring 2023.

NPF4 and the West Lothian LDP, along with Regional Spatial Strategies (RSSs) and Local Place Plans (LPPs) will provide the spatial framework for decision making that will support the delivery of a wide range of strategic priorities including climate change, nature recovery, inclusive growth, the wellbeing economy and child poverty.

**Figure 1: Statutory Development Plan and Related Plans.**



## West Lothian Local Development Plan (2018)

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The current West Lothian LDP was adopted in September 2018. To support LDP policies and to assist decision making, the council has prepared a comprehensive suite of statutory and non-statutory [planning guidance](#). These documents have been subject to public consultation, approved by Council Executive, and in the case of statutory guidance, subjected to additional scrutiny by Scottish Ministers before being adopted.

## National Planning Framework 4 (NPF4)

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[National Planning Framework 4 \(NPF4\)](#) sets out the Scottish Ministers' policies and proposals for the development and use of land. It details their long-term spatial strategy, spatial principles, priority actions and National Developments, looking ahead to 2045. It also provides national planning policy to guide decision making on planning applications.

NPF4 was formally adopted on 13 February 2023.

In advance of the new style LDP's being in place, [transitional arrangements](#) have been published by the Chief Planner and the Minister for Public Finance, Planning and Community Wealth to aid decision making.

The successful implementation and delivery of NPF4 over its lifetime is of crucial importance. To support this, the first iteration of the [NPF4 Delivery Programme](#) has been prepared. This is an important tool which sets out the approach for implementing NPF4 and includes key actions to be taken forward over the short and medium term.

## Regional Spatial Strategy

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The preparation and adoption of Regional Spatial Strategies (RSS) will provide a long-term spatial development framework at regional level which will identify strategic development needs and priorities. While they will not form part of the development plan, they must be taken account of when an LDP is being prepared. West Lothian Council has worked collaboratively with SESplan / City Deal partner authorities to prepare an [interim RSS](#) and this was submitted to Scottish Government at the end of 2021.

## Local Place Plans

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One of the most notable innovations introduced by the 2019 Planning Act has been to afford community bodies a new way to feed into the planning system by giving them a right to prepare *Local Place Plans*.

They are a new type of plan giving people an opportunity to develop proposals for the development and use of land in the place where they live.

Local Place Plans are to be community-led and prepared through inclusive and robust community engagement. They will quite intentionally not be council authored documents and the council will not be administering their preparation and production.

There is potential for any 'community body' to prepare and submit a Local Place Plan to West Lothian Council. This includes but is not limited to established Community Councils. The Community Empowerment (Scotland) Act 2015 sets out the legal definition of a [community-controlled body](#).

Guidance on preparing a Local Place Plan is available on the council's [website](#). Scottish Government guidance to communities and planning authorities on the preparation, submission and registration of Local Place Plans is contained in [Circular 1/2022: Local Place Plan](#).

The council will issue an invitation to local communities to prepare a Local Place Plan following the adoption of new local development plan regulations and guidance in Spring 2023. The council will also keep a register of validated Local Place Plans in West Lothian and will make information about them available online so that you can see if there is a Local Place Plan in your area.

Once completed and then registered by the council, they are to be taken into account in the preparation of the new Local Development Plan.

If you have any questions about Local Place Plans, please contact us at [DPgeneral@westlothian.gov.uk](mailto:DPgeneral@westlothian.gov.uk).

## The Local Development Plan Process

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The council is preparing a new Local Development Plan (LDP 2) to replace the current LDP, adopted in 2018. The new plan will guide future development within West Lothian for a ten-year period starting from when it is adopted.

## Evidence Report

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The Evidence Report is the first formal stage in preparing the next West Lothian Local Development Plan (LDP 2)

The Evidence Report aims to clearly inform *what* to plan for before the Proposed Plan looks at *where* development should take place. The Evidence Report will provide the baseline data to ensure LDP 2 is based on sound evidence to inform a deliverable, place-based and people-focused LDP.

The baseline information will include the Council's views on a number of key elements including the characteristics of the land use and population of the plan area as well as housing, education, health and infrastructure matters, amongst others. It will also include an assessment of the sufficiency of play opportunities for children.

The council will prepare a *Participation Statement* to outline when consultation is likely to take place, with whom and its likely form, including the steps to be taken to involve the public at large. To inform the Participation Statement the council will seek the views of the public on what the content of the Participation Statement should be, and will have regard to any views expressed.

There are legislative requirements to seek the views of key agencies (e.g. SEPA, NatureScot), children and young people, disabled people, Gypsies and Travellers, Community Councils and 'the public at large' in the preparation of the Evidence Report. This is to enable the Evidence Report to include proportionate information about the lived experience of those who live and work here and what the needs and aspirations are for places in West Lothian over the next 10-20 years.

[NPF4 Delivery Programme](#) outlines that Scottish Government intend to finalise effective community engagement guidance following the adoption of NPF4. The guidance, once finalised, will contain the Scottish Government's expectations as to how planning authorities comply with their duties to engage the public at large in developing their Local Development Plans.

The Evidence Report will be approved by the council and sent to Scottish Ministers. They will appoint an independent assessor to determine whether the report has sufficient information to enable the planning authority to prepare a draft LDP (the Gate Check).

## Gate Check

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The Gate Check is the stage in the process where it will be determined by an independent assessment of whether the council has sufficient information to prepare an LDP. It will be carried out by a person appointed by Scottish Ministers, usually a Reporter from the Directorate for Planning and Environmental Appeals (DPEA). Should the Reporter decide there is sufficient information, then council may then move to prepare and publish their Proposed Plan. However, if it is concluded that there is not, the council will be required to address any deficiencies before progressing the plan any further.

## Proposed Plan

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Following the Evidence Report and Gate Check, the council may decide to undertake a 'Call for ideas'. This would be open to anyone to propose ideas for any aspect of the new LDP.

The Proposed Plan will identify where new development should take place and where it should not. It can articulate the ambitions and priorities for the future development of the plan area. It should coordinate development and service provision and an 'Infrastructure First' approach should inform its preparation and support its delivery. New style plans are expected to be place-based: there should be greater emphasis on maps, site briefs and masterplans, with minimal policy wording.

Once published, there will be a 12-week consultation period to allow representations from everyone including all stakeholders and interested parties on the Proposed Plan to be submitted to the Council.

Following the close of the period for representations on the Proposed Plan, the council may make modifications to the plan to take account of representations, consultation responses or correct minor drafting and technical matters. A Modification Report will set out any modifications made and explain the reasons for making them and for not making changes where matters have been raised in significant numbers. The Proposed Plan will then be republished and submitted to Scottish Ministers, who will examine any unresolved representations via a formal Examination.

## Examination

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The examination process is carried out by a person appointed by Scottish Ministers, usually a Reporter from the Directorate for Planning and Environmental Appeals.

It is the opportunity for independent consideration of any issues raised during the formal consultation on the Proposed Plan that have not been resolved through modifications. The Reporter will consider if the consultation and involvement of the public in the preparation of the plan meets or exceeds the requirements of the Participation Statement.

The scope of the examination is limited only to issues raised in unresolved representations. These issues will be set out in the summary of issues prepared by the planning authority and it is the Reporter who will determine the form the Examination will take. Only where the Reporter feels they do not have all the information they need to make a proper assessment of an issue will they request further information from any person.

If, having completed the examination, the Reporter is not satisfied that the Proposed Plan allocates sufficient land to meet the Local Housing Land Requirement (LHLR), instead of preparing an examination report, they may issue a notice that requires the planning authority to prepare another Proposed Plan. The notice must include a statement that the Proposed Plan is unsatisfactory because it fails to address identified housing needs, and explain the appointed person's reasons for coming to that conclusion.

If the Reporter is however satisfied that the Proposed Plan allocates sufficient land to meet the LHLR, then the Reporter will publish an Examination Report containing their conclusions and recommendations for each of the unresolved issues identified at the start of the Examination process.

Upon receipt of the Examination Report the council must accept the Reporter's recommendations, (except in some very limited circumstances) and it will modify the Proposed Plan as directed.

## **Adoption and Delivery**

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Once modified, the council will proceed to adopt the Local Development Plan, which alongside NPF4 will be the basis against which to make decisions on planning applications.

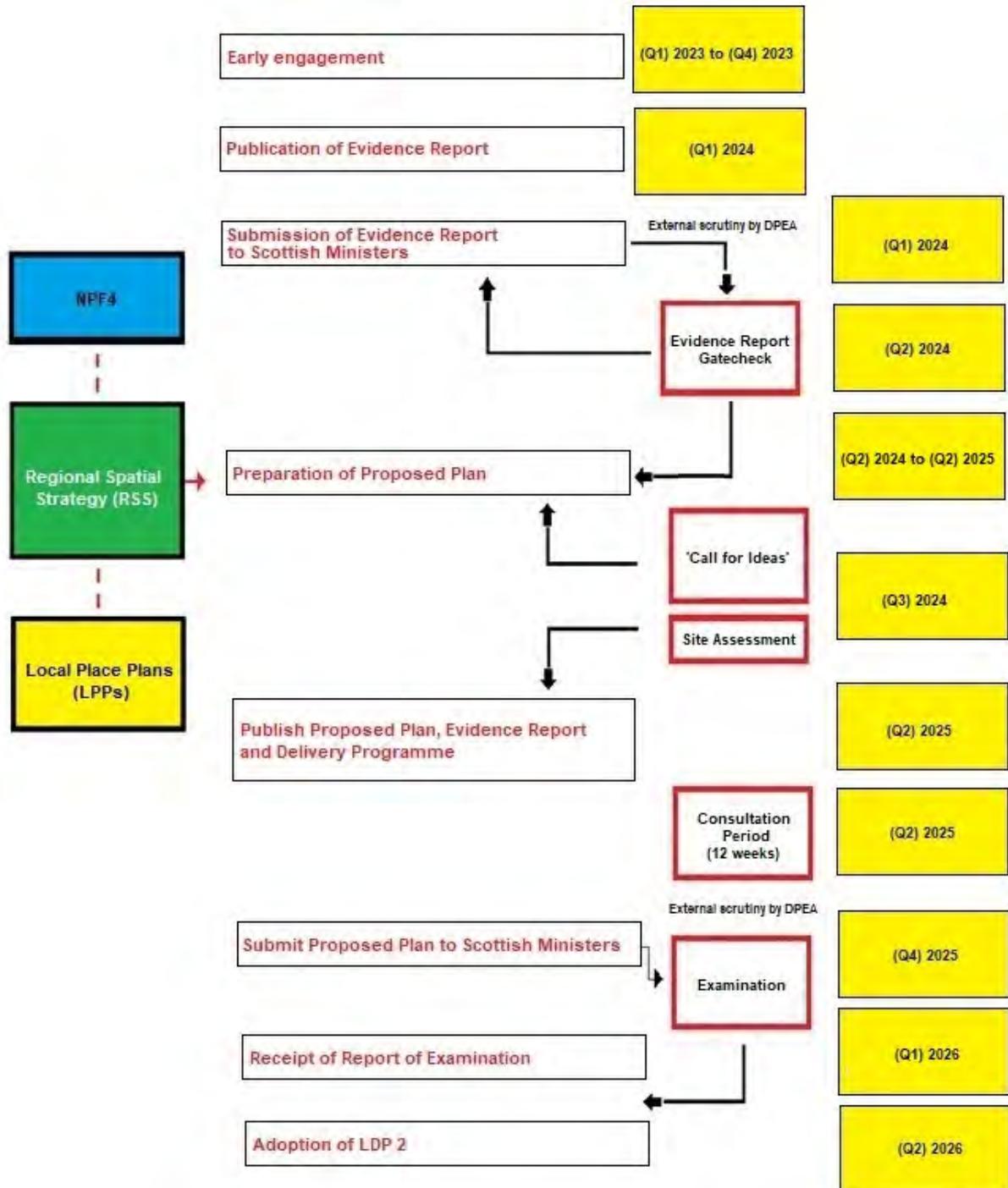
The focus of the new LDP should be on delivery. As such, the planning authority is required to produce a Delivery Programme which is detailed and practical and leads to development on the ground. The Delivery Programme will be published alongside the Evidence Report and the Proposed Plan. The council, as planning authority, must monitor the implementation of the delivery programme to determine whether commitments in the LDP are being met.

## West Lothian Local Development Plan 2 Timetable

The proposed timetable for producing LDP 2 is as follows;

<u>Plan Preparation Stage</u>	<u>Anticipated Date</u>
<b>Early Engagement</b>	Q1 2023 to Q4 2023
<b>Council approval of the Evidence Report and submission to Scottish Ministers</b>	Q1 2024
<b>Gatecheck</b>	Q2 2024
<b>Call for ideas</b>	Q3 2024
<b>Council approval and publication of the Proposed Plan</b>	Q2 2025
<b>Proposed Plan Consultation period</b>	Q2 2025
<b>Submission of Proposed Plan (and a Modification Report if necessary) to Scottish Ministers for examination.</b>	Q4 2025
<b>Examination</b>	Q4 2025 to Q1 2026
<b>Adoption</b>	Q2 2026

**Figure 2: Indicative diagram indicating the Local Development Plan Preparation Process**



## Draft Participation Statement

The council’s Participation Statement is presented as a draft at this time in advance of the final development planning regulations and guidance being published. Effective community engagement guidance is also expected to be finalised following the adoption of NPF4.

The council will encourage everyone with an interest in West Lothian to become involved in the preparation of the new Local Development Plan. Meaningful consultation and engagement are considered essential if the new plan is to secure confidence and ownership. The LDP has the potential to affect where people live, work, shop, play and travel in West Lothian and local people and organisations have unique knowledge and insight which can help the council better understand key issues and enable it to create a much better plan.

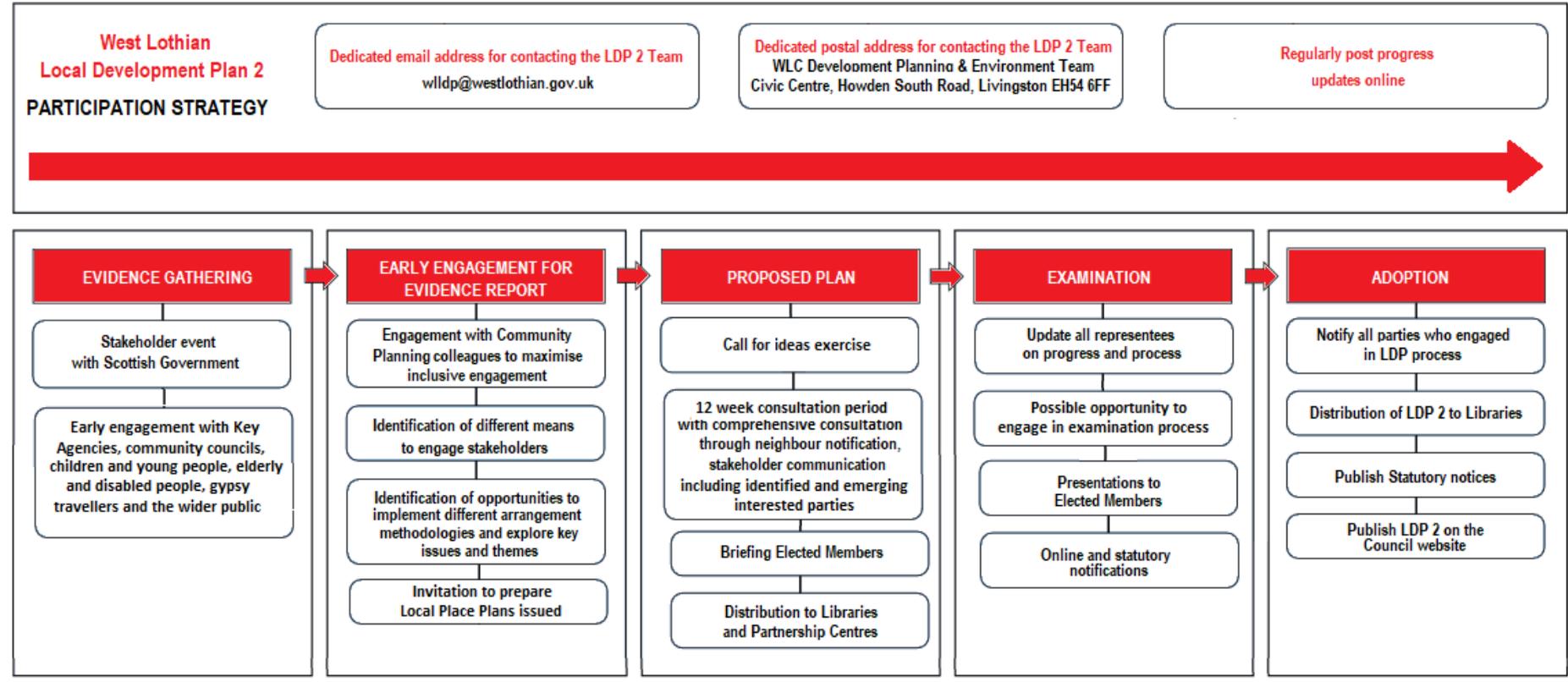
There will be many opportunities to become involved in the preparation of LDP 2 these will be clearly advertised, through social media, updates on our websites, invitations to everyone who has the registered on our mailing list and advertisements in the local newspapers.

The council is continually exploring different options for consultation and would welcome any comments or views that you may have.



## **Key Principles**

- Participation in the plan-making process is open to everyone.
- The Planning (Scotland) Act 2019 puts particular emphasis on empowering and engaging with local communities in the preparation of local development plans, and the council is committed to adhering to these principles.
- The council is mindful of its responsibilities to be as inclusive as possible and will make a particular effort to reach out to previously 'hard to reach' groups and overcome barriers to their participation.
- This will include an explanation of **why** the council is consulting, **how** it will be consulting and **what** will happen with the responses that it hopes to receive.
- The council wants to ensure that anyone taking the time and making the effort to actively engage in the process can do so in the knowledge that their contribution matters and can make a difference.
- It is important that people are aware of the process and of the opportunities to comment, particularly at key stages in the production of LDP 2, and the council will use the media, newspaper notices and the council's website to achieve this. It will also employ its extensive community planning network and will work with community councils to share and distribute information.
- The council will make every effort to produce clear, concise and accessible documents that are written in everyday language and which people can readily understand.
- The council will engage with communities and stakeholders and initiate a programme of consultation events as soon as it is meaningful to do so to.
- While it is anticipated that an increasing amount of engagement and exchange of information is likely to take place via the internet, we recognise that not everyone has access to an online facility or broadband and some people may choose not to use them. We will therefore seek to adopt and offer alternative consultation and engagement methods wherever possible.
- Above all, the council is committed to actively engaging and involving all communities and all stakeholders in the preparation of the second West Lothian Local Development Plan.



- visit the Local Development Plan website at:  
<https://www.westlothian.gov.uk/developmentplans>
- email us at:  
[wlldp@westlothian.gov.uk](mailto:wlldp@westlothian.gov.uk)
- phone us on:  
[01506 280000](tel:01506280000)
- write to us at:  
[Development Planning & Environment, Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF](#)



Development Planning & Environment (DP&E)  
Approved 21 March 2023

DATA LABEL: PUBLIC



## COUNCIL EXECUTIVE

### CALL FOR VIEWS ON THE FINANCIAL MEMORANDUM TO THE CHILDREN (CARE AND JUSTICE) (SCOTLAND) BILL

#### REPORT BY HEAD OF SOCIAL POLICY

#### A. PURPOSE OF REPORT

To inform Council Executive of the Calls for Views on the Financial Memorandum to the Children (Care and Justice) (Scotland) Bill and seek Council Executive approval for the proposed response.

#### B. RECOMMENDATION

Council Executive is asked to approve the proposed response as set out in Appendix 2 to the report and submit to Scottish Government by 2 April 2023.

#### C. SUMMARY OF IMPLICATIONS

- |  |   |
|--|---|
| <p><b>I Council Values</b></p>   | <ul style="list-style-type: none"> <li>• Focusing on our customers' needs.</li> <li>• Being honest, open and accountable.</li> <li>• Making best use of our resources.</li> <li>• Working in partnership</li> </ul>   |
| <p><b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b></p> | <ul style="list-style-type: none"> <li>• Keep the Promise</li> <li>• Children and Young People (Scotland) Act 2014</li> <li>• The Looked After Children (Scotland) Regulations 2009</li> <li>• Children's Hearing (Scotland) Act 2011</li> <li>• Community Justice (Scotland) Act 2016</li> <li>• Management of Offenders (Scotland) Act 2019</li> <li>• Age of Criminal Responsibility (Scotland) Act 2019</li> <li>• The Children's (Scotland) Act 1995 &amp; 2020</li> </ul> |
| <p><b>III Implications for Scheme of Delegations to Officers</b></p>   | <p>None</p>   |
| <p><b>IV Impact on performance and performance Indicators</b></p>  | <p>None</p>   |
| <p><b>V Relevance to Single Outcome Agreement</b></p>  | <p>People most at risk are protected and supported to achieve improved life chances.</p>  |

<b>VI Resources - (Financial, Staffing and Property)</b>	Potential additional staff costs required and potential costs from Secure Units and other residential or aftercare as a result of the Bill.
<b>VII Consideration at PDSP</b>	Due to timescales it has not been possible to present the draft response for consideration at PDSP. The draft response was circulated to the Social Work and Health PDSP panel members for comment. No comments received.
<b>VIII Other consultations</b>	<p>Scottish Government Consultation: Children's (Care and Justice) (Scotland) Bill. A response to this was approved for submission by Council Executive on 21/06/2022.</p> <p>In preparing this response to the Call for Views consultation took place with West Lothian Council Justice services, Community Justice, Children and Families and Financial Management services.</p>

## **D.1 TERMS OF REPORT**

- 1.1 A consultation on the Children (Care and Justice) (Scotland) Bill was published on 30 March 2022 seeking views and feedback on policy proposals to inform the development of the legislation. The key areas covered by the consultation were:
- Raising the Age of Referral to the Principal Reporter
  - Children and the Criminal Justice System
  - Secure Care
  - Residential Care and Cross Border Placements
  - Age of Criminal Responsibility and
  - Assessing Impact
- There were no specific questions asked in relation to the financial implications. The consultation closed on 22 June 2022.
- 1.2 West Lothian Council participated in the consultation on the proposed Bill and the draft response was generally supportive of the principles of the consultation. The draft response also highlighted the need to ensure that funding and resource implications were fully and realistically considered.
- 1.3 On 21 June 2022, the draft response was presented to Council Executive to seek approval for submission to Scottish Government. The response was agreed and subsequently submitted to the Scottish Government.
- 1.4 The Children (Care and Justice) (Scotland) Bill was introduced in the Scottish Parliament by the Cabinet Secretary for Education and Skills on 13 December 2022. The Bill proposes changes to the law in relation to the care of children, through the children's hearing system and the involvement of children in the justice system.

The Bill has four main parts:

- **Part 1** will enable all children under the age of 18 to be referred to the Principal Reporter removing existing restrictions on eligibility for 16 and 17 year olds and makes some other changes which include offering more guidance for children who turn 18.
- **Part 2** makes changes to criminal procedure in relation to children, including the kind of accommodation and safeguarding that is used. This includes stopping children under 18 being placed in young offender's institution (YOI) or prison. It adds restrictions on what information can be reported about a child suspected of a crime. It also makes changes to court and custody arrangements for children.
- **Part 3** makes changes relating to the regulation for secure accommodation and how it is used. It also alters regulatory requirements around Scottish care placements for children from other parts of the UK.
- **Part 4** concerns antisocial behaviour orders, named person arrangements and child's plans

## **D.2 Financial Memorandum to the Children's (Care and Justice) (Scotland) Bill**

- D.2.1** The Parliament's Finance and Public Administration Committee have launched a Call for Views on the Financial Memorandum of the Children (Care and Justice) (Scotland) Bill inviting written submissions on the estimated financial implications of the Bill. The deadline for responses is Sunday 2 April 2023.

The Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### **D.2.2 Approach taken to cost estimates**

The Financial Memorandum highlights that costs associated with implementation of the Bill should be seen against wider trends indicating effective early intervention and whole system approaches in Scotland. Over the last 12 years, this move to a more preventative approach has delivered a 75% reduction in children referred to the Children's Reporter on offence grounds, an 85% reduction in the number of children and young people prosecuted in Scotland's courts, and a 93% reduction in 16 and 17 year olds being sentenced to custody. The indications are that these positive reductions, are emblematic of an early intervention approach and the results of a sustained collective commitment by key partners across a range of sectors, professions and disciplines.

The Financial Memorandum highlights that there are a significant number of variables which make the resource and cost impacts of some of the changes difficult to forecast with a high degree of precision and the Scottish Government have had to make some necessary assumptions.

### **D.2.3 The Financial Memorandum Call for Views is seeking responses to 7 questions:**

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?
2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?
3. Did you have sufficient time to contribute to the consultation exercise?
4. If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?
7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

The West Lothian Council draft response has been completed with contribution from Justice services, Community Justice Leads, Children and Families and Financial Management service.

The timescale for the Call for Views has not allowed the presentation of the draft response to the Social Work and Health PDSP. The draft response was circulated to Panel members for comment prior to the draft being presented to Council Executive.

No comments were received from the Social Work and Health PDSP panel members.

## **E. CONCLUSION**

The response to the Call for Views contains the following key points of concern. Officers consider there is a lack of information provided in the Financial Memorandum to enable understanding of how the estimated costs and savings were calculated. As a result, it is difficult to state whether the assumptions are reasonable or accurate.

There is concern over the potential for additional external residential care resources to be required and therefore funded, as these settings are often the exit plan from secure care. In addition, the potential for increases in eligibility for continuing care which does not currently receive adequate funding is a financial risk. Associated increases in transportation costs and possible additional resource requirement for advocacy services are not taken account of in the Financial Memorandum.

## **F. BACKGROUND REFERENCES**

West Lothian Council report and approved consultation response dated 21 June 2022. (Care and Justice) (Scotland) Bill  
<https://coins.westlothian.gov.uk/coins/viewDoc.asp?c=e%97%9Di%95jz%8D>

Appendices/Attachments: 1: Financial Memorandum Children's (Care and Justice) (Scotland) Bill  
2: Call for Views on the Financial Memorandum. West Lothian Council response

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Date: 21 March 2023

# Children (Care and Justice) (Scotland) Bill

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## Financial Memorandum

### Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Children (Care and Justice) (Scotland) Bill, introduced in the Scottish Parliament on 13 December 2022.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 22-EN);
  - a Policy Memorandum (SP Bill 22-PM);
  - a Delegated Powers Memorandum (SP Bill 22-DPM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 22-LC).
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### The Bill – What the Bill will do

4. The Bill covers a wide range of topics. Therefore the financial implications for each element have specific considerations particular to those measures and the bodies involved with delivery. The Bill does display some common themes and interlinked measures. But due to the distinctive nature of the costs associated with each section, this document is structured to explore the cost implications in line with the Bill's policy areas – rather than the legislation in its entirety – which is as follows:
  - Part 1 will enable all children under the age of 18 to be referred to the Principal Reporter removing existing restrictions on eligibility for 16 and 17 year olds. It also contains some related measures, geared to assisting the raising of the age of referral.
  - Part 2 relates to children in the criminal justice system, including the framework on reporting of criminal proceedings involving children, remittal between the courts and children's hearings, children in police custody and

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looked after children status in relation to detained children. Part 2 also makes provision for ending under 18s/children being detained in young offenders institutions (YOI), with secure accommodation services being the normal alternative where a child requires to be deprived of their liberty. There is also a regulation making power around extending secure accommodation until the age of 19 in certain circumstances.

- Part 3 helps ensure that the statutory definition of secure accommodation, adequately reflects its purpose. It also provides legislative clarity to reinforce that support, care and education must be provided to children accommodated there. Moreover, it provides regulation making powers regarding the approval framework of secure accommodation services by the Scottish Ministers. The intention being to make that clearer and more transparent. Part 3 also makes provision around regulation and recognition of cross border care placements.

5. Many of the measures across these Parts are interlinked in terms of policy and delivery. Therefore, considering their financial implications according to the sequencing of Bill sections does not make sense for costing purposes. Whilst the running order of the Bill has been framed for legislative purposes, following that structure in order to quantify costs would be confusing for the reader and lead to a high degree of duplication. Therefore, this financial memorandum is drafted around the interlinked policies and resourcing implications which stem from them, rather than rigidly adhering to the Bill structure.

6. The Bill also has common strategic aims which set a useful context in which to approach costs to Scotland. These include: promoting the approach of the United Nations Convention on the Rights of the Child (UNCRC);<sup>1</sup> Scotland's Getting it Right for Every Child (GIRFEC);<sup>2</sup> whole system approach ethos; keeping The Promise;<sup>3</sup> ensuring more children can benefit from the welfare-based ethos of the Kilbrandon principles which underpin the hearings system; and the Youth Justice Vision.<sup>4</sup>

7. Therefore, in looking at the implementation costs, it is important to recognise the wider backdrop of the benefits these change programmes are engendering and potential savings to public expenditure. The negative costs to society, both economic and social, of offending and crime are well documented. For instance, The Promise *Follow the Money*<sup>5</sup> report estimates the cumulative private costs, physical and emotional (psychological) harm, lost output and public service costs (at 2016 population level) to be £3.9bn. By helping address the underlying causes of a child's conduct and looking more holistically at the circumstances surrounding any offending behaviour – in-

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<sup>1</sup> [The United Nations Convention on the Rights of the Child](#)

<sup>2</sup> [Getting it right for every child \(GIRFEC\) - gov.scot \(www.gov.scot\)](#)

<sup>3</sup> [The-Promise\\_v7.pdf \(carereview.scot\)](#)

<sup>4</sup> [A Rights-Respecting Approach to Justice for Children and Young People: Scotland's Vision and Priorities \(www.gov.scot\)](#)

<sup>5</sup> The Promise Follow the Money <https://www.carereview.scot/wp-content/uploads/2020/02/Follow-the-money.pdf>

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line with the Kilbrandon ethos on which the children's hearings system was founded – Scotland can help them desist, reintegrate and rehabilitate.

8. The costs associated with Bill implementation should also be seen against wider trends indicating effective early intervention and whole system approaches in Scotland having a positive effect. Over the last 12 years, this move to a more preventative approach has delivered a 75% reduction in children referred to the Children's Reporter on offence grounds, an 85% reduction in the number of children and young people prosecuted in Scotland's courts, and a 93% reduction in 16- and 17-year-olds being sentenced to custody. These positive reductions, with their benefits for children and their communities, are emblematic of an early intervention approach and the results of a sustained collective commitment by key partners across a range of sectors, professions and disciplines.

## Parts 1 and 2 – Raising the age of referral to the principal reporter / criminal justice procedure

9. In line with UNCRC's incorporation into Scots Law and the treatment of under-18s as children, section 1 removes statutory barriers to 16 and 17 year olds being referred to the Principal Reporter. The Bill consultation<sup>6</sup> queried whether the children's hearings system should have remit post-18, to prevent 'cliff edges' where a young person transitions from one forum to another. However, further analysis has confirmed fundamental barriers to such an approach, in terms of maintaining the hearings system as a model solely pertaining to children and designed around them, and in terms of the rights of adults. Therefore whilst the Bill enables under-18s to be referred, due to the time taken for a referral to the Reporter to progress and for a hearing to convene and put meaningful measures in place which can take effect, this essentially means in practice children up to around 17-and-a-half will have the ability to be referred. As such, the cost implications of this change have been forecast throughout this document on that premise.

10. There are a significant number of variables which make the resource and cost impacts of this change difficult to forecast with a high degree of precision. The constitutional independence of the Lord Advocate and Procurators Fiscal to pursue criminal proceedings and to prosecute children in court are obviously not affected by the Bill. Therefore, whilst the overall objective of the Bill is to create a framework whereby more children are able to be referred to the children's hearing, prosecutorial discretion means the legislation can make no direction in this regard. As such the Lord Advocate's guidelines to the Chief Constable on the Reporting to Procurators Fiscal of offences alleged to have been committed by children,<sup>7</sup> and the agreement between the Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Children's Reporter

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<sup>6</sup> <https://www.gov.scot/publications/childrens-care-justice-bill-consultation-policy-proposals/>

<sup>7</sup> [Lord Advocate's guidelines](#)

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Administration (SCRA) on Decision making in cases of children jointly reported<sup>8</sup> will be the mechanisms which primarily influence this.

## Approach taken to cost estimates

11. In order to give an illustrative example of the costings associated with the Bill against this backdrop the Scottish Government has had to make some necessary assumptions. For instance, that the majority of summary court cases involving those aged 16-17.5 could be referred to the hearings system. However, this is subject to considerable variables. It is therefore not possible to forecast precise numbers, and thus the Scottish Government has used two principal sources to forecast a window of estimates:

A) Projections from SCRA and Children's Hearings Scotland (CHS) – the Scottish Government has had detailed engagement with both bodies based on the current trends for younger age groups.

B) Figures for the number of children in this age group currently prosecuted at court under summary proceedings.

12. On source A, in-depth engagement with SCRA and CHS has taken place in development of the Bill and in forecasting the prospective impacts. SCRA has supplied estimates based on existing trends of referrals of children to age 16 (average from previous four financial years) both of an increase in the number of referrals to the Reporter and the resulting additional hearings.

13. For offence-based referrals, SCRA have interwoven this with data they obtained from COPFS regarding prosecutions of children aged 16 and 17 (previous three financial years) to give an overall projection. This is predicated on the basis that 17.5 years is the likely practical cut-off for offence referrals as this will allow time for grounds to be accepted or established where required, any order to be made and services put in place.

14. Taking all of this information into account, SCRA forecasts an additional 3,900-5,300 referrals of between 2,600-3,400 children as a result of extending the age of referral as proposed in the Bill. Referrals do not always lead to a hearing being convened. In terms of hearings, the forecast is an additional 80 to 150 hearings on offence grounds and 650 to 1,200 on non-offence (which have a higher conversion rate from referral to hearing) yearly. Equating to 730-1,350 additional hearings per year.

15. For the higher 1,350 hearing estimate, CHS predict this would lead to an additional 900 review hearings, 75 hearings when referred for proof, 40 where the sheriff has referred them back to a children's hearings following appeals, and 50 pre-hearing panels. Adding these to the original 1,350 hearings would bring an upper estimate of 2,415 total additional hearings per year. The proportion taken for the lower

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<sup>8</sup> [Decision Making in Cases of Children Jointly Reported](#)

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730 hearings is expected to lead to an additional 575 hearings giving a total of 1,305. Therefore, this implies a range of between 1,305 and 2,415 additional hearings annually.

16. For source B, Scottish Government data-sets on the number of 16 and 17 yr-olds prosecuted under summary procedure show an average of 1,085 over financial years 2018/19, 2019/20. The effects of the Covid-19 pandemic have impacted on statistical trends over recent years, across a host of public bodies and services. Therefore a pre-pandemic snapshot has been used.<sup>9</sup> For Justice of the Peace courts, the average figure over the same period is 181. Proportionally, a high number of these (around 60%) relate to Road Traffic Offences. As outlined in the policy memorandum accompanying the Bill, it is likely that these will be retained in the criminal justice system for prosecution anyway given that measures such as penalty points and disqualification from driving are not available in the hearings system, albeit measures have been included to support remittal for advice and/or disposal. Therefore, 40% of Justice of the Peace prosecutions are expected to be included (which equates to 72 cases). This leads to an overall annual reduction of 1,157 court cases.

17. It is not possible to pre-empt decisions of independent prosecutors and therefore a degree of variability exists. The Scottish Government considered forecasting these on various assumptions (i.e 50%, 70% and 90%) of summary cases now being referred to the Reporter. However, given the discrepancy in forecasts this would create from source A and source B, projections are taken forward on the basis of all summary court numbers. Although it is challenging to account for the discrepancy in figures from sources A and B, one reason may be that summary court figures do not capture COPFS direct disposals which divert from prosecution or those where no action is taken, whereas these could be captured in future referral forecasts. Moreover, the same child may be subject to a number of different referrals. Whilst a child may also be subject to a number of different prosecutions in the criminal justice system (if these happened at different times and so were not taken forward as one court case), it is considered that the potential for multiple referrals is greater. This may also contribute to the difference in forecasts and the resulting wide window of estimation.

## Costs to the Scottish Administration

18. The Scottish Government has no direct influence or remit over the prosecution of offences in Scotland or decisions on referrals made by the Principal Reporter. These are made independently based on the individual circumstances of each case. However, the bodies discharging these duties, COPFS, SCRA and the Scottish Legal Aid Board (SLAB) are mainly funded by the Scottish Government. With the exception of social work services delivered by local authorities. Therefore the funding forecasts have

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<sup>9</sup> These Scottish Government data-sets capture the age of the child at the time of sentence/disposal, and not at the time of first consideration by the Procurator Fiscal. Therefore the child is likely to have aged in the intervening period. The forecasts for source A are at the first point of referral. Therefore, to best illustrate a like-for-like comparison the criminal justice figures run to 18, rather than cutting off at 17.5.

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implications for the Scottish Government in terms of future budget setting regarding the organisations involved.

## Costs to the Scottish Children's Reporter Administration

19. The number of variables with any given referral to the Reporter are considerable. Also, the outcome of a referral could range from no further action taken, to a hearing being convened which subsequently leads to a number of continued, deferred or review hearings. However, whether a hearing is convened or not, there will be a resource requirement for SCRA as a result of the referral.

20. SCRA have used trend data and professional assessment to forecast cost implications of raising the age of referral. This includes administrative and whole time equivalent (WTE) staffing costs, as well as premises and case records IT functions. This equates to £2.3m per year.

21. To assist those who have been harmed, section 6 of the Bill places a duty on the Principal Reporter to advise a person entitled to receive information of their right to that information, subject to certain exceptions. This reframes the existing provisions which give the Principal Reporter the discretion to advise a person entitled to information of that right.

22. In practice, SCRA's Victim Information Service already undertakes this where possible. However, SCRA predicts that placing this on a statutory footing, in addition to the increase in number of referrals and potentially different offending profiles of older children, will see an increase in workload. The costs of re-organisation and expansion to accommodate this is forecast to be £0.1m. Therefore overall costs to SCRA of £2.4m per year.

## Costs to Children's Hearings Scotland

23. Additional costs will be incurred by Children's Hearings Scotland (CHS), the body that recruits, trains and supports volunteer panel members who administer children's hearings. Based on the above forecasts CHS has undertaken modelling encompassing detailed consideration such as additional panel members and staff, training and IT. This is estimated at £0.45m per year if the existing panel model is used.

24. It should be noted that, for SCRA and CHS, there will be other operational considerations, such as the potential for an alternative panel model to deal with more complex cases, which they may pursue. However, these would not be mandated by the Bill and will be subject to other decision forums taking place – not least the Hearings System Working Group – and so any such resource or cost implications are not hypothecated in this Financial Memorandum.

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## Costs to the Scottish Legal Aid Board

25. The Scottish Legal Aid Board (SLAB) manages and administers the legal aid system in Scotland. Legal aid helps pay for legal advice and representation for those who would not otherwise be able to afford it. This is a demand-led budget. Legal aid support for children's hearings operates differently from that in the criminal courts. For the latter, a fixed fee is paid to the solicitor, with possible add-on fees depending on the stage the case reaches. Whilst, in the former, a 'time-and-line' system operates whereby the solicitor claims for the individual items of work done in each case. Moreover, it is not only children who are entitled to publicly funded legal assistance; other relevant persons involved in the child's circumstances – such as parents or siblings – are also entitled to legal aid, subject to the statutory eligibility tests.

26. The Scottish Government has engaged with SLAB, which supplied data on forecast increases in legal aid costs. This was derived from SLAB records of the volumes of criminal legal aid and advice by way of representation (ABWOR)<sup>10</sup> granted for summary cases<sup>11</sup> regarding 16-17.5 year old, which shows it was granted for 1,057 cases (again, this is different from the numbers of children forecast in scenarios A and B above, yet is consistent with the general window of estimates). Using these numbers, and taking reductions from criminal legal aid<sup>12</sup> from overall new costs regarding children's legal aid, the net costs are forecast at £1.03m per year.<sup>13</sup>

## Costs to the Scottish Ministers regarding independent advocacy

27. Professional independent advocacy support is available to children in the hearings system, in order to help them express their own needs and views, conveying to the hearing what they would like to happen. It is distinct from, and in addition to, legal aid and assistance. The service is not mandatory. The child at the centre of the hearing is informed of its availability and then has the option to take it up.

28. The Scottish Government introduced a national children's hearings advocacy scheme in 2020. It has since been expanded to support the right of siblings to participate on contact issues in children's hearings and for children and young people placed in residential settings in Scotland under Deprivation of Liberty Orders (DOLs).

29. The Bill makes no specific provision in this regard. However, in raising the age of referral to the Principal Reporter, it is envisaged there will be an increase in advocacy support required for 16 and 17 year olds. This is a demand-led service and it is not envisaged that every child attending a children's hearing will want to make use of the service. Many will be content to provide their views themselves or will have other people

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<sup>10</sup> Summary criminal legal aid is used for pleas of not guilty by the defendant in summary procedure cases. ABWOR (advice by way of representation) summary complaint legal aid is used for guilty pleas by the defendant in summary procedure cases.

<sup>11</sup> From year 2019-20 and the 12 months to July 2022 inclusive

<sup>12</sup> These include summary criminal (not guilty pleas) [1st instance], ABWOR (guilty pleas) [1st instance], court grants [1st instance]

<sup>13</sup> Figure includes the current fee offer to legal aid solicitors of a general 10.3% increase, which would proceed before the commencement of this legislation.

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they would rather choose to support them. It is delivered via a blend of grant funding and spot-purchasing, with the table below displaying recent allocations.

Funding year	Committed Funds	Actual Spend
2019/20	£203,000	£112,489.83
2020/21	£1.5 million	£906,416.18
2021/22	£1.8 million	£1,411,806.56
2022/23	£2 million	TBC

30. Although it is challenging to predict the precise increase in costs which may result from the framework set out in the Bill, findings from current provision show that older children do not necessarily seek independent advocacy in the same way as younger children.

31. Current modelling<sup>14</sup> shows an assumption of around 10% uptake. Current uptake rates of younger children also endorse this forecast. Therefore, based on the window of 730-1,350 additional hearings a prediction of 73-135 additional children seeking advocacy support – at a cost of between £32,850 and £60,750 per year – is assumed.<sup>15</sup>

### Costs regarding safeguarding

32. Additionally within the hearings system process, a safeguarder may be appointed. Their role is to safeguard the best interests of a child, keep them at the centre of proceedings, and inform decision-making through independent information gathering (including, as appropriate, the child's and others' views), as well as objective and analytical reporting. Whether a safeguarder is needed is individual to each child's needs and circumstances. It is for the children's hearing or sheriff (where children's hearing proceedings are at court) that is considering the child's case, to appoint a safeguarder where they feel one is needed. A panel is currently under a legal duty to consider whether or not to appoint a safeguarder in each case.<sup>16</sup>

33. This is a demand led service. Inevitably costs fluctuate on a case-by-case basis. However, pre-pandemic safeguarders were appointed in approximately 4.2% of children's hearings.

<sup>14</sup> Based on SCRA official statistics for 2018-19 (which provided a baseline for the introduction of the children's advocacy service in November 2020) and earlier pilot activity.

<sup>15</sup> Based on the Scottish Government's current spot-purchasing costs at a £30 hourly rate for an average of 15 hours per hearing, equating to £450 per hearing.

<sup>16</sup> [Children's Hearings \(Scotland\) Act 2011 \(legislation.gov.uk\)](https://legislation.gov.uk)

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Year	Number of children's hearings held	Number of safeguarder allocations	Allocations as a percentage of hearings held
2019/20	30,363	1,364	4.5%
2018/19	31,653	1,305	4.1%
2017/18	32,553	1,327	4.1%

34. Safeguarders claim fees and expenses for individual appointments from the Scottish Government. Prior to the pandemic, the average annual cost of fees and expenses for safeguarder appointments was approximately £1.6m from 2016 to 2020. In 2020, a 5% uplift was applied to their fees. Therefore annual costs are anticipated to return to an average of approximately £1.7m as the hearings system returns to pre-pandemic operating levels.

35. Taking into account administration, training and performance monitoring, there is an approximate cost of around £1,500 per safeguarder appointment. The range of costs can vary widely dependent on the nature of the individual appointment; expenses incurred in the course of a safeguarder's duties; or whether there are additional costs incurred such as independent legal advice which may be required, dependent on the case.<sup>17</sup>

36. Based on the estimate of an additional 730-1,350 hearings per year at a 4.2% appointment rate, between 30 and 60 additional safeguarder allocations per year are forecast. It is therefore anticipated an increase in safeguarder fees of £45,000-90,000 per year.<sup>18</sup>

## Movement restriction conditions

37. Movement restriction conditions (MRCs) can be placed on a child by a hearing as part of a Compulsory Supervision Order (CSO) or Interim CSO. The Measures in the Bill to alter the test for MRCs to reflect that injury to others may not be physical, but emotional or psychological, to enable an MRC to restrict a child approaching a specified person or place and to decouple the MRC criteria from that for secure accommodation may have a bearing on the number of such conditions imposed.

38. However, use of MRCs within CSOs is currently relatively low (average of 26 per year – 2 per month – over the past 4 financial years). Costs in relation to the electric

<sup>17</sup> [Safeguarder Fees Expenses Allowances \(children1st.org.uk\)](https://www.children1st.org.uk)

<sup>18</sup> The majority of safeguarder appointments relate to younger children. Therefore the additional referrals focussing on a higher age range may well have a lower impact than anticipated.

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monitoring are met by the Scottish Government. Internal figures (over the past four financial years) show average annual costs of £13,719 for electronic monitoring.

39. Yet there will be other costs, particularly for local authority social work, of support around the MRC, not least owing to the requirement that 24 hour support is available as part of an MRC. However, the intention behind the Bill is not to promote wide-scale use of MRCs. Decisions are made independent of government on a case-by-case basis and subject to practice guidelines. The Bill does not make specific direction as to such decisions and therefore it is not deemed appropriate or useful to hypothesise any cost implications. The Scottish Government commits to monitoring any evidence from third parties during parliamentary scrutiny concerning possible forecasts for MRC usage and any resulting cost implications.

### Cost implications for the criminal justice system

40. The number of children in the criminal justice system – and the associated costs in that setting – is scheduled to reduce due to the expansion of the hearings system to a wider age-group on offence grounds.

41. Scottish Government official statistics provide for the average costs associated with taking a case through the criminal court process. Within this context, and purely for illustrative purposes, the Scottish Government has considered the figures on average costs of court proceedings. The unit expenditure of criminal procedure in Scotland (2016/17 prices) equates to £430 for sheriff court summary proceedings and £243 for Justice of the Peace courts (when legal aid costs are discounted, which are covered above). These figures are £503 and £274 when expressed in 2022/23 prices. These are average figures and do not account effectively for complexities associated with allocation of costs relating to marginal costs. The Scottish Government considered the merits of seeking to map the financial implications of the Bill for the criminal justice system based on these figures for the Scottish Administration, but notes that any savings purportedly identified would not represent a net overall saving, given the overall scale of the court programme and ongoing and general costs arising for those involved in the criminal court process in terms of staffing costs, court building costs etc.

42. The table below summarises the costs above, estimated for the Scottish Administration.

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Parts 1 and 2 of the Bill (diversion to children's hearing system from criminal justice system)			
Scottish Administration			
Falling on	Nature of costs	One off	Recurring from f/y 2024/25
SCRA	Increase in referrals to the Reporter	N/A	£2.4m p/a
CHS	Increase in children's hearings	N/A	£0.45m p/a
SLAB	Legal aid and assistance	N/A	£1.03m p/a
SG	Advocacy	N/A	£0.03-£0.06 p/a
SG	Safeguarding	N/A	£0.05m-£0.09m p/a
Net Cost			
Scottish Administration	Above	N/A	£3.96m-£4.03m p/a

## Costs to local government

43. Social workers provide support for children's hearings in various forms, for example: meeting with children and families; providing evidence and reports to the hearings processes; attending hearings; liaising with others involved in the care of the child; implementing orders; and providing aftercare and support. Any increase to the number of children's hearings will add to requirements for such supports.

44. However, social work services also provide support when children or young people go through the criminal justice system. Therefore there would be a reduction in requirements via this forum. There is variation on structure and delivery models across local authority social work services for children aged 16 and 17. Some councils would deliver this via their children and families social work service, whereas others via justice social work. The Bill does not affect this discretion on delivery.

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45. The social work support required for children's hearings varies significantly on a case-by-case basis depending on the needs of the child and the complexities of the case. It is therefore difficult to provide precise cost estimates.

46. In order to quantify a likely range of costs, the Scottish Government liaised with Social Work Scotland (SWS) to estimate an amount of social work time required for any additional referrals and hearings. These time estimates are: work for initial inquiry (10 hours); work for initial hearing and substantive hearing (17 hours); work for continued hearing (10 hours); and work for review hearing (21 hours).

47. Each additional referral would require at least an initial inquiry and would therefore generate an average of 10 hours of social work support. For those referrals that require hearings, it is estimated that all hearings will require the social work support of initial hearing and substantive hearing (so 17 hours social work support). And, due to lack of other available evidence, it is assumed that 50% of hearings will require social work support for continued hearings and review hearings (so the additional 31 hours).

48. Using the above forecasts, the 3,900–5,300 additional referrals will require between 39,000 and 59,000 hours of social work support, while the 730–1,350 additional hearings will require between 23,725 hours and 43,875. Combining the support required for referrals and hearings, this is a total of between 62,725 hours and 102,875 hours.

49. It is estimated the annual cost of a full time social worker amounts to £52,000 (this includes salary plus employment costs). This equates to an estimated cost of £29 per hour (35 hours per week x 52 weeks).<sup>19</sup> Combining the information above, the implied additional cost of social work support would be between £1.8m and £3m per year.

50. On reductions to social work support in the criminal system, SWS indicate that involvement does not usually take place until the court requests a justice social work report. As such there is not an equitable comparison for the work needed before a report is requested such as where a Reporter is making initial inquiries, or a child is looked after so a child care review is needed before a care plan can be agreed for presentation to a children's panel. However, SWS estimate a cost of £447 per social work report is assumed. Based on the above reductions in criminal court cases of 1,157 savings of £0.52m would be expected. Therefore equating to net £1.28m-£2.48m per year.

51. It is recognised the Bill could generate extra capacity implications for local government regarding any increases in the number of compulsory orders as more children are channelled via the hearings system, rather than criminal courts. And likewise, any increase in aftercare entitlements. However, given the number of variables

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<sup>19</sup> This information is taken from work done for the Bail and Release from Custody (Scotland) Bill as introduced to the Scottish Parliament on the 8 June 2022. This methodology was agreed with representatives of justice social work for that Bill.

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it has not been possible to give forecasts. The Scottish Government commits to monitoring any evidence from third parties during parliamentary scrutiny concerning possible forecasts and any subsequent cost implications.

Parts 1 and 2 of the Bill (diversion to children's hearing system from criminal justice system)			
Local Government			
Falling on	Nature of costs	One off	Recurring from f/y 2024/25
Local authorities	Social work support for increase in referrals/hearings	N/A	£1.3m-£2.5m p/a

## Movement restriction conditions

52. In addition to cost considerations regarding the Scottish Administration on MRCs above, these also generate other costs, such as for local authority social work, of support around the MRC, not least owing to the requirement that 24 hour support is available as part of an MRC. However, as outlined above, the intention behind the Bill is not to promote wide-scale use of MRCs and it does not make specific direction regarding their use. Therefore specific cost implications are not estimated here.

## Extending voluntary measures post-18

53. The Bill makes provision for the ability of a children's hearing to make a statement about supervision and guidance of the young person up to age 19 in certain circumstances. The consultation on the Bill outlined the desire to avoid 'cliff edges' of support regarding transition from one system to another as a child turns 18. As set out in the Policy Memorandum accompanying the Bill, there are barriers to the hearings system being able to have remit regarding an individual post-18 in relation to compulsory measures.

54. Yet, to assist with the broader policy aims in relation to the transition, the Bill allows the hearing to decide, when terminating an order and the child becoming 18, that ongoing supervision and guidance would be helpful. If the young person will accept it, a local authority will have duties to provide it. However, children on a compulsory order will already have care leaver status and aftercare entitlements. These are existing duties local authorities provide and the Bill makes provision for a young person to be notified of them. Therefore, no additional cost is forecast

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## Sections 12, 13, 14 – Children at court

### Costs to the Scottish Administration

55. Section 14 extends existing duties and introduces new powers on courts where a child has been accused of, has pled or been found guilty of an offence. These include: restricting association with adults charged with an offence when waiting in the court; taking steps to remove the child from undesirable surroundings; and considering steps to better facilitate participation of the child in proceedings by tailoring court conduct and practice, building on a wide range of existing legislative and non-legislative measures.

56. This section also extends options for the sheriff or court where a child accused is involved, to sit in a different building or room from that in which they usually sit, or on different days from those on which other courts in the building are engaged in criminal proceedings. They also expand the scope for courts to put in place ‘closed court’ settings for the child accused, including, where the court considers it appropriate, in the case of a child who was co-accused with an adult.

57. Scotland’s court estate is varied, covering urban and rural settings. Some are historical buildings with features that represent the systems, procedures and times in which they were built. Others are more modern buildings with features which may lend themselves to more flexibility. There are also different requirements in different types of cases, including for example security measures and the presence of a jury in solemn proceedings.

58. Such considerations have been taken into account in the Bill’s provisions, as has the constitutional independence of the judiciary. The fact that courts will of course maintain discretion as to whether they put in place certain measures, means that it is not possible to make specific forecasts on the regularity by which such considerations will be implemented. Therefore, no specific funding assumptions can be drawn and any attempt to do so may be misleading and seen to cut across judicial discretion.

59. Regarding anonymity for children involved in court proceedings, sections 12 and 13 make provision in relation to those accused and/or convicted, and also as those as victims and witnesses in certain circumstances. Children under 18 are already afforded such measures via section 47 of the Criminal Procedure (Scotland) Act 1995 which prohibits the publication of the name, address, school or any particulars calculated to lead to the identification of a child who is an accused, victim or witness in criminal proceedings. The Bill extends this to pre-trial and enables consideration of extending reporting restrictions into adulthood. However, as with now, court discretion exists to dispense with restrictions on identify disclosure and the Bill introduces a new non-exhaustive list of factors for consideration.

60. Reporting restrictions on the accused will only be able to be removed by the court on disposal of the proceedings. The provisions also afford rights of appeal to any child or person to challenge a court decision to disclose identity. Such an appeal would derive cost implications. However, there is no quantifiable measure on which to base

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forecasts of this. It could be assumed that a court decision to dispense with a presumption of anonymity is more likely in solemn procedure, where the gravity of offending is likely to be higher which impacts the balance of the public interest test, where the number of under 18s appearing is low.

61. Moreover, the presumption of reporting restrictions applying to witnesses under 18 years old will remove the need for the court to make a direction in situations where the witness is under 18 and no other party to the proceedings is under that age, as is currently the case. This could create savings and efficiencies for the court, although again these are challenging to quantify given the lack of established data-sets concerning the ages of all those involved in court cases across Scotland.

## Section 15 - Remittal to the children's hearings system

62. Section 15 increases the opportunities for children to be remitted to the children's hearings system when they have been found, or pled, guilty in the courts. This builds on current ability of courts to remit, with different frameworks proposed:

- Where a child is being dealt with in the High Court, the court may refer for advice and then thereafter may remit for disposal (with the ability to remit for disposal straight away if considered appropriate).
- Where a child is being dealt with in solemn proceedings in the sheriff court, the court can either request advice from a children's hearing, remit the case to a hearing for disposal, or dispose of the case without remittal for advice (only where remittal for advice would not be in the interests of justice).
- Where a child is being dealt with in summary proceedings, the court must seek advice as to disposal and then thereafter may remit for disposal (with the ability to remit for disposal straight away if considered appropriate).

63. Certain exceptions also exist, such as for offences fixed by law and where a child is in close proximity to their 18<sup>th</sup> birthday, whilst there is a specific framework for certain road traffic offences and sexual offences.

64. At present, around 5% of cases involving children whose cases could be remitted to the hearings system by a court are.<sup>20</sup> Quantifying the number being remitted under the Bill framework is challenging. However, raising the age will also increase the number of 16-17.5 year old children going to the hearings system in the first instance, reducing numbers in the courts. Moreover, the Bill allows for remittal to a hearing by the court immediately where the court considers this appropriate, streamlining the process and ceasing requirements for court to sit in consideration of the case beforehand if it does not deem this necessary. This should lead to savings on court time/resource. However, given the level of discretion to the court and lack of data upon which to

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<sup>20</sup> Remittal from Court, CYCJ, Fiona Dyer, [Remittal from Court \(cycj.org.uk\)](https://www.cycj.org.uk)

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forecast how often the remittal framework will be used no direct costs have been derived. The Scottish Government commits to monitoring any evidence from third parties during parliamentary scrutiny concerning possible forecasts for remittal and any resulting cost implications.

## Costs on other bodies, individuals and businesses

### Children in police custody

65. Section 11 makes provision around police custody and extends functions in a range of areas to ensure they apply to all those under 18, which they already do for children under 16 or subject to measures through the children's hearings system. This includes notifications to parents and local authority social work that a child is in custody and helping ensure a solicitor is present during police interviews. It also extends considerations for keeping children in a place of safety prior to attendance at court. Although this makes clear this should not be in a police station, the provisions retain existing exceptions. One of which is that keeping the child outwith a police station would be impractical, unsafe or inadvisable due to their state of health (physical or mental). Engagement with Police Scotland has taken place and feedback indicates from January to June 2022 there were 805 occasions when 16 and 17 years olds were held in custody for court, including 97 where they were subject to compulsory measures of supervision (therefore 708 for the circumstances outlined above). However, no change is being made to the current definition of a place of safety which can include secure accommodation (although not routinely used) the home of a suitable person, any other suitable place where the occupier is willing, a hospital or surgery and residential or other establishment provided by a local authority. Due to existing exceptions and definitions being retained, no direct cost implications stemming from the Bill are quantified.

## Parts 2 and 3 – Children deprived of liberty – ending u-18s in young offenders institutions/secure accommodation

### Costs to the Scottish Administration

66. Provisions under Part 2 concern ending the practice of under-18s being kept in custody in YOIs in Scotland. Under the Bill's provisions, where a child requires to be deprived of their liberty, secure accommodation will normally be the alternative.

67. Scottish Ministers fund the costs of children sentenced to detention and detained in YOI. Regarding those remanded, Scottish Ministers fund placements for young people remanded in YOIs, whilst local authorities fund young people remanded in secure accommodation.

68. The number of children under 18 in YOIs in Scotland fluctuates. There was a daily average of eight children so detained in July to November this year and the last full

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yearly figure shows a daily average of 12.<sup>21</sup> However, in keeping with other baselines used in this Financial Memorandum using financial years, the figure for 2021/22 stands at an average of 16 children, with 12 of those placed there on remand.<sup>22</sup>

69. Secure accommodation costs vary depending on the provider, with the fees set annually for the coming year in the Scottish Excel contract. This shows an average of around £6,500 per week – or £338,000 per year per placement. Based on an average of four additional under 18s being placed in secure accommodation, who would otherwise have been in a YOI, this leads to additional annual recurring costs of £1.35m.

70. YOIs are part of the prison estate and therefore running costs are met within the Scottish Prison Service's (SPS) budget (and fall to the Scottish Administration). SPS estimate that the annual average cost of a prison place in 2021-22 was £41,858<sup>23</sup> – excluding capital charges, exceptional payments and the cost of the Court Custody and Prisoner Escort contracts. However this is an average figure (i.e. based on total costs divided by the number of prisoners, not the costs associated with each individual prisoner) and does not account effectively for complexities associated with allocation of costs relating to the holding of prisoners or consider the issue of average versus marginal costs. There may be some notional savings to the SPS budget if children are no longer held in YOIs but it is not possible to provide an estimate of those savings, separate from wider work to consider the management of the regime and the available accommodation. Any notional savings would be absorbed in the costs of running the wider prison estate, including YOIs for those aged 18 and over.

71. Predicting demand for secure care is complex, but based on previous demand it is deemed that there is likely to be sufficient capacity in the secure accommodation estate to accommodate the numbers of children no longer being detained in YOI. However, there will be additional costs for secure accommodation providers associated with any adaptations required to secure accommodation, in the form of training of staff, increased safety measures and skills academy provision in order to meet the needs of a higher age range who will be in secure accommodation rather than a YOI. Furthermore, there will be costs associated with additional provision to accommodate children in exceptional circumstances where the placement breaks down or the safety of the child or others is compromised or in an emergency situation such as fire or a health pandemic such as covid. The costs for this are currently unknown. It is acknowledged that Scotland's secure accommodation framework and provision will require to take account of Bill provisions in this area, particular around additional contingency provision as outlined above. Although this is not a cost directly derived from the Bill, such considerations in consultation with partners are taking place in tandem with the Parliament's consideration of the legislation.

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<sup>21</sup> Scottish Prison Population [SPS Prison Population](#)

<sup>22</sup> Scottish Prison Population [SPS Prison Population](#)

<sup>23</sup> [Annual Report and Accounts 2021-22 \(sps.gov.uk\)](#)

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Parts 2 and 3 of the Bill (Ending U-18s in YOI / Secure Accommodation)			
Scottish Administration			
Falling on	Nature of costs	One off	Recurring (from 2024/25)
Scottish Ministers	Increase in children placed in secure accommodation following sentence	N/A	£1.35m p/a

## Costs to local government

72. Local government currently fund remand places for secure accommodation. Considerations is being given to secure accommodation delivery and funding more generally, in light of the Bill and other policy aims. However, in order to quantify costs upon introduction to Parliament, current funding processes are used. Using the above calculation of 12 children per year, this leads to annual recurring costs of £4.06m.

Parts 2 and 3 of the Bill (Ending U-18s in YOI / Secure Accommodation)			
Local Government			
Falling on	Nature of costs	One off	Recurring from f/y 2024/25
Local authorities	Increase in children remanded in secure accommodation		£4.06m p/a

73. Provisions under Part 3 concern routes to secure accommodation and revisits the statutory definition of a “secure accommodation service”, to help clarify and update the regulatory landscape linked to these services, including processes and criteria for such services to be approved by the Scottish Ministers. However, the existing Bill does not affect the existing decision-making forums and roles and responsibilities for authorising placements and implementing secure accommodation authorisations (i.e. retaining existing roles of the CSWO, and Heads of Unit in secure accommodation, local authorities, the judiciary, the children’s hearings system and the police). Secure

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accommodation placements will still only be possible after full consideration of the child's needs, best interests and rights and, where appropriate, the safety of others. Therefore, whilst these provisions may alter the numbers of children in secure accommodation, they are not intended to increase the number of children deprived of their liberty therefore no specific costs are quantified.

74. Part 2 also affords looked after children status to all children who are sentenced or remanded to secure accommodation (if they do not have such status already) for the duration of their placement, and should they leave secure accommodation on or after their 16th birthday to be treated as, and have access to, the same entitlements to after-care support as other care leavers. Currently most children in secure accommodation will already be looked after children and therefore benefit from corporate parenting entitlements. Also at present, if the child ceases to be looked after on or after their 16th birthday, they will have additional entitlements to support as care leavers, including after-care potentially up to the age of 26. Although this new provision affords this to all those in secure accommodation, the numbers not previously entitled are forecast to be low and therefore no specific cost derived.

## Accommodation sections 24 and 25 – Cross border care placements

### Costs to the Scottish Administration

75. Sections 24 and 25 introduce measures regarding children and young people placed in care settings in Scotland from other UK jurisdictions, commonly known as cross-border placements. These provisions build on the Deprivation of Liberty (DOL) Order Regulations<sup>24</sup> which, came into force on 24 June 2022. These regulations provide for DOL orders to be treated in Scotland as if they were Compulsory Supervision Orders, reducing the need for petitions to Scottish courts and the previous costs with such court processes.

76. They are in place to ensure clarity and accountability around the placing authority's responsibilities prior to any cross-border placement, and throughout its duration. These make clear the placing authority is responsible for implementation of the DOL order and all aspects of the child's welfare. This includes the provision of all services required to support the child and bearing all the costs arising from – or in consequence of – the placements (except the cost of Scottish advocacy provision). It provides a robust mechanism for information-sharing, which aims to streamline and better regulates the existing placement process. In the initial three month period up to 24 September 2022, the SG has received notifications relating to the placement of 10 children into Scottish residential childcare services.

77. These new DOL Orders arrangements are in their infancy and the Scottish Government intends to learn from their implementation and operation as further

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<sup>24</sup> [The Cross-border Placements \(Effect of Deprivation of Liberty Orders\) \(Scotland\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

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measures develop. However, the Bill introduces new requirements regarding the regulatory framework, namely for new providers of services which will accommodate cross-border placements to notify necessary bodies involved in strategic needs locally and children's services planning such as local authorities and health boards.

78. Section 25 also contains further enabling powers allowing for recognition of UK court orders that temporarily place children in residential care in Scotland in the framework of Scots law. The power should permit recognition taking account of the distinctions between the different types of orders which may result in a cross-border placement. In addition to the recognition of DOLs Orders, this will enable appropriate recognition of other types of UK care orders. Yet detailed assessment of impacts and costs will only be possible when secondary legislation is developed. The Scottish Government will undertake this in line with its obligations at that point.

79. Scottish Administration cost implications for the cross-border measures in the Bill are principally via the Care Inspectorate (with any associated future Scottish Government policy or guidance development considered to be part of usual functions already captured in overall administrative costs). New costs for the Care Inspectorate will be derived from the additional requirements to consider if a residential childcare or school care accommodation service provider has made the necessary notifications regarding strategic needs and children's services planning when assessing its registration application. Detailed engagement has taken place with the Care Inspectorate, which indicates that it will need to develop a process to provide such verification which will include, staffing costs as well as system and guidance changes. However, a new process has not been established and the Bill will not direct the process, therefore no costs have been forecast in this regard. The Care Inspectorate does however predict a requirement to update digital systems, at a one-off cost of £5,000 and with ongoing staffing costs of WTE business support at £0.015m per annum.

## Costs to local government

80. There is already a duty on local authorities and health boards to develop and publish their children's services plans, setting out how the partnership will work together collaboratively to improve outcomes for children and young people in their area. It is expected that local services will work within the existing structures and resources that they already have in place to process these notifications and involve the new services providers within local children's services planning arrangements. As such any additional costs likely to fall on public bodies from alterations in practice on this issue is forecast to be minimal.

## Costs on other bodies, individuals and businesses

81. As above, health boards are involved in children's services plans. The same implications as set out for local government apply.

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## Overall Bill

Costs Borne By	Amount (p/a)
Scottish Government	£5.31m-£5.38m
Local Government	£5.36m-£6.56m
Total	£10.67m-£11.94m

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# Children (Care and Justice) (Scotland) Bill

## Financial Memorandum

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## Appendix 2

**Children (Care and Justice) (Scotland) Bill: Financial Memorandum Call for Views Consultation Questions**

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

**Yes**

*West Lothian Council took part in a previous Scottish Government Consultation on Children's Care and Justice Policy Proposals which contained 30 questions. Following approval from Council Executive which was held on 21<sup>st</sup> June 2022, West Lothian submitted a response to all of the questions to Scottish Government. No questions specifically asked for comments on the financial assumptions however, West Lothian Council provided general comments within 10 of the questions in relation to the need to adequately fund the proposals in the Bill. West Lothian Council highlighted that these proposals could not be funded from within current budgets and specifically highlighted pressures around exit plans from secure care and the associated costs of residential care which is often the exit resource. West Lothian Council also highlighted funding implications in respect of continuing care, transportation costs and advocacy costs which could not be met within existing budgets.*

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

**No**

*As highlighted in question 1, no specific questions in relation to the financial assumptions were included in the questions which were responded to. West Lothian Council included general comments in relation to the need to adequately fund the proposals advising that they could not be funded from current budgets. West Lothian Council specifically highlighted pressures in relation to residential care which is often the exit resource from secure care, eligibility for continuing care which is a pressure that is not currently adequately funded, transportation costs and advocacy. These are not accurately reflected in the FM.*

3. Did you have sufficient time to contribute to the consultation exercise?

**No**

*West Lothian Council did not receive sufficient time to go through the full governance process before submitting a response to the previous consultation exercise. West Lothian Council were unable to submit the draft response for consideration and scrutiny at the Social Work and Health, Policy Development and Scrutiny Panel (PDSP) before it was submitted to the Council Executive for approval on 21/06/2022. The current request for a response to the questions contained here has also not been received in enough time to go through the full governance process.*

4. If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

**No**

*As stated above, the financial implications for West Lothian Council are not reflected. West Lothian Council specifically highlighted pressures in relation to residential care which is often the exit*

## Appendix 2

resource from secure care, eligibility for continuing care which is a pressure that is not currently adequately funded, transportation costs and associated advocacy costs. These are not accurately reflected in the FM. West Lothian Council would specifically like to highlight;

- *It is not clear if all secure costs will be paid by the Scottish Government, for example there is no mention of step-down costs in alternative resources.*
- *There is no mention of Continuing Care costs in the memorandum at all, even though this is an area that has been reported as being difficult to continue to resource.*
- *There are limited beds in secure accommodation resources which could lead to alternatives needing to be found for other vulnerable young people, possibly at extremely high cost for bespoke packages with associated continuing care implications.*
- *There are concerns about how funds will be distributed as an unequal distribution of costs could have significant effect on some councils and not others due to low numbers in some authorities and not in others.*

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

**No**

*From the information provided, West Lothian Council were unable to understand how the estimated costs and savings were calculated and can therefore not say if they are reasonable or accurate.*

*There appears to be a number of considerations not included within the estimated costs such as the costs of exit plans from secure accommodation, continuing care etc.*

*There appears to be no considerations in the event there is no available secure accommodation resource. West Lothian Council would be concerned about who is then responsible for the arrangement and financial payments associated with the needs that have to be met.*

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

**No**

*From the information provided, it's not clear if this will be fully funded and how funding will be distributed amongst local authorities, given the low numbers of under 18s in Young Offender Institutions. As above, it is not clear how further costs of step-down support and Continuing Care will be managed. West Lothian Council has found it difficult to manage the ongoing costs and capacity issues resulting from implementation of Continuing Care up to this point. West Lothian Council cannot meet any financial costs that it might incur as a result of the Bill and the full and real costs require to be fully funded.*

- *Consideration could be given to linking funding to an intensive support package per young person which would ensure that the financial risk stayed with the Scottish Government and no individual local authority area*
- *There would be a risk for West Lothian Council if a population-based distribution of funding occurred as from the current forecasts in the Bill, this would result in West Lothian receiving in the region of £200,000 which would not cover the cost of a single Continuing Care placement and West Lothian would have no other way of funding these costs.*

## Appendix 2

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

**No**

*As highlighted throughout the question responses, there is no mention of step-down care costs or Continuing Care costs. More clarity is required on other areas which means that West Lothian Council would expect margins of uncertainty to be higher than those reflected in the FM.*

DATA LABEL: Public



## **COUNCIL EXECUTIVE**

### **ENHANCED COLLABORATIVE CLINICAL AND CARE SUPPORT FOR CARE HOMES**

#### **REPORT BY HEAD OF SOCIAL POLICY / CHIEF SOCIAL WORK OFFICER**

#### **A. PURPOSE OF REPORT**

To confirm the expiry of powers to intervene in care provisions, as set out by the Coronavirus (Extension and Expiry) (Scotland) Act 2021.

To update the Council Executive on revised arrangements for Enhanced Collaborative Clinical and Care Support for Care Homes.

#### **B. RECOMMENDATION**

It is recommended that the Council Executive:

1. Notes the work of the Collaborative Care Home Support Team for West Lothian.
2. Notes that officers continue to work in partnership with all care providers providing support and seeking assurance regarding care quality.
3. Agrees that reporting to Council Executive on the work of the Care Home Clinical and Care Professional Oversight Group will now cease.

#### **C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Adult Support and Protection (Scotland) Act 2007 The Public Services Reform (Scotland) Act 2010, as amended, National Care Home Contract.
<b>III Implications for Scheme of Delegations to Officers</b>	None.
<b>IV Impact on performance and performance Indicators</b>	The performance of external care services is reported to the council on an annual basis. Care Home ratings are linked to penalty and enhancement payments under the terms of the National Care Home Contract.

<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	People most at risk are protected and supported to achieve improved life chances
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	There is no existing council budget available to meet potential costs associated with the Act. The expectation at this stage would be that any costs incurred would be funded by the Scottish Government through Local Mobilisation Plans.
<b>VII</b>	<b>Consideration at PDSP</b>	Not Applicable.
<b>VIII</b>	<b>Other consultations</b>	None to date.

## **D.1 TERMS OF REPORT**

### **Background**

The Care Home Clinical and Care Professional Oversight Group was implemented in West Lothian as determined by the Scottish Government on 18 May 2020.

On 6 September 2022, the Chief Social Work Officer provided an update report to the Council Executive on the implementation of powers to intervene in care provisions, as set out by the Coronavirus (Extension and Expiry) (Scotland) Act 2021. An update was also provided on work of the Care Homes Clinical and Care Professional Oversight Group.

The Scottish Government confirmed revised arrangements for enhanced support to adult and older people's care homes on 14<sup>th</sup> December 2022.

## **D.2 Coronavirus (Expiry) Scotland Act 2021 – New Arrangements**

The Coronavirus (Expiry) Scotland Act 2021 expired on 30 September 2022. The majority of the devolved temporary provisions in the UK Act expired on 24 March 2022, and the five provisions which Scottish Statutory Instruments extended to 24 September 2022 have now expired.

The Advice Note from the Scottish Government for New Arrangements for Enhanced Collaborative Clinical and Care Support for Care Homes is not mandatory, and it is not intended to supersede existing arrangements but to provide guiding principles and a framework for collaborative improvement.

## **D.3 Enhanced Collaborative Clinical and Care Support for Care Homes**

The revised arrangements recommend that assurance and support continue focusing on adult and older people's care homes. Many of the challenges facing the care home sector that were apparent during the pandemic remain and have been exacerbated by the recent cost of living crisis, staff shortages and wider pressure in the health and social care sector.

The Collaborative Care Home Support Group will continue to build on existing good practices, collaborative improvement and assurance, including wider considerations around the pressures of financial viability/sustainability. It is expected the removal of oversight from the remit of the group will avoid confusion with the statutory duties of the

Care Inspectorate.

Arrangements will continue to focus on clinical and care support, with leadership from Health and the Chief Social Work Officer in full partnership with providers and care home staff. Public Health will continue to play a role in outbreak support to care homes, and the social policy contracts and commissioning team will support the understanding of pressures, developments and opportunities across the system.

The new arrangements provide guidance to assist in monitoring capacity and to support the provision of assurance to Scottish Ministers.

The Collaborative Care Home Support Group continue to meet twice weekly to consider and evaluate information relating to the Covid-19 status and any other issues highlighted by older people and adult care homes in West Lothian. This is supplemented by twice weekly direct contact with care homes and daily oversight of information available through the TURAS system. Bed availability and occupancy were recently added to the KPI report on TURAS to assist the National Response Group in understanding occupancy and resilience.

Health and Social Care Teams work collaboratively to ensure care homes are provided with appropriate support to maintain the health and well-being of residents.

There is a range of resources available to care homes in West Lothian, including access to education and training, specialist wound care advice and vaccinations. Care Home residents are a key priority group for the upcoming Spring booster and were prioritised by the West Lothian vaccination team to receive their Winter influenza and Covid-19 booster in a timely manner, with all residents who were eligible being offered their vaccine within the first three weeks of the programme. In addition to Winter and Covid-19 vaccines the vaccination team has been working with care homes to ensure uptake of other vaccines such as shingles and pneumococcal vaccines.

This Winter has seen an increase in respiratory viruses other than Covid-19, such as influenza. Care Homes continue to receive specialist outbreak advice from Health Protection Teams. Work was undertaken locally to ensure appropriate testing was carried out in Care homes to ensure the identification of cases of influenza and other respiratory viruses as well as Covid-19 so that appropriate advice and support could be offered to keep residents safe and well within their Care Homes. The impact of Winter viruses on residents has been minimal, and Care Homes have experienced limited numbers of outbreaks. Outbreaks have tended to affect fewer residents and have been more easily contained.

## **E. CONCLUSION**

Over the next reporting period, collaborative arrangements will continue to reflect Scottish Government recommendations. Work will commence on the development of a Collaborative Improvement Model to provide a framework to support local approaches aligned to existing work to ensure they reflect current practice, are sustainable, and ultimately continue adding value for people supported by adult social care. There has been considerable learning and examples of partnership working during this time.

The number of Care Homes experiencing a Covid-19 outbreak has reduced over the reporting period, as has the impact of Covid-19 on residents. Health Protection Teams across Lothian continue to work with Care Homes to offer advice and support if symptomatic residents are presenting in a care home setting. The care home team continues to work with local vaccination teams to ensure all care home residents are offered timely vaccinations.

It is proposed that reporting to Council Executive on the work of the Care Home Clinical and Care Professional Oversight Group will now cease. This aligns with the ending of associated legislation and increasingly stable position across care home provision. Any emerging issues or risk will continue to be closely monitored and reported via the associated governance structures.

## **F. BACKGROUND REFERENCES**

Coronavirus Acts: fifteenth and final report to Scottish Parliament (October 2022)

<https://www.gov.scot/publications/coronavirus-acts-fifteenth-final-report-scottish-parliament/pages/6>

<b>Appendices</b>	None
<b>Contact Person:</b>	Robin Allen, Senior Manager, Older People Services 01506 281851
	Jo MacPherson Head of Social Policy/ Chief Social Work Officer
<b>Date</b>	21 March 2023