



## ***Council Executive***

West Lothian Civic Centre  
Howden South Road  
LIVINGSTON  
EH54 6FF

11 April 2024

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 16 April 2024 at 10:00am**.

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 Tuesday 12 March 2024 (herewith)

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

5. Elections Preparations and Impact of the Elections Act - Report by Chief Executive (herewith)
6. Chief Planning Officer and Planning Delegations - Report by Governance Manager (herewith)

7. Civic Government (Scotland) Act 1982 - Taxi Fare Review 2023-2024 - Report by Head of Corporate Services (herewith)
8. Procurement Approval Report - Report by the Head of Corporate Services (herewith)
9. Appointment of Independent Directors to West Lothian Leisure - Report by Depute Chief Executive (Education, Planning, Economic Development and Regeneration Services) (herewith)
10. Chancellor's Spring Statement 2024 - Report by Head of Finance and Property Services (herewith)
11. Community Asset Transfer Policy Review - Report by Head of Finance and Property Services (herewith)
12. Proposed Extension of Lease to the Lord Advocate of Office Accommodation at the West Lothian Civic Centre, Livingston - Report by Head of Finance and Property Services (herewith)
13. Proposed Lease Extension for Nursery Premises at Laird's Lodge, Polkemmet Country Park, Whitburn - Report by Head of Finance and Property Services (herewith)
14. Proposed Sale of 337m<sup>2</sup> at Union Road, Linlithgow to Mr. Allan McFarlane - Report by Head of Finance and Property Services (herewith)
15. West Lothian IJB 2023/24 Social Policy Overspend - Report by Head of Finance and Property Services (herewith)

**Public Items for Information**

16. Howden Park Centre Update - Joint Report by Depute Chief Executive (Education, Planning, Economic Development and Regeneration Services) and Head of Finance and Property Services (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)**



## **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 12 MARCH 2024.

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

Apologies – Councillor Robert De Bold

1 DECLARATIONS OF INTEREST

Councillor Janet Campbell stated that she was an employee of NHS Lothian.

Councillor Danny Logue stated that he was an employee of NHS Lothian.

Councillor Pauline Orr stated that she was an employee of the Scottish Government.

Agenda Item 11 – West Lothian Leisure 2024/25 Funding Agreement

Councillor Tom Conn stated that he was a council-appointed director on West Lothian Leisure Board.

Councillor Danny Logue stated that he was a council-appointed director on West Lothian Leisure Board.

In response to a question from members, the Governance Manager confirmed that members did not have to declare an interest under agenda item 6 (*Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses*) as the Councillors' Code of Conduct stated that there was no connection when discussing remuneration for councillors.

2 ORDER OF BUSINESS

Council Executive agreed, in accordance with Standing Order 8(3), to ask questions on agenda item 17 (*Community Recycling Centres Performance*), which was on the agenda for information only.

3 MINUTES

The Council Executive approved the minute of its meeting held on 20 February 2024. The Chair thereafter signed the minute.

4 SCOTTISH GOVERNMENT WELLBEING AND SUSTAINABLE DEVELOPMENT (SCOTLAND) BILL CONSULTATION

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive seeking approval for the proposed response to the Scottish Government Wellbeing and Sustainable Development (Scotland) Bill consultation, as detailed in Appendix 1 of the report.

It was recommended that the Council Executive approve the council's response to the Scottish Government consultation.

#### Decision

To approve the terms of the report.

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

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services inviting members to allow the adoption of a Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses for 2024/25.

It was recommended that the Council Executive:

1. Approve the revised Scheme of Elected Members Remuneration, Allowances and Reimbursement of Expenses for 2024/25 as set out in Appendix 1 of the report; and
2. Note that the Scheme might have to be revisited depending on the Scottish Government's position on recent recommendation by the Scottish Local Authorities Remuneration Committee (SLARC) and anticipated new Standards Commission guidance on the acceptance of gifts and hospitality.

In response to a question from members, the Governance Manager clarified that individual councillors could renounce a pay rise if they did not wish to accept it.

#### Motion

To approve the terms of the report.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan.

#### Amendment

West Lothian Council Executive notes that the level of remuneration for ordinary councilors, the provost, and the leader of the council is set by the Scottish Government; however, the remuneration of senior councillor positions held by Labour and Conservative councillor's is completely discretionary and determined by the Council itself.

West Lothian Council Executive agrees that given that senior Councillors

will automatically be the beneficiaries of the proposed salary increase for ordinary councilors, it is entirely unacceptable for the senior members of this body to vote themselves a second additional increase over and above the statutory increase set by the Scottish Government.

West Lothian Council Executive resolves to maintain the Council's senior councillor payments for 2024/25 at the current level. i.e. 23/24 levels.

- Moved by Councillor Janet Campbell and seconded by Councillor Carl John.

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

Motion

Amendment

Tom Conn  
Angela Doran-Timson  
Damian Doran-Timson  
Lawrence Fitzpatrick  
Danny Logue  
Andrew McGuire  
Anne McMillan  
Sally Pattie  
George Paul  
Kirsteen Sullivan

Janet Campbell  
Carl John  
Pauline Orr

Decision

Following a vote, the motion was successful by 10 votes to 3 and was agreed accordingly.

## 6 TIMETABLE OF MEETINGS 2024/25

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive inviting approval of a timetable of meetings to July 2025 of the council, its committees and working groups (including Policy Development and Scrutiny Panels) which met according to a regular timetable.

It was recommended that the Council Executive:

1. Subject to the following, note and approve the arrangements shown in the appendices for meetings of the council, its committees and working groups from August 2024 until July 2025;
2. In relation to Policy Development & Scrutiny Panels (PDSPs):
  - i. Note that their meeting dates were set through Lead Officers and Chairs

- ii. Note that although Lead Officers and Chairs had been consulted about the dates proposed in the report those dates might be subject to later change;
3. In relation to Local Area Committees (LACs):
- i. Note that each LAC set its own meeting dates and that those in the appendices were not all yet agreed
  - ii. 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. Note and agree the proposed dates
  - ii. Delegate authority to the Chief Executive to adjust those dates and times in the event of a change of circumstances arising; and
5. Note that, subject to the exceptions made in Standing Orders and the Scheme of Administration, meetings would continue to be convened on a hybrid basis from the council chamber.

#### Decision

To approve the terms of the report.

### 7 PROCUREMENT STRATEGY 2023/24 – 2027/28

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval for the council's Corporate Procurement Strategy for the period 2023/24 – 2027/28, including planned outcomes and targets.

It was recommended that the Council Executive approve the Corporate Procurement Strategy which is attached as Appendix 1 to the report.

#### Decision

To approve the terms of the report.

### 8 RESPONSE TO THE SCOTTISH GOVERNMENT CONSULTATION ON A HEAT IN BUILDINGS BILL

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services presenting a response to the Scottish Government's consultation on proposals for a



Heat in Buildings Bill for approval.

It was recommended that the committee note the contents of the report and the school's arrangements for continuing improvement.

It was recommended that the Council Executive:

1. Note the content of the report and appendices, and;
2. Approve the response attached as Appendix 1 to the report for submission to the Scottish Government.

#### Decision

To approve the terms of the report.

### 9 PROPOSED LEASE EXTENTION FOR LAND AT LANGSIDE GARDENS, POLBETH FROM ANDREW GRAHAM AND SONS

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the council to extend its existing lease of land for a kick-pitch and public open space at Langside Gardens, Polbeth from Andrew Graham and Sons for a period of twenty years on the terms set out in the report.

It was recommended that the Council Executive:

1. Agree that the council should extend its existing lease of land for a kick-pitch and public open space at Langside Gardens, Polbeth from Andrew Graham and Sons for a period of twenty years on the terms set out in the report; and
2. Authorise the Head of Finance and Property Services to carry out any further negotiations in respect of the terms of lease on the basis that any revised terms and conditions still represented the best terms obtainable for the council.

#### Decision

To approve the terms of the report.

### 10 WEST LOTHIAN LEISURE 2024/25 FUNDING AGREEMENT

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the 2024/25 Annual Funding Agreement between the council and West Lothian Leisure (WLL).

It was recommended that the Council Executive:

1. Approve the 2024/25 Annual Funding Agreement for WLL of £2.048 million;
2. Note the terms and conditions set out in the Annual Funding Agreement for all funding to be paid by the council to WLL;
3. Note the updates made to the Annual Funding Agreement; and
4. Note the updates on WLL's 2023/24 financial performance and 2024/25 budget.

#### Decision

To approve the terms of the report.

### 11 CIRCULAR ECONOMY AND WASTE ROUTE MAP TO 2030: CONSULTATION

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services informing members of the Scottish Government's Circular economy and waste route map to 2030: consultation and seeking agreement that the proposed responses be submitted to the Scottish Government on behalf of the council.

It was recommended that the Council Executive:

1. Consider the draft responses to the Consultation questions, as set out in Appendix 2 of the report; and
2. Agree the submission of the consultation response to the Scottish Government before the consultation deadline of 15 March 2024.

#### Decision

To approve the terms of the report.

### 12 BEATLIE ROAD UNDERBRIDGE AGREEMENT IN WINCHBURGH

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services seeking authority to enter into a tripartite agreement with Network Rail and Winchburgh Developments Ltd. for the provision of an underbridge at Beatlie Road in Winchburgh.

It was recommended that the Council Executive:

1. Agree that the council should enter into a tripartite agreement with Network Rail and Winchburgh Developments Ltd. for the provision of an underbridge at Beatlie Road in Winchburgh as part of the arrangements required for the newly constructed M9 slip road into Winchburgh town centre and providing a main route to access new

schools, community facilities and retail facilities there; and

2. Delegate authority to the Head of Operational Services, in consultation with the Chief Solicitor, to negotiate and conclude the terms of the agreement to protect the council's interests as local roads authority.

#### Decision

To approve the terms of the report.

### 13 REVOCATION OF LINLITHGOW AIR QUALITY MANAGEMENT AREA

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising members of the proposal to revoke the air quality management area in Linlithgow and the process involved, and seeking approval for the process to be pursued.

It was recommended that the Council Executive:

1. Note the content of the report;
2. Note that the air quality objectives in Linlithgow had been met continuously over a number of years since the designation of the air quality management area;
3. Approve the proposal to pursue the process of revoking the air quality management area declared in Linlithgow;
4. Agree that council officers from Environmental Health and Trading Standards submit the report in Appendix 1 to Scottish Government seeking agreement to pursue the process of revoking the air quality management area in Linlithgow; and
5. If the Scottish Government agreed with the proposal to pursue revocation, agree that council officers begin the process of consultation to produce the final revocation report which would then be presented to the Council Executive for a final determination on revocation.

#### Decision

To approve the terms of the report.

### 14 REVOCATION OF NEWTON AIR QUALITY MANAGEMENT AREA

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising members of the proposal to revoke the air quality management area in Newton and the process involved, and seeking

approval for the process to be pursued.

It was recommended that the Council Executive:

1. Note the content of the report;
2. Note that the air quality objectives in Newton had been met continuously over a number of years since the designation of the air quality management area;
3. Approve the proposal to pursue the process of revoking the air quality management area declared in Newton;
4. Agree that council officers from Environmental Health and Trading Standards submit the report in Appendix 1 to Scottish Government seeking agreement to pursue the process of revoking the air quality management area in Newton; and
5. If the Scottish Government agreed with the proposal to pursue revocation, agree that council officers begin the process of consultation to produce the final revocation report which would then be presented to the Council Executive for a final determination on revocation.

#### Decision

To approve the terms of the report.

#### 15 WEST LOTHIAN LOCAL DEVELOPMENT PLAN (LDP): DEVELOPMENT PLAN SCHEME NO.16

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising members of the proposed Development Plan Scheme (DPS No. 16) for the West Lothian Local Development Plan (LDP 2).

It was recommended that the Council Executive:

1. Approve West Lothian Development Plan Scheme No.16 for publication, deposit and copying to Scottish Ministers (Appendix 1); and
2. Delegate the Head of Planning, Economic Development and Regeneration to make any necessary non-substantive edits to the scheme prior to publication.

#### Decision

1. To approve the terms of the report.
2. It was also agreed that officers would arrange for the advertising of

the deadline extension for the submission of local place plans to 31 May on the council's media channels.

## 16 COMMUNITY RECYCLING CENTRES PERFORMANCE

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services providing performance information across the council's five Community Recycling Centres (CRCs) following the revision to operational practices implemented on 2 October 2023.

It was recommended that the Council Executive:

1. Note the performance information for the period 2 October 2023 to 31 January 2024; and
2. Note that across the five community recycling centres, 105,171 bookings had been made from 2 October 2023 to 31 January 2024, accounting for 87% of the available booking capacity across the four-month period.

### Decision

To note the terms of the report.



DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **ELECTIONS PREPARATIONS AND IMPACT OF THE ELECTIONS ACT**

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

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

The purpose of the report is to advise the Executive of the work being done in preparation for a UK Parliamentary Election, including the steps being taken to address the impacts of the implementation of the Elections Act 2022, and to agree a polling scheme.

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

The Executive is asked to

- Note the impacts that the changes being introduced by the Elections Act 2022 will have on all stakeholders in the electoral process, and the steps being taken to mitigate these.
- Agree a polling scheme to be in place until the next review
- Agree that the Chief Executive continue to have delegated authority to make any required changes (e.g. as a result of the loss of a polling place) in consultation with the Leader of the Council, Leaders of the other Political Groups, and local elected members, when there is not time to seek the approval of the Council Executive before a particular poll.

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

<b>I</b>	<b>Council Values</b>	Caring and compassionate; open, honest and accountable; and collaborative, inclusive and adaptive.
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Elections Act 2022  Electoral Registration and Administration Act 2013
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	
<b>IV</b>	<b>Impact on performance</b>	

## and performance Indicators

### V Relevance to Single Outcome Agreement

### VI Resources - (Financial, Staffing and Property)

### VII Consideration at PDSP Corporate Policy and Resources PDSP 29 Feb 2024

### VIII Other consultations Wider consultation on polling scheme

## D. TERMS OF REPORT

### D1 PREPARING FOR A UK PARLIAMENTARY ELECTION

The next UK Parliamentary Election must be held before 28 January 2025 and the Returning Officer is fully engaged in planning and preparatory work including:

- Working closely with partners including Falkirk Council (as the Bathgate and Linlithgow constituency crosses the local authority boundary), the Electoral Registration Office (ERO), the Electoral Management Board for Scotland (EMB), and the Electoral Commission (EC)
- Incorporating the changes to the regulatory framework, noting that the Elections Act 2022 introduces significant changes to the electoral process
- Reviewing Electoral Commission guidance
- Reviewing learning from previous polls, including the English local government elections in May 2023
- Reviewing the polling scheme
- Engaging with the Department of Levelling Up, Housing and Communities (DHLUC)
- Monitoring risks and putting mitigations in place.

### D2 IMPACT OF THE ELECTIONS ACT 2022

The repeal of the Fixed Term Elections Act reintroduced the challenges of planning for delivering a major poll when the date of the poll is unknown, but the changes being introduced to the election process by the Elections Act 2022 are presenting significant extra challenges. They are being introduced in Scotland for the first time at a General Election when not only is the timetable shortest and turnout highest, but new constituency boundaries will also be in place (the new constituencies are included in Appendix 2 to the report, and can also be viewed at <https://www.bcomm-scotland.independent.gov.uk/?q=reviews/2023-review-uk-parliament-constituencies>). The Electoral Commission has warned that significant changes to the process of voting adds new layers of complexity and risk to already stretched electoral administration processes, and that the capacity and resilience of election teams remains a key risk for future elections. They are also being introduced alongside changes to the model used for funding elections and pressure on Scottish Returning Officers from the Department of Levelling Up, Housing and Communities to reduce the cost of delivering elections.

The implementation of the legislative requirements of the Elections Act 2022 has impacts for all stakeholders in the election process, including voters, electoral



administrators, candidates and agents and political parties. Returning Officers are working with their partners, including Electoral Registration Officers and contractors, to identify, assess and mitigate against the increased risks accompanying the implementation of the Elections Act.

The following changes will be in force at the next General Election as a result of the implementation of the Elections Act.

- To vote in person, voters will be required to show an acceptable ID and polling staff must check electors' identification.
- Voters without a required form of ID can apply to the Electoral Registration Officer for a Voter Authority Certificate, the deadline for which will be 6 working days before the poll.
- For valid applications made before the deadline, where the voter has not received their Voter Authority Certificate, ERO's can issue a temporary Voter Authority Certificate up until 5pm on polling day. The onus will be on the voter to collect this from the ERO's office, which for West Lothian residents is in Edinburgh.
- Secrecy requirements will be extended to postal and proxy votes
- Political campaigners will be banned from handling postal votes
- There will be a limit on the number of postal votes a person can hand in
- Online absent vote applications will be in place, with identity verification
- Postal vote arrangements for a UK wide poll will be limited to 3 years, after which a fresh application will be required
- The total number of electors for whom a person may act as a proxy will be limited to 4
- Improvement of support in polling stations for people with a wider range of disabilities
- The 15 year limit on ex-pats right to vote in UK Parliamentary elections will be removed and all British citizens who were previously registered or resident in the UK will be enfranchised

These changes are being introduced against a backdrop of increasing pressures and reduced resources in local authorities. The most significant additional risks that these requirements bring are:

- Disenfranchising voters who either do not have suitable ID, or are unaware of the voter ID requirement, or through postal vote handling rules
- Disenfranchising voters who do not have a suitable ID and are unaware of the availability of Voter Authority Certificates or have difficulties in applying
- The public messaging on the number of changes confusing voters and other stakeholders
- Making staffing polls more difficult by discouraging existing polling staff from continuing due to a perception that the role is moving from facilitating to gatekeeping the electoral process, coupled with a requirement for more staff.
- Increasing the potential for an IT system failure because of the timescales for the introduction of new, or changes to existing, IT systems which are essential in supporting the delivery of the poll.
- Increasing uncertainty about the volumes of absent votes which will need to be produced and processed.
- Increasing the potential for failure by increasing pressures at any one of a number of already congested and pressured points in the election timetable for a Parliamentary Election.

## D2.1 Introduction of Voter ID

In its report on the May 2023 elections in England, the Electoral Commission states:

- 4% of people who did not vote cited the Voter ID requirement as the reason
- More people in the 18-24 age group or from a Black or Minority Ethnic background cited Voter ID as the reason they did not vote
- People who were disabled, unemployed, from a BME background or from younger age groups were less likely to have one of the required forms of ID
- At least 0.25% of people who tried to vote at a polling station were not able to because of the Voter ID requirement
- 92% of people were aware of the need to bring ID to the polling station
- Awareness of and take up of the Voter Authority Certificate was low

The Electoral Commission recommended that the UK government review the list of accepted ID to identify any additional documents that could be included to improve accessibility for voters. They specifically recommended that the focus should be on forms of ID that would support people who are least likely to have any of the documents on the existing list shown below.

- A passport issued by the UK, any of the Channel Islands, the Isle of Man, a British Overseas Territory, an EEA state or a Commonwealth country.
- A driving licence issued by the UK, any of the Channel Islands, the Isle of Man or an European Economic Area state
- A biometric immigration document
- An identity card bearing the Proof of Age Standards Scheme hologram (a PASS card)
- Ministry of Defence Form 90 (Defence Identity Card)
- A Blue Badge
- A national identity card issued by an EEA state
- An Older Person's Bus Pass
- A Disabled Person's Bus Pass
- An Oyster 60+ Card
- A Freedom Pass
- A Scottish National Entitlement Card issued in Scotland
- A 60 and Over Welsh Concessionary Travel Card issued in Wales
- A Disabled Person's Welsh Concessionary Travel Card issued in Wales
- A Senior SmartPass issued in Northern Ireland
- A Registered Blind SmartPass or Blind Person's SmartPass issued in Northern Ireland
- A War Disablement SmartPass or War Disabled SmartPass issued in Northern Ireland
- A 60+ SmartPass issued in Northern Ireland
- A Half Fare SmartPass issued in Northern Ireland
- An Electoral Identity Card issued in Northern Ireland
- A Voter Authority Certificate or a temporary Voter Authority Certificate

It has been confirmed that there will be no change to the list of ID which can be used as Voter ID as the UK government could not identify any additional forms of ID which would address the gap.

Returning Officers across Scotland are concerned that the demographics who already face more barriers to taking part in democracy are less likely to have an acceptable form of ID and so face a greater risk of being disenfranchised. Estimates from the UK Government are that around 2% of the electorate will not have a form of ID that can be used to vote, Electoral Commission research put this at 4%.

Electoral Registration Officers and Returning Officers have a duty to promote participation and have worked closely to make sure that everyone who wants to vote is able to do so by ensuring they are registered to vote. The experience from England in the May 2023 elections, suggests that even with a large, targeted communications campaign, many voters will be at risk of being disenfranchised by their lack of a required form of ID, and either not applying for, or being unable to apply for, a Voter Authority Certificate.

### **Mitigations**

As before every election, a cross service awareness raising group is working on producing and implementing an awareness raising plan, based on identifying key messages and key groups to target. The group works in close partnership with the Electoral Registration Office and also ties in with a national awareness raising campaign delivered by the Electoral Commission. As well as using a range of council communication channels, including social media, press releases and the council website, more targeted activities take place to raise awareness and promote participation amongst groups who are less likely to vote. This includes using established channels, links and mechanisms that council services have with groups at greater risk of being disenfranchised

Ensuring that people know how to register to vote will also remain a priority. The poll card will be required to contain information on the Voter ID requirement, including listing the acceptable forms of ID, and on how to get a Voter Authority Certificate. While this measure will help with raising awareness, it requires a wholesale redesign of the poll card, which will now have to be a A4 enveloped letter as the information required to be on the poll card will no longer fit on an A5 card. The change from the poll card format with which voters have been familiar is another change voters will need to be made aware of.

Every opportunity has been taken, and will continue to be taken, to provide feedback to the UK Government that the Voter Authority Certificate portal must be robust and fully functional, and able to deal with high volumes of traffic. The high profile of a general election and greater levels of campaigning mean that there is a risk that high numbers of people will apply for a VAC even if they do not need one, and the system must be able to cope. Key messages will be not to leave it to the last minute to apply for a VAC if you need one, and you do not need to apply for a VAC if you have another form of ID on the list.

## **D2.2 Checking Voter ID and Information Recording Requirements**

Changes include:

- Polling station staff will require to check Voter ID and record the details of anyone without an appropriate ID on the Voter Identification Evaluation Form (VIDEF). If the elector later returns with an appropriate ID the VIDEF must be updated. If the voter has an appropriate form of ID but the Presiding Officer is

not satisfied that the ID is the voter, or they believe the document to be a forgery, the details must be recorded on the Ballot Paper Refusal List.

Checking ID, and filling in the requisite forms will slow down voter throughput, making it more likely that there will be queues at the polling station, particularly at busy periods.

It also has the potential to reduce the pool of staff willing to work in a polling staff because of a perception that the role is moving from facilitating democracy to gatekeeping it, and a concern that they may be more likely to face abuse from voters who they do not allow to vote.

At the close of poll, it is likely that an increase in the information which has to be collated, tallied and recorded will take longer to do, delaying the return of ballot boxes to the count. The knock-on effect will mean that counts will take longer, extending the day further for candidates and agents and election staff.

### **Mitigations**

Consideration is being given to the optimum staffing arrangements within polling places, to ensure that voters are made aware of the requirements and are able to ask questions, with the least impact on voter throughput.

When recruiting polling station staff information on the changes compared to previous polls will be provided upfront. Training materials are being developed and the way in which training is delivered is being reviewed.

As part of the briefings for candidates and agents, the potential for queues in polling stations, irate voters, and longer counts will be highlighted

## **D2.3 Changes to postal vote handling**

Changes include:

- Political campaigners will be banned from handling postal votes, and the definition of what makes a person a campaigner is very wide.
- A limit of 5 (plus the elector's own vote) will be placed on the number of postal votes any person can hand into a polling station/council office. Secrecy requirements will be extended to postal and proxy votes.
- When any postal vote is returned except via Royal Mail, a form will now have to be completed recording the name and address of the person handing in the postal vote, and the number of postal votes they are handing in. This includes polling stations and council offices.

There are concerns that voters will be disenfranchised as postal votes which are handed in to a polling station not in full accordance with the new requirements will be rejected.

There are concerns that the new postal vote handing in forms, as for the forms required for recording information on Voter ID, could impact on voter throughput increase the potential for queues to form, and increase the time taken at the close of poll to complete all the necessary paperwork.

There are concerns that the administration required to check and process postal

votes which are returned to polling stations will mean that the postal vote process to ensure that they are rejected or processed correctly at the close of poll will take significantly longer and impact on the duration on the count.

### **Mitigations**

Consideration is being given to the optimum staffing arrangements within polling places, to ensure that voters are made aware of the requirements and are able to ask questions, with the least impact on voter throughput.

Training materials for polling staff are being developed and the way in which training is delivered is being reviewed, to ensure familiarity with the new forms.

The change in postal vote handling rules will be included as part of the briefings for candidates and agents, which will also highlight the potential for queues in polling stations, and the potential for longer counts.

Information will be provided to settings such as Care Homes where it is more likely that more than five postal votes could require to be returned by handing in.

## **D2.4 Absent Vote Applications**

Changes include:

- Absent vote applications (except for emergency proxy applications) for a UK Parliamentary election must contain a National Insurance Number or a reason why the elector is unable to provide this. The personal identifiers contained on the application (name, address, date of birth and NINO) must initially be verified against Department of Works and Pension (DWP) data. Where an application fails to match with DWP data – electors will be required to provide documentary evidence to verify their identity. Where this is not possible, electors must submit an attestation to confirm their identity. Electors with a long-term postal vote (in place before 31 October 2023) will be able to vote by post for UK Parliamentary elections until 31 January 2026.
- Absent vote applications for Scottish Parliamentary and local government elections do not require their identity to be verified for an absent vote to be granted. These applications do not, therefore, require the provision of a National Insurance Number.
- Electors can apply for most types of absent vote online for a UK Parliamentary election. Applications to vote by post in Scottish Parliamentary and local government elections cannot be made online.
- Postal votes for a UK Parliamentary election can only be made for a maximum of three years. The five-year refresh cycle for Scottish Government and local government elections remains.
- A person can only vote as a proxy for up to four electors for a UK Parliamentary election.

The impact of the online application portal on the level of applications, especially close to the deadline, is unknown and adds an extra level of complexity to contingency planning to ensure there is capacity to deal with a late surge in applications.

It is going to become more complicated for voters to ensure that they have a postal vote in place for all the polls they wish to have a postal vote in place for.

The requirement for identity verification checks means that it is likely that,

especially where additional checks are required, some postal votes will only be able to be granted and sent to voters later than has been the case at previous polls, when all applications have been processed and sent shortly after the deadline.

### **Mitigations**

Every opportunity has been taken, and will continue to be taken, to provide feedback to the UK Government that the online portal must be robust and fully functional, and able to deal with high volumes of traffic.

Every opportunity has been taken, and will continue to be taken, to provide feedback to the UK Government that the Returning Officer must continue to be able to incur reasonable costs in contingency planning and putting place measures to ensure there is spare capacity.

Work is ongoing with partners on ensuring that capacity can be put in place to deal with an increase in applications close to the deadline, as this is already a very congested and pressured part of the election timetable.

Work is ongoing with partners to agree clear and consistent messages for voters and other stakeholders in relation to applying for a postal vote.

Briefing for candidates and agents will include the changes in absent vote application processes and the potential for some postal votes to be issued much later than has previously been the case.

## **D2.5 Next Steps**

It is recognised that the changes will impact on all stakeholders in the electoral process, from voters to candidates to staff working at elections. The Returning Officer will continue to work closely with partners on preparing for delivering a UK Parliamentary election in full compliance with the requirements of the Elections Act 2022, as well as all other relevant legislation. The Election Team, headed by the Returning Officer is now is meeting regularly and as always, risks and mitigations will be closely monitored.

The Returning Officer works closely with partners in preparing for any poll, and all partners are focused on incorporating the requirements of the Elections Act 2022 in to election planning.

## **D3 POLLING SCHEME REVIEW**

### **D3.1 Background**

The council is required to carry out a periodic review of polling districts and places by The Electoral Administration Act 2006. The Electoral Registration and Administration Act 2013 requirement that a review be undertaken in the 16-month period from October 2023.

A review began in January 2024 following legislative requirements and Electoral Commission guidance. An initial consultation is required to take place with the Returning Officer, with the proposals of the Returning Officer then made public for a wider consultation. The Returning Officer proposals are in Appendix 1 to the report. A public consultation took place between 26 February 2024 and 31 March, and views were specifically sought from those with expertise on voting for people with disabilities, elected members and political parties.

As highlighted in the previous section of the report, voters and other stakeholders are going to be dealing with significant changes to the polling process at the next UK Parliamentary election, including changes to widely known and accepted poll card. Ideally changes to the polling scheme would be kept to a minimum to ensure a degree of familiarity remains for voters. However, it should be noted that the Department of Levelling Up, Housing and Communities has indicated that Returning Officers in Scotland are expected to reduce the cost of delivering the poll, and have specifically highlighted the use of council owned premises as a way of doing this, despite the designation of polling places being a function of the local authority and not the Returning Officer.

It should also be noted that there is an ongoing review of Scottish Parliamentary boundaries, the outcome of which may require the polling scheme to be reviewed again.

### **D3.2 Polling Place and District Requirements**

In designating polling districts and polling places, legislation requires that each electoral ward must be divided into two or more polling districts unless there are special circumstances; that the council must designate a polling place for each polling district; and the polling place must be within the polling district unless special circumstances make it desirable to designate an area wholly or partly outside the polling district.

The Returning Officer has recognised that in some cases there will be an opportunity to consolidate polling districts, for instance where there were previously crossovers where voters were in different Westminster constituencies but voted in the same polling place. However, this will not be done until after the UK Parliamentary Election as any Parliamentary by-election held before then would be held on the existing constituency boundaries.

As part of the review the council must seek to ensure that all electors in a constituency in the local authority area have such reasonable facilities for voting as are practicable in the circumstances; and seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to voters who are disabled.

### **D3.3 Review**

The council is currently seeking representations from all local elected members, other council services, and the public, as well as such persons as it thinks have particular expertise in relation to access to premises or facilities for persons who have different forms of disability.

In addition, feedback from stakeholders (voters, polling staff, candidates and agents) which was received during and recent polls held in 2021 and 2022 was considered by the Returning Officer. The information from the checks made on polling places prior to the elections has also been considered.

All feedback is included in Appendix 1 to the report.

### **D3.4 Use of Council Premises**

As highlighted above, the Department of Levelling Up, Housing and Communities is placing increasingly stringent requirements on Returning Officers to minimise the cost of delivering polls, and to that end is encouraging the use of local authority owned premises rather than privately owned buildings. This however should not override the criteria to provide such reasonable facilities for voting as are practicable in the circumstances; and seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to voters who are disabled.

It has been noted that the Council's Partnership buildings offer good accommodation and facilities, are well known within their communities, and are accessible to voters with disabilities, and that better use could be made of them to accommodate polling places where appropriate.

Some of the feedback received at every election relates to the use of schools as polling places. In some cases, however, there is not a suitable alternative, and it is not possible to eliminate the use of schools as polling places as there are occasions where they best meet the requirements for a polling place.

To minimise the impact on parents and students, where the date of a poll is known in advance, polling day is designated as an In-Service Training Day. For unscheduled polls, wherever possible arrangements are put in place which allow the school to remain open, but such arrangements are not feasible at all schools. It should be noted that some feedback relates to schools closing, and others to them remaining open.

### **D3.5 Next Steps**

On agreeing a polling scheme, the council will give reasons for its decisions and publish all information sent to the Returning Officer in connection with the review; all correspondence sent to persons with an expertise in access for people with disabilities; all representations made in connection with the review; the minutes of any meeting held by the council to consider the designation of polling districts and places; and details of the designated polling districts and places within the local authority.

## **E. CONCLUSION**

The next UK Parliamentary election must be held by 28 January 2025. The date not being known, the changes being introduced by the Elections Act 2022, the requirement to review the polling scheme during this timeframe, new constituency boundaries being used, and a backdrop of pressure to reduce costs, makes planning for the delivery of this poll especially challenging. Work is ongoing with partners to meet these challenges and reviewing the polling scheme is part of this.



## **F. BACKGROUND REFERENCES**

N/A

Appendices/Attachments: Appendix 1 Polling Scheme Proposals and Representations

Appendix 2 UK Parliamentary Constituencies which will be in force at the  
next General Election

Contact Person: Caroline Burton, [caroline.burton@westlothian.gov.uk](mailto:caroline.burton@westlothian.gov.uk)

Name of responsible CMT member: Graham Hope

Date of meeting: 16/04/2024

Polling District	Polling Place	Representations	Proposal
	<b>Ward 1 Linlithgow</b>		
BLL1A	Chalmers Hall , Main Street, Linlithgow Bridge	Suitable Polling District and Polling Place	No change to polling place
BLL1B	St Ninian's Craigmalen Parish Church Hall , Longcroft Hall Philip Avenue, Linlithgow	Suitable Polling District and Polling Place	No change to polling place
BLL1C	Queen Margaret Hall , Blackness Road, Linlithgow	Suitable Polling District and Polling Place	No change to polling place
BLL1D	Springfield Primary School , Springfield Road, Linlithgow	Suitable Polling District and Polling Place	No change to polling place
BLL1E	Linlithgow Primary School , Preston Road, Linlithgow	Suitable Polling District and Polling Place	No change to polling place
BLL1F	Newton Community Centre , Duddingston Crescent, Newton	Suitable Polling District and Polling Place	No change to polling place
BLL1G	Philpstoun Community Centre , Main Street, Philpstoun	Suitable Polling District and Polling Place	No change to polling place
BLL1H BLL1I	Bridgend Village Hall , Bridgend,	Suitable Polling Districts and Polling Place. Polling districts should remain separate in case of a by-election before the next General Election, but can be combined after that.	No change to polling place. Polling districts should be combined in the next electoral register

Polling District	Polling Place	Representations	Proposal
	<b>Ward 2 Broxburn, Uphall and Winchburgh</b>		
LVL2A LVL2B LVL2D	Dechmont Memorial Hall , Main Street, Dechmont	Suitable Polling District and Polling Place	No change to polling place
LVL2C	Ecclesmachan Community Hall , Ecclesmachan,	Suitable Polling District and Polling Place	No change to polling place
LVL2E LVL2G	Uphall Community Centre, Strathbrock Place, Uphall	Suitable Polling District and Polling Place. Uphall South Church Hall, East Main Street is also a suitable polling place for LVL2G, has been used previously and is now available again	Use Uphall South Church Hall
LVL2F	Uphall Primary School , Crossgreen Drive, Uphall	Suitable Polling District and Polling Place	No change to polling place
LVL2H	Kirkhill Primary School , Rashierig, Broxburn	Suitable Polling District and Polling Place	No change to polling place
LVL2I	Strathbrock Partnership , West Main Street, Broxburn	Suitable Polling District and Polling Place	No change to polling place
LVL2J	Broxburn Primary School , School Road Off West Main Street, Broxburn	Suitable Polling District and Polling Place	No change to polling place
LVL2K	Broxburn Sports Centre , Church Street, Broxburn	Suitable Polling District and Polling Place	No change to polling place
BLL2L	Winchburgh Primary School , Glendevon Park, Winchburgh	Suitable Polling District and Polling Place	No change to polling place
BLL2N BLL2M	Winchburgh Community Centre , Craigton Place, Winchburgh	Suitable Polling District and Polling Place. Polling districts should	No change to polling place. Polling districts should be combined in the

Polling District	Polling Place	Representations	Proposal
		remain separate in case of a by-election before the next General Election, but can be combined after that.	next electoral register

<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
	<b>Ward 3 Livingston North</b>		
LVA3A	Livingston Station Community Centre, Main Street, Deans, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA3B	Livingston North Partnership Centre, Carmondean Centre Road, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA3C	Livingston Village Primary School , Kirkton North Road, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA3D	Peel Primary School , Garden Place Eliburn East, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA3E	Carmondean Community Centre , Nether Dechmont Farm, Fells Rigg	Suitable Polling District and Polling Place	No change to polling place
LVA3F	Mosswood Community Centre , Knightsridge, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA3G	Newyearfield Farm Community Centre , Newyearfield, Livingston	Suitable Polling District and Polling Place	No change to polling place

Polling District	Polling Place	Representations	Proposal
	<b>Ward 4 Livingston South</b>		
LVA4A	Harrysmuir Primary School , Willowbank Ladywell, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA4B	St.Andrew's R.C. Primary School Com Wing , Kingsport Avenue Howden, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA4C	Dedridge Primary School , Dedridge East, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA4D	Bankton Primary School , Kenilworth Rise Dedridge, Livingston	Suitable Polling District and Polling Place, but plan to return to the previous polling place, Lanthorn Community Centre, when it is available	Return to Lanthorn Community Centre when it is available
LVA4E	Livingston Village Primary School, Kirkton North Road, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA4F	Crofthead Farm Community Education Centre , Templar Rise Dedridge, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA4G	Williamston Primary School , Bankton Lane Murieston, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA4H	Murieston Village Hall , Murieston, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA4I	Bankton Mains Pavilion , Bankton Walk Murieston, Livingston	Suitable Polling District and Polling Place	No change to polling place

<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
LVA4J	Bellsquarry Village Hall , Calder Road, Bellsquarry	Suitable Polling District and Polling Place	No change to polling place

<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
	<b>Ward 5 East Livingston and East Calder</b>		
LVA5A	Uphall Station Institute Hall , Marrfield Terrace, Uphall Station	Suitable Polling District and Polling Place	No change to polling place
LVA5B	Pumpherstons and Uphall Station Community Primary School, Drumshoreland Road, Pumpherston	Suitable Polling District and Polling Place	No change to polling place
LVA5C	Letham Primary School , Forth Drive Craigshill, Livingston	Suitable Polling District and Polling Place	No change to polling place
LVA5D	Riverside Primary School, Craigshill, Livingston	Polling Place not available	Use the old Beattlie building
LVA5F	Mid Calder Institute Hall , Market Street, Mid Calder	Suitable Polling District and Polling Place	No change to polling place
LVA5G	Mid Calder Primary School , Spottiswoode Gardens, Mid Calder	Suitable Polling District and Polling Place	No change to polling place
LVA5H	East Calder Primary School , Langton Road, East Calder	East Calder Primary School not available due to building work Representation received that there is not enough parking at the Partnership Centre and consider use of Calderwood Primary School for some or all of polling district	Dave King Partnership Centre and Calderwood Primary School could offer suitable accommodation and Council Executive is asked to make a decision
LVA5I	Military Museum, Linburn, Wilkieston	Suitable Polling District and Polling Place	No change to polling place



<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
LVA5J	Kirknewton Village Hall , Main Street, Kirknewton	Suitable Polling District and Polling Place	No change to polling place
LVA5K	West Calder Community Centre , Young Street, West Calder	Suitable Polling District and Polling Place	No change to polling place

<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
	<b>Ward 6 Fauldhouse and the Breich Valley</b>		
LVA6A	Fauldhouse Partnership Centre, Main Street Fauldhouse	Suitable Polling District and Polling Place	No change to polling place
LVA6B	St John the Baptist Church Hall, Main Street, Fauldhouse	Fauldhouse Partnership Centre offers improved accommodation Representations received to retain the existing polling place as it is more convenient for voters	The existing polling place or Fauldhouse Partnership Centre offer suitable accommodation and Council Executive is asked to make a decision
LVA6C	Fauldhouse Training Centre, Eastfield Road, Fauldhouse	Fauldhouse Partnership Centre offers improved accommodation Representations received to retain the existing polling place as it is more convenient for voters	The existing polling place or Fauldhouse Partnership Centre offer suitable accommodation and Council Executive is asked to make a decision
LVA6D	Woodmuir Primary School, Woodmuir Road, Breich	Suitable Polling District and Polling Place	No change to polling place
LVA6E	Longridge Primary School (Community Wing) , School Road, Longridge	Suitable Polling District and Polling Place	No change to polling place
LVA6F	Addiewell Community Centre , Church Street, Addiewell	Suitable Polling District and Polling Place	No change to polling place
LVA6G	West Calder Community Centre , Young Street, West Calder	Suitable Polling District and Polling Place	No change to polling place

<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
LVA6H	Parkhead Primary School , Harburn Road, West Calder	Suitable Polling District and Polling Place	No change to polling place
LVA6I	Polbeth Village Hall , Polbeth Road, Polbeth	Suitable Polling District and Polling Place	No change to polling place
LVA6J	Stoneyburn Community Centre , Main Street, Stoneyburn	Unlikely to be available for next poll due to ongoing works.	Use Our Lady's RC PS until the Community Centre is available again then return to it

Polling District	Polling Place	Representations	Proposal
	<b>Ward 7 Whitburn and Blackburn</b>		
BLL7A	Greenrigg Primary School , Polkemmet Road, Harthill	Suitable Polling District and Polling Place	No change to polling place
BLL7B BLL7C	Whitburn Bowling Club , West Main Street, Whitburn	<p>Whitburn Partnership Centre offers better accommodation. Separate polling districts must be retained until after the next General Election in case of a by-election</p> <p>Representations received to retain the existing polling place as it is more convenient for voters. The Bowling Club is available</p> <p>Suggestion received to consider the Gospel Hall, which is very close to the Bowling Club but has less parking.</p>	Whitburn Partnership or Whitburn Bowling Club offer suitable accommodation and Council Executive is asked to make a decision
BLL7D	Whitburn South Parish Church Hall , Manse Road, Whitburn	Suitable Polling District and Polling Place	No change to polling place
BLL7E	Brucefield Church Hall , East Main Street, Whitburn	Suitable Polling District and Polling Place	No change to polling place
BLL7F	Polkemmet Social Club, East Main Street, Whitburn	Whitburn Partnership Centre offers better accommodation. The polling place was moved to the	Move to Whitburn Partnership Centre, East Main Street, Whitburn.

Polling District	Polling Place	Representations	Proposal
		Social Club whilst the Partnership Centre was being built.	
BLL7G	East Whitburn Community Centre , Hen's Nest Road, East Whitburn	Suitable Polling District and Polling Place	No change to polling place
BLL7J	Murrayfield Primary School , Rowan Street, Blackburn	Suitable Polling District and Polling Place  Representations received that Blackburn Partnership Centre offers suitable accommodation and would be convenient for voters.	The school or Blackburn Partnership Centre offer suitable accommodation. Council Executive is asked to make a decision.
BLL7H BLL7I	Our Lady of Lourdes R.C. Primary School , Hopefield Road, Blackburn	Suitable Polling District and Polling Place  Representations received that Blackburn Partnership Centre offers suitable accommodation and would be convenient for voters	The school or Blackburn Partnership Centre offer suitable accommodation. Council Executive is asked to make a decision.
BLA7K	Seafeld Community Centre , Redhouse Road, Seafeld	Suitable Polling District and Polling Place	No change to polling place
BLA7L	Polbeth Village Hall , Polbeth Road, Polbeth	Suitable Polling District and Polling Place	No change to polling place

<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
	<b>Ward 8 Bathgate</b>		
BLL8A	St Columba's Episcopal Church , Glasgow Road, Bathgate	Suitable Polling District and Polling Place	No change to polling place if it remains available
BLL8B	Windyknowe Primary School , Windyknowe Crescent, Bathgate	Suitable Polling District and Polling Place	No change to polling place
BLL8C	St Marys Catholic Church Hall , Livery Street, Bathgate	Suitable Polling District and Polling Place	No change to polling place if it remains available
BLL8D	Balbardie Primary School , Torphichen Street, Bathgate	Suitable Polling District and Polling Place	No change to polling place
BLL8E	Bathgate High Church Hall, Gideon Street, Bathgate	Suitable Polling District and Polling Place	No change to polling place if it remains available
BLL8H	Boghall Primary School , Elizabeth Drive, Boghall	Suitable Polling District and Polling Place	No change to polling place
BLL8K BLL8G	Simpson Primary School , Wester Inches, Bathgate	Suitable Polling District and Polling Place	No change to polling place
BLL8I BLL8J	St Johns Church Hall , Mid Street, Bathgate	Longer term unlikely to be available	Move to Jim Walker Partnership Centre
BLL8F	St Marys RC Primary School , Whitburn Road, Bathgate	Jim Walker Partnership Centre offers improved accommodation. Complaints are received when using the school as a polling place	Move to Jim Walker Partnership Centre

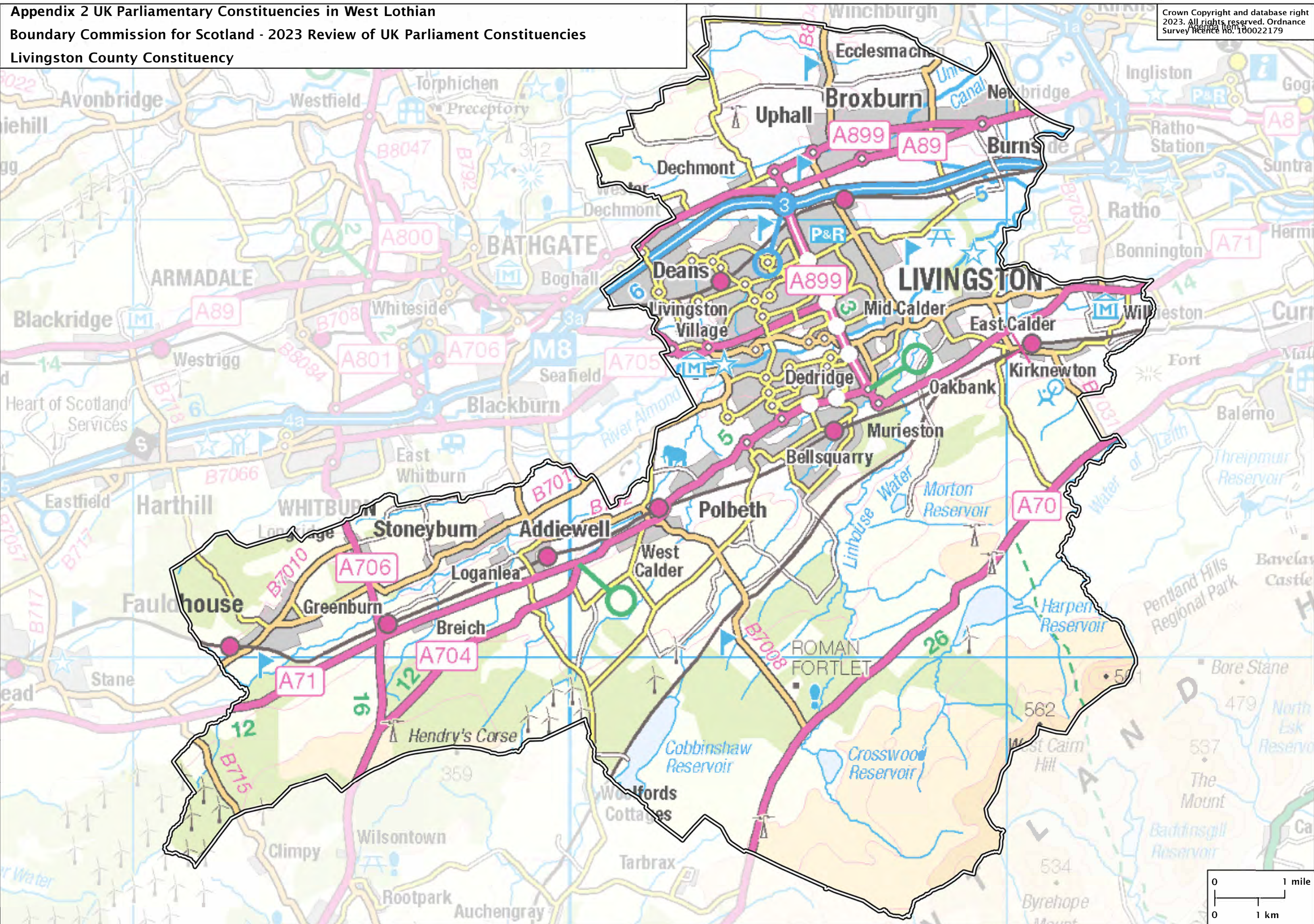
<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
	<b>Ward 9 Armadale and Blackridge</b>		
BLL9A	Craig Inn Centre , Main Street, Blackridge	Suitable Polling District and Polling Place	No change to polling place
BLL9B	Armadale Partnership Centre , North Street, Armadale	Suitable Polling District and Polling Place	No change to polling place
BLL9C	Westfield Primary School , Lomond View, Westfield	Suitable Polling District and Polling Place	No change to polling place
BLL9D	Torphichen Community Centre , Bowyett, Torphichen	Suitable Polling District and Polling Place	No change to polling place
BLL9E	Methodist Church Hall , East Main Street, Armadale	St Anthony's Primary School offers better accommodation and could accommodate the voters	Move to St Anthony's Primary School which could accommodate the voters. Polling districts LL9E/F/G/H could be combined at publication of the next register
BLL9G BLL9F	St Anthony's Primary School , South Street, Armadale	Suitable Polling District and Polling Place	No change to polling place. Polling districts LL9E/F/G/H could be combined at publication of the next register
BLL9H	Armadale Bowling Club , South Street, Armadale	St Anthony's Primary School offers better accommodation and could accommodate the voters	Move to St Anthony's Primary School which could accommodate the voters. Polling districts LL9E/F/G/H could be combined at publication of the next register

<b>Polling District</b>	<b>Polling Place</b>	<b>Representations</b>	<b>Proposal</b>
BLL9I	Armadale Primary School , Academy Street, Armadale	Suitable Polling District and Polling Place	No change to polling place











DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **CHIEF PLANNING OFFICER AND PLANNING DELEGATIONS**

#### **REPORT BY GOVERNANCE MANAGER**

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

To seek approval of changes to the Scheme of Delegations in relation to the appointment of a Chief Planning Officer and some other updates to current planning delegations

##### **B. RECOMMENDATIONS**

1. To establish the newly required post of Chief Planning Officer with the statutory role description set out in Appendix 1
2. To amend the Scheme of Delegations to add the Chief Planning Officer post to the list of "Proper Officers" in Appendix 2 to the Scheme and to the list of statutory officers in Appendix 3
3. To designate the holder of the post of Head of Planning, Economic Development & Regeneration Services to be the Chief Planning Officer and to authorise the Chief Executive to appoint a deputy if required
4. To update the Scheme of Delegations in relation to Tree Preservation Orders and other planning enforcement action as shown in Appendix 2
5. To amend the Scheme of Delegations to make the Head of Planning, Economic Development & Regeneration Services responsible for the council's consideration and review of Masterplan Consent Areas, subject to decisions about making of Masterplan Consent Area Schemes being carried out by full council or Council Executive

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

<b>I Council Values</b>	Open, honest and accountable. Collaborative, inclusive, adaptive
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Town & Country Planning (Scotland) Act 1973. Planning (Scotland) Act 2019. Local Government (Scotland) Act 1973.
<b>III Implications for Scheme of Delegations to Officers</b>	The Scheme will be updated to reflect the decisions taken today

<b>IV</b>	<b>Impact on performance and performance Indicators</b>	Good governance contributes to good performance and good decisions
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	N/a
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	Within existing resources
<b>VII</b>	<b>Consideration at PDSP</b>	No PDSP consideration required
<b>VIII</b>	<b>Other consultations</b>	Planning Services. Legal Services

## **D. TERMS OF REPORT**

### **1 Chief Planning Officer**

1.1 Legislation requires that planning authorities appoint a “Chief Planning Officer”. The legal duty was enacted in 2019. It was brought into force in March 2024 and applies from 1 April 2024. Planning authorities require to have regard to [statutory guidance](#) in making the appointment and in the way the post operates. The key points covered by law and guidance are:-

- Qualifications and desirable characteristics of the post-holder
- Advice and leadership in planning and other development-related functions
- Delivery of national planning priorities and aligning local priorities with the national
- Acting as placemaking champion and as ambassador for the planning function
- Contribution to the council's leadership, vision and strategic direction

1.2 There are other existing statutory officer appointments which are already covered in the Scheme of Delegations to Officers. Those are “Proper Officer” positions (Appendix 2 to the Scheme) with related statutory role descriptions (Appendix 3). Holders of these positions will have separate employment duties and roles which arise as a matter of contract rather than statute. The Chief Planning Officer will be added to the Scheme in those same ways. The proposed statutory role description is in Appendix 1 to this report.

1.3 The post sits naturally and comfortably with the Head of Planning, Economic Development & Regeneration Services. Committee is asked to attach the statutory role to the Head of Service role. As is the case with the other statutory officer positions (other than for Monitoring Officer), it is proposed that the Chief Executive be given delegated authority to formally appoint a depute if judged to be necessary.

### **2 Planning enforcement powers**

2.1 The current entries in the Scheme of Delegations in relation to planning enforcement actions are slightly dated and incomplete. In particular, they do not reflect the current legal procedures around Tree Preservation Orders (TPOs). For example, they still refer to “Emergency Tree Preservation Orders” which no longer exist, and they do not make it clear where the power to confirm a TPO as a permanent order sits.

2.2 The current entries in the Scheme in relation to planning enforcement are shown in the first part of Appendix 2 to this report. The second part shows the revised entries proposed. They aim to tidy up the current entries and to address the specific issues

around TPOs. References to Emergency Tree Preservation Orders are removed. It states that TPOs must be confirmed at Development Management Committee if there are unresolved competent objections or representations after the TPO is first made by officers. If there are none then the Head of Planning, Economic Development & Regeneration Services will be able to confirm the TPO.

### **3 Masterplan Consent Area Schemes**

- 3.1 Regulations have recently brought into effect powers for planning authorities in relation to “Masterplan Consent Areas” (MCA) and “Masterplan Consent Area Schemes” (MCA Scheme). The powers take effect from 1 April 2024.
- 3.2 MCAs build on a previous initiative called “Simplified Planning Zones”. MCAs are expected to be areas of land identified by planning authorities for particular types of development or uses and will have a life span of 10 years. They will allow planning authorities to proactively consent the type and quality of development they wish to encourage and enable in specified places. Planning authorities give effect to MCAs through an MCA Scheme. MCA schemes will effectively grant permission (including roads construction, listed building and conservation area consent) for the types of development set out in the scheme, within the designated geographical area to which the scheme relates, without the need to apply for planning permission. The intention is for the planning authority to take a lead role in ‘place’ based planning in so far as it proactively consents the type and quality of the development it wishes to see in its area.
- 3.3 MCAs are being promoted to support placemaking, to ‘frontload’ scrutiny and to offer a greater degree of certainty to developers by reducing their risk and by streamlining the consenting process, all of which it is hoped will encourage and possibly facilitate investment in places. There may at the very least be the potential to perhaps trial MCAs in the emerging LDP for urban expansion or regeneration. It will be important that the costs incurred in establishing a MCA can be recovered from developers. Officers will report further as and after regulations and guidance have been issued and considered.
- 3.4 Planning authorities do not require to have MCAs or to make MCA Schemes. However, they must at least formally consider making an MCA Scheme, or reviewing any MCA Scheme already in place, once in every five-year period (as defined). Having done so, they must publish a statement setting out what they decided, and why.
- 3.5 The Scheme of Delegations requires to be amended to add in the MCA duty to the responsibilities of the Head of Planning, Economic Development & Regulatory Services. That delegation will state that the actual decision about making or altering an MCA Scheme must be made by full council or Council Executive.
- 3.6 Due to the date the governing legislation was enacted, its wording, and the date of activation of the duty, the council requires to have considered making an MCA Scheme before 24 July 2024. The enabling regulations and guidance are not and will not be available to guide and inform that process and decision. The Scottish Government accepts that actually making an MCA Scheme will not therefore be possible. It has though indicated that planning authorities must at least consider doing so, perhaps considering how they might wish to use the new provisions once regulations and guidance have caught up with political desire. The Scottish Government’s Chief Planner has referred to planning authorities making a “first statement”. A separate report will be brought to Council Executive to ensure whatever duty exists is met as far as it can be.

## E. CONCLUSION

Approval of this report will ensure that newly-activated legal duties are properly reflected in the Scheme of Delegations to Officers and will ensure that Scheme entries in relation to planning enforcement actions are up to date.

## F. BACKGROUND REFERENCES

- 1 Town & Country Planning (Scotland) Act 1973, Planning (Scotland) Act 2019 and relevant subordinate legislation (Chief Planning Officer, Tree Preservation Orders, Masterplan Consent Areas)
- 2 [Chief Planning Officers: Statutory Guidance \(March 2024\)](#)
- 3 Local Government (Scotland) Act 1973 (Scheme of Delegations)

Appendices: 1. Statutory role description  
2. Planning enforcement delegations

James Millar, Governance Manager/Monitoring Officer, 01506 281613,  
[james.millar@westlothian.gov.uk](mailto:james.millar@westlothian.gov.uk)

Date of meeting: 16 April 2024

## APPENDIX 1

### CHIEF PLANNING OFFICER

#### 1 Legislation and guidance

- 1.1 The Chief Planning Officer is a statutory appointment by virtue of section 1A of the Town & Country Planning (Scotland) Act 1997 (the 1997 Act). The requirement to make the appointment took effect on 1 April 2024.
- 1.2 Legislation requires the Scottish Ministers to issue guidance to planning authorities concerning the Chief Planning Officer role. That guidance is to cover both the qualifications expected of the post-holder and the manner in which the role is to be carried out. Planning authorities are required to have regard to that guidance. [Guidance was published on 2 April 2024.](#)
- 1.3 The post is not automatically a politically restricted post. The council has designated it as such under section 2(1)(g) and (2) of the Local Government & Housing Act 1989.

#### 2 Appointment

- 2.1 Permanent appointments must be made by full council or by a committee with appropriate powers. Temporary, interim and depute appointments may be made by the Chief Executive. The council must have regard to the statutory guidance when making the appointment.
- 2.2 The appointment is identified in the council's [Scheme of Delegations](#) to Officers in the entries relating to the substantive post held. It is also included in the list of Proper Officer appointments in Appendix 2 to the Scheme. The officer appointed will have corporate and management responsibilities and employment duties, not included here, arising from their substantive post.
- 2.3 The statutory guidance indicates that the Chief Planning officer will be the council's head of its planning profession, and will be the senior officer responsible for the planning service. This will normally carry responsibility for effective management and development of staff and embedding continuous improvement in the service.
- 2.4 The statutory guidance lists desirable skills and experience to be held and demonstrated by the Chief Planning Officer. As well as those expected of senior council officers, they include collaborative and partnership working; ensuring effective relationships between elected members and officers; leadership, motivation and development of staff; effective communication; and supporting democratic planning processes.

#### 3 Qualifications

- 3.1 The legislation does not prescribe qualifications. The statutory guidance states that the Chief Planning Officer should possess a degree in town planning or an associated discipline, such as surveying or civil engineering. As an alternative to a degree, a candidate may be able to prove a record of alternative education, vocational experience and delivery.
- 3.2 The guidance also indicates that chartered membership of the Royal Town Planning Institute (RTPI) is highly desirable.

#### **4 Duties and powers**

- 4.1 The statutory duty of the Chief Planning Officer extends beyond the narrow “planning” duties and powers of the council. The Chief Planning Officer is to advise the council about the carrying out of:-
- functions conferred by virtue of the planning Acts, and
  - functions conferred by any other enactment, insofar as the function relates to development
- 4.2 The guidance describes duties and responsibilities which rest on the Chief Planning Officer, covering:-
- Professional adviser, playing a key role in the council’s leadership, vision and strategic direction and being an ambassador for the planning profession and function
  - Delivery of national planning priorities, contributing to plans and strategies which are aligned with and support them
  - Champion of place, as the council’s placemaking champion
- 4.3 The Chief Planning officer should also be responsible for preparation and submission of the council’s annual report on the performance of its planning functions under section 251A of the 1997 Act.
- 4.4 The council’s [Scheme of Delegations](#) describes decisions and actions that may be taken without reference to elected members and so those where committee or council decisions are required. It may be necessary or advisable to seek approval from members in certain circumstances. The Scheme also permits sub-delegation of authority to other council officers to act in their name and on their behalf.



## APPENDIX 2

### Planning enforcement delegations

#### Current Scheme entries

Delivering and reviewing the Enforcement Charter

Deciding whether the lopping, felling etc. of trees subject to Tree Preservation Orders is necessary and the authorisation of such lopping, felling etc.

Authorising the making of Emergency Tree Preservation Orders, Building Preservation Notices, Stop Notices and Interim Interdicts

Issuing breach of condition notices and planning contravention notices

Authorising action to remedy an injury to amenity caused by the condition of land or a building

Deciding whether to pursue enforcement action except in cases which have been instigated by the local member and that member expressly wishes, after discussion with the Head of Planning and Economic Development, that action should be taken

#### Proposed Scheme entries

Tree Preservation Orders:-

- Making Tree Preservation Orders
- Determining the competency of and resolving objections and representations in response to the making of a Tree Preservation Order
- Confirming Tree Preservation Orders, subject to there being no unresolved competent objections or representations in which case the decision on confirmation will be by Development Management Committee
- Authorising or refusing consent to any uprooting, felling or lopping of trees covered by a Tree Preservation Order on statutory grounds

Enforcement action:-

- Delivering and reviewing the Enforcement Charter
- Authorising the making of Building Preservation Notices, Stop Notices, breach of condition notices, planning contraventions notices, action to remedy an injury to amenity caused by the condition of land or a building, and, in consultation with the Chief Solicitor, instructing proceedings for interdict and interim interdict



DATA LABEL: PUBLIC

**COUNCIL EXECUTIVE****CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - TAXI FARE REVIEW 2023-2024****REPORT BY HEAD OF CORPORATE SERVICES****A. PURPOSE OF REPORT**

To update the Council Executive on the review of the council's table of taxi fares and associated charges and to ask the Council Executive to consider the representations received following the recent public consultation and to approve a fare table for use for metered hires between 22 May 2024 and 21 November 2025.

**B. RECOMMENDATION**

It is recommended that the Council Executive:

1. Notes that a review of the fare table is required under section 17 of the Civic Government (Scotland) Act 1982 ("the 1982 Act");
2. Notes that consultation has taken place with the relevant trade organisations and taxi operators, as required under section 17(4A)(a) of the 1982 Act;
3. Notes that following the consultation in January 2024 with taxi operators the council proposed and published an unchanged fare table for public consultation;
4. Notes the representations received following the public consultation as detailed in Appendices 6 and 7; and
5. Approves a fare table for use for metered hires between 22 May 2024 and 21 November 2025.

**C. SUMMARY OF IMPLICATIONS****I Council Values**

- caring and compassionate
- open, honest and accountable
- collaborative, inclusive and adaptive

**II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)**

Section 17 of the Civic Government (Scotland) Act 1982

<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>	Will be met from within existing resource and budget
<b>VII</b>	<b>Consideration at PDSP</b>	Public & Community Safety PDSP 17 October 2023
<b>VIII</b>	<b>Other consultations</b>	West Lothian Taxi Owners Association (TOA) West Lothian Taxi and Private Hire Car Owners and Drivers Association The Fellowship West Lothian taxi operators Public consultation via notice published in West Lothian Courier on 29 February 2024

## **D TERMS OF REPORT**

### **D1 Background**

Under section 17 of the 1982 Act the council as licensing authority is required to fix fares for the hire of taxis in its area, and all other charges in connection with the hire of a taxi or with the arrangements for its hire, and to review its fare table, detailing these fares and charges, every 18 months.

The council's current fare table came into force on 22 November 2022 and a new fare table requires to be approved in April 2024 in order that the council can publish a new fare table to come into effect on 22 May 2024, for a period of 18 months. Private hire cars which are fitted with meters are also required to use the same fare table. A copy of the current fare table is attached as Appendix 1. Information regarding the changes made to the fare table at the last five statutory reviews is contained in Appendix 2.

### **D2 Statutory process for reviewing the fare table**

Section 17(4) of the 1982 Act states that before the licensing authority fixes any scales it must carry out a review in accordance with the following steps:

- a) Consult with persons or organisations appearing to it to be, or to be representative of, the operators of taxis operating within its area,
- b) Following such consultation: (i) review the existing scales, and (ii) propose new scales (whether at altered rates or the same rates),

- c) Publish notice of those proposed scales in a newspaper circulating in its area:
  - (i) setting out the proposed scales,
  - (ii) explaining the effect of the proposed scales,
  - (iii) proposing a date on which the proposed scales are to come into effect, and
  - (iv) stating that any person may make representations in writing until the relevant date, being at least one month after the date of the first publication of the notice, and
- d) consider such representations

### **D3 Representations from the relevant trade organisations**

In West Lothian there are currently three trade organisations recognised with respect to the hire car trade:

- West Lothian Taxi Owners Association (TOA);
- West Lothian Taxi and Private Hire Car Owners and Drivers Association; and
- The Fellowship

In compliance with the legislation, all taxi operators (i.e. the owners of taxis, not taxi drivers) and the three organisations in so far as they represent taxi operators were consulted and were asked to put forward any changes that they wished to see made to the fare table. The responses are contained in Appendix 3.

A briefing note setting out what factors should be considered when reviewing the fare table, together with relevant inflation figures, is attached as Appendix 4. In summary the council should have primary regard to the costs incurred by taxi operators such as costs of vehicles, fuel and drivers, and the public interest in ensuring the maintenance of an adequate taxi service by giving the taxi operators a fair return.

A comparison of the current tariffs compared with the effect of the changes proposed by The Fellowship is attached as Appendix 5. As detailed in that appendix the effect of the Fellowship's proposed changes would result in increases to the metered fares, of between 3.8% and 7.8%. The Fellowship have confirmed that they agree with the calculations contained in Appendix 5.

### **D4 Consideration at Public and Community Safety PDSP**

A report regarding the taxi fare review was considered at the Public and Community Safety PDSP on 17 October 2023. The Panel noted the terms of the report and agreed that it should be presented to the Council Executive for a decision to be made on the proposed new fare table to be advertised for public comment.

Subsequent to the PDSP meeting on 17 October 2023, in accordance with precedent and government guidance, the Chief Solicitor directed that consultation about the fare proposals should take place with taxi operators in West Lothian, prior to the preparation of a report for the Council Executive (see D5 below), and to support

Council Executive decision making relative to the table of fares.

## **D5 Consultation with taxi operators**

On 6 December 2023 an email was sent out by the Licensing Team to all 49 current taxi operators inviting them to express their views on what changes, if any, should be made to the fare table. There are 61 licences in effect and some operators hold more than one licence. Details of the proposed changes from The Fellowship were included with the email. They were also informed that the two other trade organisations had sought no change to the current fare table.

All taxi operators and representatives of the trade organisations were invited to attend a meeting on 5 January 2024 at the Civic Centre in order to discuss the proposals and to allow taxi operators an opportunity to vote on the proposals. Taxi operators were also given the opportunity to register their vote in writing if they did not wish to attend the meeting.

At the meeting on 5 January 2024 representatives attended for The Fellowship and the TOA and 6 individual taxi operators who are members of the TOA.

The Fellowship representative stated that they had consulted its members and the view was that a rise was necessary to keep pace with inflation and to help with the cost of living crisis. He referred to the National Hackney Fares Table and that failure to keep applying rises to the fares would mean that West Lothian's position in that table would not be maintained. He stated that overall since 2012 the fares have only been subject to a modest increase.

The TOA representatives stated that the consensus at the ranks was for no change and that a rise at this time would be detrimental to business due to competition to taxis from discounting schemes and fixed rates offered by private hire cars with lower running costs. They felt that the fare rise in November 2022 was significant, it was too soon for a further increase, and they would seek a rise at the next statutory review in 18 months time.

A discussion took place thereafter regarding the proposals by the parties present before voting. The Fellowship representatives on behalf of 6 taxi operators confirmed votes for their proposed increase to the fare table. The TOA representatives on behalf of 25 taxi operators confirmed votes against the Fellowship proposal and for no change the current fare table.

One taxi operator who was not in attendance at the meeting and was not represented by either of the trade organisations submitted an email prior to the meeting confirming a vote for the proposal from The Fellowship.

Therefore, the result of the consultation with taxi operators was that 32 operators voted on the proposals, of whom:-

- 7 votes in favour of the proposed increased fares from The Fellowship
- 25 votes against the proposed increased fares and in favour of no changes being proposed to the fare table

No other taxi operators responded to the Licensing Team to express a view on the matter. Currently there are 61 taxi licences in effect.

Neither the West Lothian Taxi and Private Hire Car Owners and Drivers Association, nor any of its members responded to correspondence regarding the meeting and no representatives from that association attended the meeting.

## **D6 Public Consultation**

Having considered the above information regarding the consultation which took place in January, the Council Executive decided on 20 February 2024 to publish an unchanged fare table for public consultation by means of a notice published in the West Lothian Courier on 29 February 2024. The public were asked to submit representations regarding the fare table to the Chief Solicitor by 31 March 2024.

All taxi operators and the trade organisations were notified of the consultation and it was publicised by the council through various social media channels.

Six representations were received and all but one have been summarised in Appendix 6 which includes the comments of the Licensing Team on the representations. The remaining representation has been included in full at their request in Appendix 7 along with the comments of the Licensing Team on the issues raised by that respondent. In accordance with data protection requirements, their personal details have been redacted.

The Council Executive is invited to consider the representations and all responses to the consultations undertaken, when considering and determining the new fare table.

The legislation allows taxi operators and any person or organisation appearing to the Traffic Commissioner to be representative of taxi operators to appeal the council's decision to the Traffic Commissioner within 14 days of notice of the council's decision being given. Should an appeal be lodged this would have the effect of suspending the council's decision on the new fare table and the current fare table would remain in place until the appeal is decided.

## **E. CONCLUSION**

The council as licensing authority is required to comply with section 17 of the 1982 Act, by reviewing its taxi fare table every 18 months, in consultation with local taxi operators. Thereafter it requires to publish notice of any proposed changes to its fare table, and to consider any representations made in writing regarding the proposed changes before agreeing a new fare table to take effect in May 2024.

After considering the information in this report the Council Executive is required to approve a new fare table to be used between 22 May 2024 and 21 November 2025.

## **BACKGROUND REFERENCES**

Civic Government (Scotland) Act 1982  
Report to the Council Executive on 20 February 2024

[West Lothian Council Committee Information - View Committee Document](#)

Appendices/Attachments:

Appendix 1: Copy of current Fare Table for Taxi and Metered Private Hire Cars operative from 22 November 2022

Appendix 2: Information on changes made to the fare table at the last five statutory reviews  
Appendix 3: Copy proposals for changes to the fare table from The Fellowship  
Appendix 4: Briefing Note – Factors to consider and inflation figures  
Appendix 5: Effect of proposed changes on tariffs – Comparison tables  
Appendix 6: Summary of responses received to the draft fare table which was advertised  
Appendix 7: Representation from DL

Contact Person: Audrey Watson, Managing Solicitor – Licensing, Legal Services  
Audrey.watson@westlothian.gov.uk

Lesley Henderson, Interim Head of Corporate Services

Date: 16 April 2024



## FARE TABLE FOR TAXI AND METERED PRIVATE HIRE CARS OPERATIVE FROM 22 NOVEMBER 2022

<p><b>Tariff 1 - Monday - Friday 6am - 6pm for up to 2 passengers</b></p> <p>For</p> <ul style="list-style-type: none"> <li>the initial hire not exceeding <b>176</b> yards;</li> <li>the initial period of waiting time of <b>40</b> seconds; or</li> <li>a combination of time and distance as above</li> </ul> <p><b>£3.00</b></p> <p>For</p> <ul style="list-style-type: none"> <li>each additional <b>176</b> yards or part thereof;</li> <li>each additional period of waiting time of <b>40</b> seconds or part thereof; or</li> <li>a combination of additional time and distance</li> </ul> <p><b>20p</b></p>	<p><b>Tariff 2 - Monday - Thursday 6pm - 6am and at weekends from 6pm on Friday - Monday 6am for up to 2 passengers</b></p> <p>For</p> <ul style="list-style-type: none"> <li>the initial hire not exceeding <b>176</b> yards;</li> <li>the initial period of waiting time of <b>40</b> seconds; or</li> <li>a combination of time and distance as above</li> </ul> <p><b>£3.40</b></p> <p>For</p> <ul style="list-style-type: none"> <li>each additional <b>176</b> yards or part thereof;</li> <li>each additional period of waiting time of <b>40</b> seconds or part thereof; or</li> <li>a combination of additional time and distance</li> </ul> <p><b>20p</b></p>
<p><b>Tariff 3 - Christmas and New Year for up to 2 passengers</b></p> <p><b>Hires commencing at 6pm on 24 December until 4am on 27 December and between 6pm on 31 December and 4am on 2 January in any year</b></p> <p>For</p> <ul style="list-style-type: none"> <li>the initial hire not exceeding <b>176</b> yards;</li> <li>the initial period of waiting time of <b>40</b> seconds; or</li> <li>a combination of time and distance as above</li> </ul> <p><b>£5.10</b></p> <p>For</p> <ul style="list-style-type: none"> <li>each additional <b>176</b> yards or part thereof;</li> <li>each additional period of waiting time of <b>40</b> seconds or part thereof; or</li> <li>a combination of additional time and distance</li> </ul> <p><b>30p</b></p>	<p><b>Additional Charges</b></p> <p><b>Where more than 2 passengers:</b>  Per extra adult passenger (over 12 years): <b>60p</b>  Per extra child passenger (over 5 years and under 12 years): <b>20p</b>  Per extra infant passenger (0 - 5 years): no extra charge  <b>Note: each passenger must be properly seated (including children and infants)</b></p> <p><b>Luggage</b>  For every piece of luggage carried (subject to a maximum charge of <b>40p</b> per hire): <b>20p</b>  For each piece of luggage or additional item carried requiring the assistance of the driver, or which cannot reasonably be lifted by one person: a charge of <b>£6</b> (amount to be agreed before journey commences)</p> <p><b>Soiling Charge: £40.00</b>  <b>Cancellation Fee</b> i.e. taxi or metered private hire car booked but not used: <b>£3.00</b>  <b>Engagement Fee</b> i.e. where taxi or metered private hire car booked by telephone or booked in advance: <b>£1.00</b> per hire</p>

1. The above fares are the maximum metered fares which can be charged for hires wholly within the West Lothian District.

2. Any hire which starts or terminates outwith the West Lothian District — fares must be agreed before the journey commences. It can be agreed that this fare table will be used.

A copy of the conditions attached to a taxi or private hire car licence issued by West Lothian Council may be inspected at West Lothian Council, West Lothian Civic Centre, Howden South Road, Livingston or viewed on the taxi licensing pages of the council's website [www.westlothian.gov.uk](http://www.westlothian.gov.uk)

Approved by West Lothian Council on 4 October 2022

## Appendix 2

### Information on changes made to the fare table at the last five statutory reviews

#### **2013-14** (fare table effective from 5 September 2014):

No changes.

#### **2015-16** (fare table effective from 5 April 2016)

Yardage referred to in the tariffs reduced from 240 yards to 225 yards.  
Time period in tariff 3 reduced from midnight on 2 January to 6am on 2 January.  
Engagement fee increased from 40p to 60p.

#### **2016-17** (fare table effective from 5 October 2017)

Soiling fee increased from £25 to £40.  
Added additional charge of maximum of £5 to be agreed with passenger for each piece of luggage or additional item carried requiring the assistance of the driver, or which cannot reasonably be lifted by one person.

#### **2018-19** (fare table effective from 5 April 2019)

No changes.

#### **2022** (fare table effective from 22 November 2022)\*

1. initial hire yardages referred to in Tariffs 1, 2 and 3 reduced from 190 to 176 yards;
2. additional yardages referred to in Tariffs 1, 2 and 3 reduced from 225 to 176 yards;
3. waiting times referred to in Tariffs 1, 2 and 3 reduced from 43 to 40 seconds;
4. Tariff 1 - rate increase from £2.60 to £3.00, Tariff 2 – rate increase from £3.00 to £3.40, Tariff 3 rate increase from £3.90 to £5.10;
5. time period in tariff 3 changing from 10pm on 24 December until 5am on 27 December and 10pm on 31 December until 6am on 2 January to 6pm on 24 December until 4am on 27 December and 6pm on 31 December until 4am on 2 January;
6. additional charge per extra adult passenger (where more than 2 passengers) increased from 40p to 60p;
7. additional charge for each piece of luggage or additional item requiring the assistance of the driver or which cannot reasonably be lifted by one person increased from £5.00 to £6.00;
8. cancellation fee increased from £2.60 to £3.00;
9. engagement fee increased from £0.60 to £1.00.

\* The previous fare review process was interrupted by the Coronavirus pandemic and therefore delayed from 2020 until it was resumed and completed in 2022. The changes detailed above effective from 22 November 2022 were the changes requested by all three trade bodies in common in May 2022 and resulted in an increase in the maximum metered fares under Tariffs 1, 2 and 3 of the fare table.

## **RESPONSE FROM THE FELLOWSHIP**

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** Taxi Tariff Fare Review 2023/24  
**Date:** 28 September 2023 09:58:18  
**Attachments:** [Tariff review 2023.docx](#)  
[PHTM Tariff Guide.png](#)

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Good Morning Gary,

As per email sent out on the 7th September 2023 and the criteria below we as an association The Fellowship have a response and an example of the Tariff fare table we have voted on and would be requesting.

I would be grateful if your response directly deals with the following points:-

1. Have your members voted in favour of changes to the taxi fare table?
2. Does your association therefore seek changes to be made?
3. What are the proposed changes?
4. Why do you seek changes to the current fare table ?
5. If no changes are sought by your association, why?

On our voting criteria we asked if a tariff increase would be required with the following outcoming.

\* Members 16.

\* Votes for an increase- 12

\* Votes for no change - 02

\* Abstained- 02

The 12 votes for an increase all agreed to an inflation matching increase of 8.4%. We feel as long as we try to match the inflation rate all the additional costs that are coming from the inflation in the UK will at least be kept to a minimum.

These would include but not limited to.....

\* Diesel price rising again.

\* (For Electric Vehicles) Fast Charge points and household electric massive increases.

\* Vehicle servicing costs went up 25% in the last year.

\* Vehicle parts costs have increased (Tyres, Mats, Cleaning Products, Wheel trims Etc).

\* Lunch and Dinner are costing more with the increased costs on food and drink.

We can't keep absorbing all these additional costs, so we feel an increase that keeps in line with inflation is the right thing to do.

The changes we are looking for are as follows.....

(We have attached a fare table with the amendments showing in red) On tariff 1, 2 and 3 are currently set at .020 pence per 176 yards we are looking at reducing the yards down to 162 yards per .020 pence. This would equate to the standard 2 mile price going from £6.80 to £7.15. If you review the UK fare table (We have attached a copy of this for you) across all counties you will see this rise will lift us from 198th to 137th on par with Argyll & Bute.

Please see attached tables.

Thanks The Fellowship.

[REDACTED]

[REDACTED]

**W.L.A.O.T.O (The Fellowship) Tariff Review 2023**  
**Test Duplicate Test Duplicate Test Duplicate Test Duplicate**

<b>WEST Lothian COUNCIL</b> <b>CIVIC GOVERNMENT (SCOTLAND) ACT 1982</b> <b>FARE TABLE FOR EXCLUSIVE HIRES: NOTICE IS HEREBY GIVEN in terms of section 17(4A)(c) of the Civic Government (Scotland) Act 1982 that West Lothian Council proposes, with effect from 22 November 2022, to fix fares and other charges for the hire of taxis in West Lothian at the rates detailed below:</b>	
<b>Tariff 1 - Monday - Friday 6am - 6pm for up to 2 passengers</b>  For <ul style="list-style-type: none"> <li>the initial hire not exceeding 176 yards; <b>162 Yards</b></li> <li>the initial period of waiting time of 40 seconds; or</li> <li>a combination of time and distance as above £3.00</li> </ul> For <ul style="list-style-type: none"> <li>each additional 176 yards; <b>162 Yards</b> or part thereof;</li> <li>each additional period of waiting time of 40 seconds or part thereof; or</li> <li>a combination of additional time and distance 20p</li> </ul>	<b>Tariff 2 - Monday - Thursday 6pm - 6am and at weekends from 6pm on Friday - Monday 6am for up to 2 passengers</b>  For <ul style="list-style-type: none"> <li>the initial hire not exceeding 176 yards; <b>162 Yards</b></li> <li>the initial period of waiting time of 40 seconds; or</li> <li>a combination of time and distance as above £3.40</li> </ul> For <ul style="list-style-type: none"> <li>each additional 176 yards <b>162 Yards</b> or part thereof;</li> <li>each additional period of waiting time of 40 seconds or part thereof; or</li> <li>a combination of additional time and distance 20p</li> </ul>
<b>Tariff 3 - Christmas and New Year for up to 2 passengers</b>  <b>Hires commencing at 6pm on 24 December until 4am on 27 December and between 6pm on 31 December and 4am on 2 January in any year</b>  For <ul style="list-style-type: none"> <li>the initial hire not exceeding 176 yards; <b>162 Yards</b></li> <li>the initial period of waiting time of 40 seconds; or</li> <li>a combination of time and distance as above £5.10</li> </ul> For <ul style="list-style-type: none"> <li>each additional 176 yards <b>162 Yards</b> or part thereof;</li> <li>each additional period of waiting time of 40 seconds or part thereof; or</li> <li>a combination of additional time and distance 30p</li> </ul>	<b>Additional Charges</b>  <b>Where more than 2 passengers:</b> Per extra adult passenger (over 12 years): 60p Per extra child passenger (over 5 years and under 12 years): 20p Per extra infant passenger (0-5 years): no extra charge <b>Note: each passenger must be properly seated (including children and infants)</b> <b>Luggage</b> For every piece of luggage carried (subject to a maximum charge of 40p per hire): 20p For each piece of luggage or additional item carried requiring the assistance of the driver, or which cannot reasonably be lifted by one person: a charge of £6 (amount to be agreed before journey commences) <b>Soiling Charge:</b> £40.00 <b>Cancellation Fee</b> i.e. taxi or metered private hire car booked but not used: £3.00 <b>Engagement Fee</b> i.e. where taxi or metered private hire car booked by telephone or booked in advance: £1.00 per hire
With reference to the current fare table, the effect of the proposed rates and charges is that: (1) initial hire yardages referred to in Tariffs 1, 2 and 3 reduced from 176 to <b>162</b> yards; (2) additional yardages referred to in Tariffs 1, 2 and 3 reduced from 176 to <b>162</b> yards; No other changes.	



### THE NATIONAL HACKNEY FARES TABLE

#### SEPTEMBER 2023

NATIONAL AVERAGE 2 MILE HACKNEY FARE TARIFF ONE IS NOW **£7.16**

RISE IN 2023	
RISE IN 2022	
RISE IN 2021	RISE IN 2014
RISE IN 2020	RISE IN 2013
RISE IN 2019	RISE IN 2012
RISE IN 2018	RISE IN 2011
RISE IN 2017	RISE IN 2010
RISE IN 2016	RISE IN 2008
RISE IN 2015	NO SET FARE

UPDATED DAILY  
www.phtm.co.uk

POSITION	TARIFF ONE 2 MILE FARE COUNCIL	
1	LONDON (HEATHROW)	£14.20
2	TFL	£10.40
3	EPSOM & EWELL	£10.40
4	GUILDFORD	£10.00
5	LUTON AIRPORT	£9.70
6	CARADON	£9.60
7	NORTH CORNWALL	£9.60
8	ELAMBRIDGE	£9.50
9	JERSEY	£9.26
10	ST ALBANS	£9.15
11	MIDLOTHIAN	£8.80
12	SEVENOAKS	£8.70
13	WOKING	£8.70
14	READING	£8.60
15	WEST BERKSHIRE	£8.60
16	GREAT YARMOUTH	£8.50
17	STROUD	£8.50
18	CLACKMANNAN	£8.50
19	CHELTHAM	£8.40

POSITION	TARIFF ONE 2 MILE FARE COUNCIL	
20	EAST SUFFOLK (NORTH)	£8.40
21	EDINBURGH	£8.40
22	LEEDS	£8.40
23	MID SUSSEX	£8.40
24	TONBRIDGE & MALLING	£8.40
25	WATFORD	£8.40
26	HUNTINGDONSHIRE	£8.30
27	LINCOLN	£8.30
28	UTTLESFORD	£8.30
29	BCP	£8.20
30	BROXBORNE	£8.20
31	CARRICK	£8.20
32	EAST HERTS	£8.20
33	GLASGOW	£8.20
34	HART	£8.20
35	RESTORMEL	£8.20
36	WOKINGHAM	£8.20
37	WORTHING	£8.20
38	FOREST OF DEAN	£8.13
39	BRENTWOOD	£8.10
40	BRIGHTON & HOVE	£8.10
41	GUERNSEY	£8.10
42	SOUTH OXFORDSHIRE	£8.10
43	VALE OF WHITE HORSE	£8.10
44	MOLE VALLEY	£8.08
45	CENTRAL BEDFORDSHIRE	£8.05
46	ARUN	£ 8.00
47	BRECKLAND	£8.00
48	COVENTRY	£8.00
49	MAIDSTONE	£8.00
50	NOTTINGHAM	£8.00
51	RIBBLE VALLEY	£8.00
52	RUSHCLIFFE	£8.00
53	TORRIDGE	£8.00
54	TUNBRIDGE WELLS	£8.00
55	YORK	£8.00
56	ISLE OF MAN	£7.90
57	ROTHER	£7.90
58	SWALE	£7.90
59	ADUR	£7.80
60	BRACKNELL FOREST	£7.80
61	EASTBOURNE	£7.80
62	HASTINGS	£7.80
63	NORTH YORKSHIRE	£7.80
64	SOUTH GLOUCESTER	£7.80
65	SOUTH HAMS	£7.80
66	SURREY HEATH	£7.80
67	WAVERLEY	£7.80
68	CHELMSFORD	£7.70
69	DACORUM	£7.70
70	HIGH PEAK	£7.70
71	SWINDON	£7.70
72	WEALDON	£7.70
73	EAST DEVON	£7.68
74	WILTSHIRE	£7.68
75	SHETLAND ISLES	£7.62
76	BASINGSTOKE & DEANE	£7.60
77	EAST AYRSHIRE	£7.60
78	FIFE	£7.60
79	KERRIER	£7.60
80	MONMOUTHSHIRE	£7.60
81	RUSHMOOR	£7.60
82	SOUTHAMPTON	£7.60
83	SOUTH SOMERSET	£7.60
84	STEVENAGE	£7.60

POSITION	TARIFF ONE 2 MILE FARE COUNCIL	
85	TEST VALLEY	£7.60
86	WEYMOUTH & PORTLAND	£7.60
87	WINCHESTER	£7.60
88	TORBAY	£7.51
89	BATH & N. E. SOMERSET	£7.50
90	CARDIFF	£7.50
91	CHESTER	£7.50
92	EXETER	£7.50
93	IPSWICH	£7.50
94	MILTON KEYNES	£7.50
95	NORTH HERTS	£7.50
96	OXFORD CITY	£7.50
97	PLYMOUTH	£7.50
98	SOUTH NORFOLK	£7.50
99	TAMESIDE	£7.50
100	BIRMINGHAM	£7.40
101	CANTERBURY	£7.40
102	EAST HAMPSHIRE	£7.40
103	EASTLEIGH	£7.40
104	GLOUCESTER	£7.40
105	LEICESTER	£7.40
106	LEWES	£7.40
107	NORTH TYNESIDE	£7.40
108	PORTSMOUTH UA	£7.40
109	SOUTHULL	£7.40
110	SOUTH AYRSHIRE	£7.40
111	TEWKESBURY	£7.40
112	WEST OXFORD	£7.40
113	NEWARK & SHERWOOD	£7.37
114	NEW FOREST	£7.35
115	ASHFORD	£7.30
116	CAMBRIDGE CITY	£7.30
117	DARTFORD	£7.30
118	NORTH DEVON	£7.30
119	NORWICH	£7.30
120	SHROPSHIRE	£7.30
121	SOUTH CAMBRIDGE	£7.30
122	MORAY	£7.26
123	TEIGNBRIDGE	£7.26
124	NUNEATON & BEDWORTH	£7.25
125	DERBY	£7.20
126	DORSET	£7.20
127	GOSPORT	£7.20
128	HARLOW	£7.20
129	NORTH EAST LINCOLNSHIRE	£7.20
130	REIGATE & BANSTEAD	£7.20
131	SLOUGH	£7.20
132	STOCKPORT	£7.20
133	TANDRIDGE	£7.20
134	WEST NORTHANTS	£7.20
135	WEST SUFFOLK	£7.20
136	CHESTERFIELD	£7.16
137	TAMWORTH	£7.14
138	ARGYLL & BUTE	£7.13
139	COTSWOLD	£7.10
140	CRAWLEY	£7.10
141	DOVER	£7.10
142	HIGHLAND	£7.10
143	ISLE OF WIGHT	£7.10
144	MENDIP	£7.10
145	OLDHAM	£7.10
146	PENWITH	£7.10
147	RUGBY	£7.10
148	WINDSOR & MAIDENHEAD	£7.10
149	RUNNYMEDE	£7.10

POSITION	TARIFF ONE 2 MILE FARE COUNCIL	
150	HARBOROUGH	£7.09
151	BABERGH	£7.00
152	BRISTOL	£7.00
153	BROMSGROVE	£7.00
154	CARLISLE	£7.00
155	CARMARTHENSHIRE	£7.00
156	CHICHESTER	£7.00
157	EAST LOTHIAN	£7.00
158	GRAVESHAM	£7.00
159	HERTSMERE	£7.00
160	HORSHAM	£7.00
161	KINGS LYNN & WEST NORFOLK	£7.00
162	MACCLESFIELD	£7.00
163	MANCHESTER	£7.00
164	MEDWAY	£7.00
165	NEWPORT	£7.00
166	PEMBROKESHIRE	£7.00
167	SWANSEA	£7.00
168	WELSH HAYFIELD	£7.00
169	WESTERN ISLES	£7.00
170	SANDWELL	£6.92
171	BRAINTREE	£6.90
172	BURY	£6.90
173	COLCHESTER	£6.90
174	WORCESTER CITY	£6.90
175	AMBER VALLEY	£6.80
176	BEDFORD	£6.80
177	BLACKBURN	£6.80
178	BOSTON	£6.80
179	BRIDGEND	£6.80
180	BROXTOWE	£6.80
181	CEREDIGION	£6.80
182	EAST CAMBRIDGESHIRE	£6.80
183	EAST LINDSEY	£6.80
184	KINGSTON-UPON-HULL	£6.80
185	LIVERPOOL	£6.80
186	MANSFIELD	£6.80
187	MID DEVON	£6.80
188	NORTH KESTEVEN	£6.80
189	NORTH NORTHANTS	£6.80
190	NORTH WARWICK	£6.80
191	SEDGEMOOR	£6.80
192	SOMERSET WEST & TAUNTON	£6.80
193	S. LANARKSHIRE (CAMBUS/ROGLIN)	£6.80
194	SOUTHEND ON SEA	£6.80
195	TENDRING	£6.80
196	TRAFFORD	£6.80
197	VALE OF GLAMORGAN	£6.80
198	WEST LOTHIAN	£6.80
199	WIGAN	£6.80
200	WIRRAL	£6.80
201	WOLVERHAMPTON	£6.80
202	DUNDEE CITY	£6.79
203	CHARNWOOD	£6.75
204	ABERDEENSHIRE	£6.74
205	MALVERN HILLS	£6.72
206	ANGUS	£6.70
207	BLABY	£6.70
208	CONGLETON	£6.70
209	EAST DUNBARTONSHIRE	£6.70
210	FYLDE	£6.70
211	NORTH SOMERSET	£6.70
212	SHEFFIELD	£6.70
213	SOUTH LAKELAND	£6.70
214	THREE RIVERS	£6.70

POSITION	TARIFF ONE 2 MILE FARE COUNCIL	
215	ABERDEEN CITY	£6.60
216	CANNOCK CHASE	£6.60
217	CONWY	£6.60
218	DUDLEY	£6.60
219	EDEN	£6.60
220	FAREHAM	£6.60
221	FOLKESTONE & HYTHE	£6.60
222	HAVANT	£6.60
223	LANCASTER	£6.60
224	NORTH LINCOLNSHIRE	£6.60
225	ROCHFORD	£6.60
226	S. LANARKSHIRE (E. KIRKBY)	£6.60
227	SOUTH TYNESIDE	£6.60
228	STRATFORD ON AVON	£6.60
229	SUNDERLAND	£6.60
230	WAKEFIELD	£6.60
231	BARROW IN FURNESS	£6.50
232	BASSETLAW	£6.50
233	CALDERDALE	£6.50
234	DUMFRIES & GALLOWAY	£6.50
235	DURHAM COUNTY COUNCIL	£6.50
236	EREWASH	£6.50
237	GEDLING	£6.50
238	HALTON	£6.50
239	LUTON	£6.50
240	ORKNEY	£6.50
241	STAFFORD	£6.50
242	TORFAEN	£6.50
243	DONCASTER	£6.48
244	HYNDSDEN	£6.42
245	BASILDON	£6.40
246	BLAENAU GWENT	£6.40
247	CASTLE POINT	£6.40
248	COUNTY OF HEREFORD	£6.40
249	CREWE & NANTWICH	£6.40
250	DERBYSHIRE DALES	£6.40
251	EAST RENFREW	£6.40
252	ELLESMERE PORT	£6.40
253	HINCKLEY & BOSWORTH	£6.40
254	MELTON	£6.40
255	MID SUFFOLK	£6.40
256	NORTH AYRSHIRE	£6.40
257	NORTHUMBERLAND	£6.40
258	WEST LINDSEY	£6.40
259	WYRE	£6.38
260	WARRINGTON	£6.35
261	PERTH & KINROSS	£6.33
262	ANGLESEY	£6.30
263	BARNSELEY	£6.30
264	CLYDEBANK	£6.30
265	DARLINGTON	£6.30
266	SOUTH HOLLAND	£6.30
267	SOUTH RIBBLE	£6.30
268	ST HELENS	£6.30
269	REDDITCH	£6.25
270	THANET	£6.21
271	CHORLEY	£6.20
272	COPELAND	£6.20
273	EAST SUFFOLK (SOUTH)	£6.20
274	FALKIRK	£6.20
275	FENLAND	£6.20
276	NEWCASTLE-UPON-TYNE	£6.20
277	SPELTHORNE	£6.20
278	WYCHAVON	£6.20
279	RENFREWSHIRE	£6.15

POSITION	TARIFF ONE 2 MILE FARE COUNCIL	
280	WYRE FOREST	£6.14
281	BRADFORD	£6.10
282	S. LANARKSHIRE (COWENDALE)	£6.10
283	SCOTTISH BORDERS	£6.05
284	ALLERDALE	£6.00
285	BLACKPOOL	£6.00
286	BOLTON	£6.00
287	BUCKINGHAMSHIRE	£6.00
288	DENBIGHSHIRE	£6.00
289	DUMBARTON & VALE OF LEVEN	£6.00
290	EAST STAFFORDSHIRE	£6.00
291	GATESHEAD	£6.00
292	GWYNEDD	£6.00
293	KIRKLEES	£6.00
294	KNOWSLEY	£6.00
295	NORTH WEST LEICESTER	£6.00
296	PETERBOROUGH	£6.00
297	POWYS	£6.00
298	PRESTON	£6.00
299	ROTHERHAM	£6.00
300	SALFORD	£6.00
301	TELFORD & WREKIN	£6.00
302	THURROCK	£6.00
303	WARWICK	£6.00
304	STOKE-ON-TRENT UA	£5.90
305	VALE ROYAL	£5.90
306	WALSAL	£5.90
307	EAST RIDING	£5.85
308	FLINTSHIRE	£5.80
309	UCHFIELD	£5.80
310	MERTHYR TYDFIL	£5.80
311	NEATH PORT TALBOT	£5.80
312	NORTHERN IRELAND	£5.80
313	NORTH NORFOLK	£5.80
314	RHONDDA CYNON TAFF	£5.80
315	SEFTON	£5.80
316	NORTH EAST DERBYSHIRE	£5.75
317	CAERPHILLY	£5.70
318	STIRLING	£5.70
319	ASHFIELD	£5.60
320	NORTH LANARKSHIRE	£5.60
321	S. LANARKSHIRE (HAMPTON)	£5.60
322	WREXHAM	£5.60
323	NEWCASTLE-UNDER-LYME	£5.55
324	INVERCLYDE	£5.54
325	EPPING FOREST	£5.50
326	REDCAR & CLEVELAND	£5.50
327	ROCHDALE	£5.50
328	HARTLEPOOL	£5.40
329	SOUTH KESTEVEN	£5.30
330	STAFFS MOORLANDS	£5.20
331	WEST LANCASHIRE	£5.20
332	SOUTH STAFFORDSHIRE	£5.10
333	STOCKTON ON TEES	£5.10
334	CHERWELL	£5.08
335	BURNLEY	£5.00
336	ROSSENDALE	£5.00
337	MIDDLESBROUGH	£4.90
338	BOLSOVER	£4.60
339	GLADBY & WIGSTON	£4.40
340	PENDLE	£4.40
341	MALDON	£
342	RUTLAND	£
343	SOUTH DERBYSHIRE	£
344	WEST DEVON	£



# **RESPONSE FROM WEST LOTHIAN TAXI AND PRIVATE HIRE CAR OWNERS AND DRIVERS ASSOCIATION**



**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Re: FW: Taxi Fare review 2023/24 - [OFFICIAL]  
**Date:** 03 October 2023 11:09:55

---

Hi Gary

We waited until the TOA had their meeting and their vote.

I believe it was for no rise.

Our own Association is of the same opinion.

We had a reasonably good "catch up rise" last time.

The trade continues to be affected/distorted by discounting so the general opinion is it would not be a wise idea to raise fares at this time.

Regards

[REDACTED]

## **RESPONSE FROM WEST LOTHIAN TAXI OWNERS ASSOCIATION**

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** Fare Review 2023.  
**Date:** 03 October 2023 21:22:14

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Good Evening Gary,

It was decided at last nights meeting of the WLTOA that we would not be seeking a fare increase at this time. We feel that following on the back of last years increase as this would be detrimental to the trade as well as the more vulnerable members of our community that depend on Taxis to get them to doctors/ hospital appointments etc as they are unable to use public transport.

Regards,

[REDACTED]

## Appendix 4

### Briefing Note

#### West Lothian Council Taxi fare scales review 2023-24

In terms of the Civic Government (Scotland) Act 1982, the Council as Licensing Authority is required to review the maximum fares that taxis operating within West Lothian may charge and to set scales. The 1982 Act requires that this should be within 18 months beginning with the date on which the scales came into effect.

The fares approved by the Council are maximum fares which may be charged. Taxi operators are able to discount these rates if they wish. Whilst it is obligatory to review fare levels periodically, there is no obligation to alter the existing fares.

The Scottish Government's Taxi and Private Hire Car Licensing: Best Practice for Licensing Authorities 3<sup>rd</sup> ed published in May 2023 states that authorities are advised as best practice to pay regard to advice contained in paragraphs 2.34-2.37 of Scottish Department Circular 25/1986. This states that:

**“in fixing fares, authorities will want to pay primary regard to the costs incurred by the trade, having regard to the capital costs (including interest payments) of the vehicles, the costs of maintaining and replacing them to a standard of the licensing authority, of employing drivers and the prevalent level of wages and costs in related road transport industries. The public interest is best served by ensuring the maintenance of an adequate taxi service by giving the trade a fair return rather than depressing fares for social reasons, however understandable.”**

In light of this guidance, we have provided inflation figures supplied by the Government's Office of National Statistics (ONS). The main index for inflation is the Consumer Price Index which is a measure of consumer price inflation produced to international standards. The indexes used below are CPIH indexes which are measures of price inflation that includes owner occupiers' housing costs and therefore considered to be the most comprehensive measure of inflation.

The main index detailed below is the CPIH - all items. However, we have also included other statistics which may be relevant to the fare table review, namely 'purchase of vehicles', 'maintenance and repairs', 'petrol' and 'diesel'.

The ONS publishes regular updates on these statistics. To allow comparison between relevant times, the ONS gives figures as indices, meaning that the figures are stated relative to a stated base year or month. The base year or month always has a value of 100 so other times have values which are greater or less than 100 to show how they compare.

Figures have been included below from the time of the onset of the Coronavirus pandemic i.e. March 2020 and then from May 2022 when the trade bodies submitted a common proposal to increase fares at the previous taxi fare review that was implemented in November 2022.

Comparative figures have also been provided for cost of fuel based on the AA fuel reports.

Members should note that it is open to anyone participating in the review process to suggest other factors that the Council should consider in reviewing the fare.

### **Inflation Figures (Consumer Price Index)**

	Index name	2015	March 2020	May 2022	Aug 2023	Feb 2024	Change from % Change from May 2022
1	<b>ALL ITEMS</b> CPIH Index 00(2015=100) Series: L522	100	108.6	119.7	129.4	130.8	+11.1
2	<b>PURCHASE OF VEHICLES (all)</b> CPIH Index 07.1(2015=100) Series: L543	100	106.3	124.0	125.9	121.6	-2.4
	<b>PURCHASE OF NEW CARS</b> CPIH Index 07.1.1A (2015=100) Series: L544	100	113.6	126.6	133.3	134.8	+8.2
	<b>PURCHASE OF SECOND-HAND CARS</b> CPIH Index 07.1.1B (2015=100) Series: L545	100	95.3	120.4	118.9	110.8	-9.6
3	<b>MAINTENANCE AND REPAIRS</b> CPIH Index 07.2.3 (2015=100) Series: L54A	100	113.2	122.2	132.7	139.3	+17.1
4	<b>PETROL</b> CPIH Index 07.2.2.2 (2015=100) Series: J2T5	100	107.6	149.5	133.9	128.1	-21.4
5	<b>DIESEL</b> CPIH Index 07.2.2.1 (2015=100) Series: J2SU	100	107.7	156.3	131.4	131.6	-24.7

**Source** – Office for National Statistics ([www.ons.gov.uk](http://www.ons.gov.uk))

Indicators are published monthly

### **AA fuel price reports**

<https://www.theaa.com/driving-advice/driving-costs/fuel-prices>

March 2020

	Unleaded (litres)	Diesel (litres)	Super Unleaded (litres)	LPG (litres)
<b>Scotland</b>	120.3	123.4	132.8	0.0
<b>UK Average</b>	121.3	124	133.7	65.1
<b>Supermarket average</b>	116.7	119	124.1	0.0

May 2022

	<b>Unleaded (litres)</b>	<b>Diesel (litres)</b>	<b>Super Unleaded (litres)</b>	<b>LPG (litres)</b>
<b>Scotland</b>	166.7	180.6	177.9	72.7
<b>UK Average</b>	166.9	180.4	178.3	83
<b>Supermarket average</b>	162.9	176.5	170.7	76.3

August 2023

	<b>Unleaded (litres)</b>	<b>Diesel (litres)</b>	<b>Super Unleaded (litres)</b>	<b>LPG (litres)</b>
<b>Scotland</b>	148.9	150.7	162.5	83.1
<b>UK Average</b>	149.1	151	164.2	85.7
<b>Supermarket average</b>	145.6	147.5	153.9	79.7

February 2024

	<b>Unleaded (litres)</b>	<b>Diesel (litres)</b>	<b>Super Unleaded (litres)</b>	<b>LPG (litres)</b>
<b>Scotland</b>	143.4	152.5	156.6	99.7
<b>UK Average</b>	143.5	152.5	158.4	99.8
<b>Supermarket average</b>	141.6	150.3	149.9	99.7

Licensing Team

28 March 2024

**Appendix 5****Effect of Proposed changes on fares**

The Licensing Team have calculated the effect of the proposed changes from The Fellowship on the metered tariff fares as below:-

**Current Fare Table effective from 22 November 2022**

<b>Tariff 1</b>	<b>Tariff 2</b>	<b>Tariff 3</b>
1 mile 4.80	1 mile 5.20	1 mile 7.80
2 miles 6.80	2 miles 7.20	2 miles 10.80
5 miles 12.80	5 miles 13.20	5 miles 19.80
10 miles 22.80	10 miles 23.20	10 miles 34.80

**Proposed by Fellowship**

<b>Tariff 1</b>	<b>Tariff 2</b>	<b>Tariff 3</b>
1 mile 4.97 (+4.2%)	1 mile 5.37 (+3.8%)	1 mile 8.06 (+3.8%)
2 miles 7.15 (+5.9%)	2 miles 7.55 (+5.6%)	2 miles 11.32 (+4.6%)
5 miles 13.66 (+7.0%)	5 miles 14.06 (+6.8%)	5 miles 21.10 (+6.6%)
10 miles 24.53 (+7.5%)	10 miles 24.93 (+7.8%)	10 miles 37.39 (+7.5%)

\*Fares based on either a 1, 2, 5 or 10 mile journey for a hire commencing there and then and does not include engagement fee.

\*\*Please note that the fares shown would be required to be rounded up/down to the nearest 10 pence to accord with the taxi meters

\*\*\* Percentages in brackets are the increase of the relevant fare from the current tariff fare. These are based on the fare being rounded up/down to the nearest 10 pence and 0.5 being rounded up.

Licensing Team  
October 2023

## Appendix 6

## SUMMARY OF RESPONSES RECEIVED TO THE DRAFT FARE TABLE WHICH WAS ADVERTISED

	Date received	Summary of comments	Further action	Response by Licensing Team to representation
1.	01/03/24	<p>DM said he was objecting to the proposed fare table stating that it would leave drivers working enhanced hours for less than minimum wage.</p> <p>It was stated that the increase in licence fees in 2024 and 2025 would have a further negative impact on driver's wages.</p> <p>He also questioned why drivers were not consulted.</p>	<p>Email sent on 1/3/24 acknowledging the representation and asking if he wanted to make a specific proposal and enclosing a link to the Council Executive report explaining the consultation process.</p> <p>No further response received.</p>	<p>No alternative proposal for taxi fares has been made.</p> <p>The council is required by law to set licence fees to recover the costs of the licence scheme.</p> <p>The legislation makes it clear that it is vehicle operators i.e. owners who should be involved in the consultation rather than drivers.</p>
2.	15/03/24	<p>PG said he was objecting to the lack of increase in wages for taxi drivers when councillors were getting a pay increase.</p>	<p>Email sent acknowledging the representation and asking if he wanted to make a specific proposal and enclosing a link to the Council Executive report explaining the consultation process.</p> <p>No further response received</p>	<p>No alternative proposal for taxi fares has been made.</p> <p>The legislation makes it clear that it is vehicle operators i.e. owners who should be involved in the consultation rather than drivers.</p>
3.	15/03/24	<p>YN enclosed comments she had seen on social media regarding the taxi fare review. She drew attention to a statement from a driver that read "to earn the equivalent of minimum wage I'd need to take an average of £25 an hour".</p>	<p>Email sent acknowledging the representation and asking if she wanted to make a specific proposal and enclosing a link to the Council</p>	<p>No alternative proposal for taxi fares has been made.</p> <p>The legislation makes it clear that it is vehicle operators</p>



		She stated that she felt that the taxi industry is very important for senior citizens of West Lothian and urged the council to give taxi drivers a cost of living increase.	Executive report explaining the consultation process.  No further response received	i.e. owners who should be involved in the consultation rather than drivers.
4.	15/03/24	MH drew attention to the difficulties senior residents face in trying to use public transport to get to important appointments. She stated that due to the reduced bus services taxis are often the only option left however due to the cost of living crisis the prices are too high for seniors. She suggests reduced fares for senior citizens.	Email sent acknowledging the representation and asking if she wanted to make a specific proposal and enclosing a link to the Council Executive report explaining the consultation process.  No further response received	No alternative proposal for taxi fares has been made.  The legislation makes it clear that it is vehicle operators i.e. owners who should be involved in the consultation rather than drivers.
5.	15/03/24	Ms F suggested a reintroduction of taxi cards to help elderly people in West Lothian access transport due to the lack of public transport and the cost of living crisis.	Email sent acknowledging the representation and asking if she wanted to make a specific proposal and enclosing a link to the Council Executive report explaining the consultation process.  No further response received	No alternative proposal for taxi fares has been made.  The legislation makes it clear that it is vehicle operators i.e. owners who should be involved in the consultation rather than drivers.



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1 March 2024

Dear Sirs

**TAXI FARES REVIEW – PUBLIC CONSULTATION**

**FORMAL OBJECTION TO COUNCIL PROPOSAL**

I wish to formally object to the published Taxi Fare Tariff which was published in the Courier on the 29<sup>th</sup> February 2024.

The published rates represent no change in tariff and I find this utterly abhorrent.

The report which was submitted to the Council Executive for consideration at their meeting on the 20<sup>th</sup> of February 2024, stated in section C-! “Council Values”, that the submission to the Executive had been conducted in line with the following values, “collaborative, inclusive, and adaptive”. I would suggest that this is a load of nonsense, and the exact opposite took place.

As a Licensed Taxi Driver, and Private Hire Car Operator, I submitted a proposal to the Council on the 17<sup>th</sup> of January 2024. This proposal was for 1. A 10% increase in overall fares, 2. Meter Rate to start at £5.00, and 3. Festive rate to be set at Double Time, in line with Falkirk Council. This proposal had support from a good number of drivers on the system I work for, with 10 drivers in support as opposed to 5 against.



My proposal for a 10% increase was not too dissimilar to the proposal which was submitted by The Fellowship, apart from the Festive Rate. Roughly, from the beginning of December each year, Customers repeatedly ask us when the Double Time will be starting. We currently do not receive Double Time on Tariff Three but there is an expectation from the Public that Drivers will be suitably compensated for working at this special time. I'm also aware that most retail staff receive Double Time for working at this time, and it is a bit down heartening when you pick up customers who are earning Double, and at times, Triple Time, when we are left with a derogatory Time and a Half.

I note that the Fellowship provided a very detailed proposal with a breakdown of 12 drivers in favour, 2 against and 2 abstaining. 12 out of 16 drivers supporting a fare increase is along the lines of the 10 out of 15 drivers supporting my proposal. A letter from the Fellowship was submitted in the report to the Council detailing the split on votes and this totally contradicts the remarks in section D5 Consultation with Taxi licence holders which stated "7 votes in favour of the proposed increased fares from The Fellowship". I also note that the TOA submission failed to provide a breakdown of votes in favour to votes against.

Comment is also made in section D5 "The TOA representatives stated that the consensus at the ranks was for no change and that a rise at this time would be detrimental to business due to competition to taxis from discounting schemes and fixed rates offered by private hire cars." The meter rate plays a significant role in how Fixed Rates are calculated. The Higher the meter rate the higher fixed rates become, and the higher rates become for journeys outside West Lothian. The TOA's adversity to competition should not prevent the overall trade from benefiting from a meter rate increase.

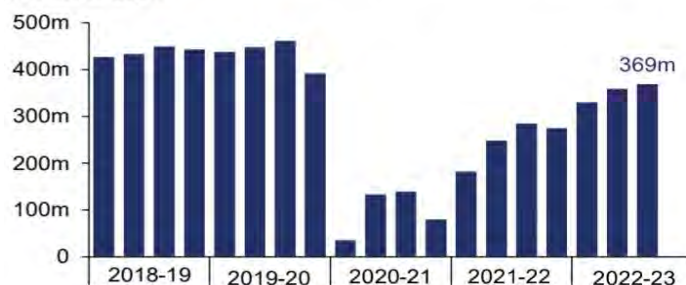
The TOA view that "a rise at this time would be detrimental to business" does not add up. Over the last few decades I have never experienced an adjustment in Taxi Fares adversely affecting business. No evidence has been provided by the TOA to back up their statement, yet their word appears to be taken as Gospel.

A comparison can be drawn with other forms of Transport. Transport Scotland reported that rail fares in Scotland would increase from July 2023 by 4.8% and by a further 8.7% from 1<sup>st</sup> April 2024. The graph below shows that despite large, and increasing, rises in rail fares, passenger numbers are steadily increasing after Covid. This is also despite an increase in people working from home. If rail

isn't affected by price increases then why should the Taxi Trade? I would suggest that the TOA, who have provided no evidence to back up their assumption, are hawering.

**Figure 1** Passenger journeys have increased in six of the last seven quarters

Passenger journeys, Great Britain, quarterly data, 1 April 2018 to 31 December 2022



As previously mentioned, my proposal was submitted in the 17<sup>th</sup> of January, yet this proposal was deliberately withheld from the Council Executive. In his email to me on the 1<sup>st</sup> of February 2024, Gary McMullan, Senior Solicitor, stated “statutory process under Section 17 referred to above requires that the Council must consult with persons or organisations who are representative of taxi operators prior to publishing a proposed new fare table for consultation more widely. There is no requirement in the legislation for the Council to consult with private hire car operators.” There may be “no requirement” to “consult with private hire car operators”, but **there is nothing to suggest that consultation with private hire operators cannot take place**, nor does it say that where private hire operators have shown an interest that they should be excluded.

As someone who started in the Taxi trade as far back as 1992, originally with Eastwood District Council who merged into East Renfrewshire Council following Local Government reorganisation, I recall that consulting with both Public and Private Hire Operators and Drivers was never an issue with those councils, as they were aware that with both parts of the trade running meters, everyone was affected by tariff changes. It is not legislation that is the stumbling block to effective consultation, rather it is the will of West Lothian Council staff.

West Lothian Councils LICENSING CONDITIONS FOR TAXIS, PRIVATE HIRE CARS, TAXI DRIVERS AND PRIVATE HIRE CAR DRIVERS, part 3, Private Hire Car Licence Conditions, section 17 Fares states “Unless the cost of the journey is regulated by the Fare Table and calculated by taximeter the Licence Holder shall ensure that, prior to acceptance of the hire, any potential Hirer of the Licensed Vehicle is informed whether by the Driver or otherwise that (a) the fare is not to be calculated by the meter and (b) the cost, or method of calculating the cost, of the proposed journey.” Section 19 goes on to say “Any Licence Holder, who wishes his Licensed Vehicle to use a taximeter, shall have affixed to and used on his Licensed Vehicle, a taximeter which has been stamped or sealed by the Council, after testing and approval to the satisfaction of the Cab Inspector as to distance and time in accordance with the approved taxi fares and charges, and no other taximeter shall be affixed or used. Such taximeter must be electronic and capable of multi tariff operation.” In simple terms, where a meter is fitted it needs to be used and the meter must have the West Lothian Council fare on the meter. As most Private Hire Operators have a meter fitted they are subject to the terms of the licence and are affected by any change in tariff. It is immoral to exclude submission from the

wider trade, and the failure to make the Council Executive aware of my proposal was a deliberate attempt to influence the Council Executive vote. Definitely not demonstrating “collaborative, inclusive, and adaptive” values.

Of great concern, by not providing Drivers with a fare and reasonable Fare Increase, West Lothian Council are leaving many drivers to operate below the National Minimum Wage. The MailOnline reported on Sunday 25 February 2024 that the Nous Group, an International Management Consultancy, “said with household inflation running at approximately 4.2 per cent, workers need to increase their wages by at least 4.6 per cent to keep pace with the cost of living crisis”. Unlike other industries, Taxi Drivers do not receive yearly wage increases and at points since the last Fare Increase was approved inflation has been over 11 per cent. On consulting with my booking office I established that in mid February, drivers had worked an average of 37.5 hours in the week. If a driver declares taxable profit to HMRC (total takings minus total expenses) of £20,000, then averaging 37.5 hours, based on a 48 week working year, it provides a hourly rate of £11.11. From April 2024 the National Minimum Wage will be increased to £11.44 per hour.

I would suggest that many drivers are actually reporting Taxable Profit below £20,000. During the period of Covid, West Lothian Council declined to provide financial assistance to the Taxi Trade. However, support that was provided, in terms of grants, from the Scottish Government, were administered and issued by West Lothian Council. From the data collected at that period then West Lothian Council should be fully aware of how much Taxable Profit that Drivers make on average. Yet, none of this information was made available to the Council Executive.

From my own personal experience I am aware that many drivers are working more than 50 – 60 hours per week to eke out a living. That is surely preposterous and Dickensian. If we return to the average figure worked of 37.5 hours per week, and the top and bottom 15% of hours worked were removed, then we would see that the real average hours worked is significantly higher than 37.5 hours. None of this information was assessed by the Council executive. No attempt was made to establish this information, and most importantly no assessment has ever been made on the Health and Safety of Drivers in relation to how many hours they need to work to secure a reasonable living. Failure to provide a fare increase exacerbates this problem, and it certainly isn’t adhering to the Council value of being “caring and compassionate”.

**West Lothian Council, as the Licensing Authority, has a duty of care to ensure that Drivers can make a fare and reasonable wage within the guidelines of the Working Time Directive.**

Within section D3 of the report to the Council Executive, “Representations from the relevant trade organisations” it was mentioned that “part The Scottish Government’s Taxi and Private Hire Car Licensing: Best Practice for Licensing Authorities 3rd ed published in May 2023 states that authorities are advised as best practice to pay regard to advice contained in paragraphs 2.34-2.37 of Scottish Department Circular 25/1986. This states that:” “The public interest is best served by ensuring the maintenance of an adequate taxi service by giving the trade a fair return rather than depressing fares for social reasons”. I do not believe that the Council executive fully took this on board.

Anyone seeking a Taxi at the public Rank outside Asda, Livingston, will see an aging Taxi fleet which is long past what many would consider an appropriate shelf life. The majority of Taxis in West Lothian are no longer fit for purpose. Glasgow has already introduced their Low Emission Zone and Edinburgh Councils Low Emission Zone will be enforced from 1 June 2024. The majority of Taxis in West Lothian will not be able to enter either of our two major cities without incurring charges/penalties.

Edinburgh Council ULEX penalties are listed below:

### **Non-compliant cars (M1), vans (N1) and special purpose vehicles**

We will

- issue an initial PCN set at £60, per vehicle
- issue a second PCN set at £120, if the same vehicle is driven a second time within 90 days of the first breach
- issue a third PCN set at £240, if the same vehicle is driven a third time within 90 days of the first breach
- issue a fourth PCN set at £480, if the same vehicle is driven a fourth time within 90 days of the first breach

Currently, if a Customer looks to pre-book a Taxi/Private Hire Car for a Journey into Edinburgh it will cost around £37-£40. Where the journey is not pre-booked and the Taxi is approached on a rank the typical fare charged is around £50.

From June, if a Wheelchair User approaches a Taxi at the Asda Rank and wishes to go to Edinburgh, the Driver will have to decide if he/she is willing to accept a first strike on the penalty scale. If the answer is yes, as the fine is known in advance, the customer will be the person liable for this and it will be added to the fare. Thus a person with a disability, and in a wheelchair, who has restricted options with regards public transport, could find their fare into Edinburgh being charged at £110. Should the driver be approaching his fourth low emission violation, the fare would be £530. Surely this is Disability Discrimination? The same discrimination will also apply to elderly people needing to get to Edinburgh Hospitals.

The choice are: 1. Pay the increased fare, 2. The hire is refused, 3. The Council provides a fare structure which is appropriate to enable Drivers to update their vehicles.

Sadly, the inflationary figures provided to the Council Executive of New Cars aren't exactly correct. I'm not suggesting there was an attempt to mislead, rather the prices of new cars are not reflective of the cost of New Taxis.

In 2021, it was possible to buy a new Mercedes Vito taxi from Cab Direct for £34,995.

## Mercedes-Benz Vito Taxi is Back

June 24, 2021 | Cab Direct News



Sadly, Cab Direct no longer appears to be stocking the Vito Taxi, and a search for new Vitos is drawing a blank, suggesting the vehicle may have been withdrawn due to emission issues.

The Taxi currently being promoted by Cab Direct is a version of the Ford Transit, the Ford Maxi Cab.



With prices starting at £59,995 it is a significant difference from the £34,995 required in 2021. The price quoted is for the Diesel variant. This of course brings a major risk. If the LEZ requirements change the Diesel vehicles risk becoming obsolete very quickly. This also needs to be taken into consideration if purchasing a second hand taxi. A lot of investment is being placed at risk. An alternative would be the environmentally friendly Petrol Hybrid model which comes in at £62,995. Unfortunately, due to the rather bizarre requirements which have been set by West Lothian Council in terms of tinted windows (note: this isn't a problem for other councils), this vehicle would not be allowed to operate as a Taxi in West Lothian.

Effectively, this leaves the only new Taxi choice for a driver in West Lothian as the LEVC TX (London style Black Cab).

In September 2023, Autocar listed this vehicle at £66,433





Realistically the 2024 price of this vehicle will be nearly £70,000, quite a jump from the 2021 outlay of £34,995.

Even at £66,433, this would equate to monthly repayments over 60 months of £1107 BEFORE INTEREST is added. Does anyone in the Council actually think that Taxi Drivers In West Lothian make this sort of money? Does anyone in the Council think it will be easier to afford one of these vehicles by not providing a Fare Increase? Is “The public interest” “best served by ensuring the maintenance of an” inadequate “taxi service” where Taxis are restricted from where they can travel to? Is “The public interest” best serviced by an inability of Drivers to modernise their vehicles due to a low Fare Tariff?

Alternatively some of this could be avoided if West Lothian Council changed their rules on accessible wheelchair vehicles for use as Taxis. The Peugeot Premier, a key taxi in the much larger City of Dundee and extremely popular at Glasgow Airport, is sold by Cab Direct from £30,829.



There is something dishonest about a Council who denies Taxi Drivers a Fare Increase yet at the same time continually increase the Licence Fees for the Drivers and Operators. In 2014 the Vehicle Licence was £322.27 and in 2024 the Licence will be £463.42, an increase of just over 43.5%. Fares haven't risen by 43.5% in the same period.

Hire Car Licensing	2022/23	2023/24 Proposed	2024/25 Proposed	2025/26 Proposed	Basis of charge	Discretionary/ Non-discretionary
Taxi - initial grant	£468.11	£489.17	£511.19	£534.19	Per application	Discretionary
Taxi - renewal fee	£424.37	£443.47	£463.42	£484.28	Per year	Discretionary
Private hire car - initial grant	£444.78	£464.80	£485.71	£507.57	Per application	Discretionary
Private hire car - renewal fee	£424.37	£443.47	£463.42	£484.28	Per year	Discretionary
Taxi driver - initial grant	£217.29	£227.07	£237.29	£247.96	Per application	Discretionary
Taxi driver - renewal fee	£183.75	£192.02	£200.66	£209.69	Per year	Discretionary
Taxi driver (within first year of PHC driver)	£40.84	£42.68	£44.60	£46.61	Per year	Discretionary
Private hire car driver - initial grant	£217.29	£227.07	£237.29	£247.96	Per application	Discretionary
Private hire car driver - renewal fee	£183.75	£192.02	£200.66	£209.69	Per year	Discretionary
Duplicate licence	£8.75	£9.14	£9.56	£9.99	Per replacement	Discretionary
Replacement ID card	£8.75	£9.14	£9.56	£9.99	Per replacement	Discretionary
Replacement vehicle	£72.92	£76.20	£79.63	£83.21	Per amendment	Discretionary
Amendment to licence (apart from address)	£40.84	£42.68	£44.60	£46.61	Per amendment	Discretionary
Application for change of address	Free	Free	Free	Free	Per amendment	Discretionary
Missed medical fee	£71.69	£74.92	£78.29	£81.81	Per appointment	Discretionary

The last fare increase was in 2022 when the Licence Fee was £424.37. The increase in April to £463.42, represents an increase since the last Fare Increase of over 9%. This is completely unjustifiable. £463.42 in no way is reflective of the cost to provide the Licence in terms of the test cost and administration. West Lothian Council are profiteering at the expense of the Taxi Trade, which makes a zero fare increase even more reprehensible.



In summary:

- The Councils Consultation was lacking
- There was a failure to make the Council executive aware of the proposal that I had submitted and the support it had
- The TOA's justification for promoting no increase lacks substance
- The current proposal fails to take into account the realistic cost of new vehicles
- Current vehicles are not up to Low Emission Zone Standards
- The inability to access Low Emission Zones can potentially lead to Disability Discrimination
- The current proposal will leave many drivers working for less than the National Minimum Wage
- No consideration has been taken into account of the Health and Safety of Drivers Hours because of low pay.

On that basis I ask that the Council properly consider the proposal that I previously submitted. Whereas I do not think it is appropriate that any person should be getting into a Taxi for less than £5.00, I would find it acceptable if the Council adopted the Tariff One proposal from The Fellowship, as long as Tariff Three is adopted at Double Time in line with Falkirk Council. I would say that I was impressed at the thought, and work, that was put in by The Fellowship to justify their proposal, which is in sharp contrast to the nonsense from the TOA.

I would also ask that my comments are submitted to the Council in full and not just recorded as one of a number of objections.

Yours sincerely



## **RESPONSE FROM THE LICENSING TEAM TO THE ISSUES RAISED IN DL'S REPRESENTATION**

### **1. Suggestion that the consultation was lacking**

It is accepted that the initial consultation which took place in September 2023 required to be extended to include the holders of taxi vehicle licences. This became clear following research carried out by the Licensing Team into recent caselaw and statutory guidance in order to assist the Council Executive in making a decision regarding which fare table to advertise for public comment in view of the opposing views. The legislation directs that certain consultation is required to take place as outlined in this report. That consultation has taken place.

### **2. Complaint that there was a failure to make the Council Executive aware of DL's proposal and the potential support it had**

The legislation directs that certain consultation to take place, it does not suggest that other consultation is possible and the caselaw supports this. As Mr L is not the holder of a taxi licence it would therefore not have been appropriate for his proposal received in January to have been included in the February Council Executive report. As a private hire car (PHC) licence holder Mr L and all other private hire car owners have a choice whether to install a meter in their vehicles unlike taxi licence holders who in terms of the legislation must have a meter fitted. If no meter is fitted PHC drivers are free to agree fares in advance with passengers. This is why the legislation does not include PHC licence holders in the consultation process.

As the legislation allows any person to make a representation at this stage Mr L's proposal can now be considered. However, the Executive should not treat this proposal as having the support of additional persons as online polls have little credibility and no other representations have been received in support of Mr L's proposal.

### **3. The suggestion that the TOA's justification for promoting no increase lacks substance**

This is a matter for the Executive to consider and reach a conclusion on in deciding what fare table should be approved.

### **4. The suggestion that the current proposal fails to take into account the realistic cost of new vehicles**

Again this is a matter for the Executive to consider and reach a conclusion on. However, it should be noted that the outcome of the consultation undertaken with all taxi operators in January was that the majority did not wish a fare increase at this stage.

### **5. The suggestion that current vehicles are not up to Low Emission Zone Standards and the implications of that**

This is an issue which taxi licence operators are best placed to consider when responding to the consultation.

### **6. The suggestion that inability to access Low Emission Zones can potentially lead to disability discrimination**

This is an issue which taxi licence operators are best placed to consider when responding to the consultation.

### **7. The suggestion that the current proposal will leave many drivers working for less than the National Minimum Wage and that no consideration has been taken into account of the Health and Safety of Drivers Hours because of low pay.**

This is an issue which the statutory guidance highlighted and taxi licence operators are best placed to have considered when responding to the consultation. If drivers are employed this is a matter for

operators who employ them. It is understood that most drivers are self employed and the minimum wage provisions do not apply.

**8. The comments about hire car licence fees**

The setting of hire car licence fees is a completely different exercise from setting maximum taxi fares and different legislative provisions apply. In setting hire car licence fees the council is required by law to ensure that the total amount of fees received is sufficient to meet the expenses of operating the licensing scheme including the costs of administration of the scheme, testing of vehicles and medical fees. The council is not able to make a profit.

Licensing Team  
28/03/24



DATA LABEL: PUBLIC

**COUNCIL EXECUTIVE****PROCUREMENT APPROVAL REPORT****REPORT BY THE HEAD OF CORPORATE SERVICES****A. PURPOSE OF REPORT**

To seek Council Executive approval to enter into a contract where Committee approval is required by the Council's Standing Orders.

**B. RECOMMENDATION**

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

1. A direct award of a contract to The Wise Group for the period 1 May 2024 to 30 April 2026 of £55,568 to allow for online skills platform services.
2. A direct award of a contract to CRB Cunninghams Limited for the period 1 July 2024 to 30 June 2029 of £572,075 to allow for continuation of online payments/cashless catering in high schools software solutions and the cloud hosting environment.
3. A direct award to Optima Health and PAM Group for a period of 1 year from 1 June 2024 to 31 May 2025 for the delivery of Occupational Health Services with a total estimated value of £385,973 which includes Employee Assistance Programme (EAP) and physiotherapy services.

**C. SUMMARY OF IMPLICATIONS**

<b>Council Values</b>	Caring and Compassionate Open, Honest and Accountable Collaborative, Inclusive and Adaptive
<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Standing Orders of West Lothian Council and the Public Contracts (Scotland) Regulations 2012
<b>Implications for Scheme of Delegations to Officers</b>	None
<b>Impact on performance and performance Indicators</b>	None

**Relevance to Single Outcome Agreement** We live in resilient, cohesive and safe communities. People most at risk are protected and supported to achieve improved life chances. Our children have the best start in life and are ready to succeed.

## **D. TERMS OF REPORT**

### **1. Online Skills Platform Services**

West Lothian Council Justice Services has been offering offenders on Community Payback Orders (CPO) the opportunity to utilise some of the available hours from the Unpaid Work and other activity requirement of a CPO since 2022. Offenders are able to use up to 30 hours or 30% - whichever is lower to offset some of the hours imposed by the Court on conviction.

Community Payback Orders were introduced in 2011 within the Criminal Procedure (Scotland) Act 1995, and within this legislation can impose a Community Payback Order, Unpaid Work and other activity requirement between 20 and 300 hours. There is also a timeline for completion of the orders set by the Court between 6 months and 12 months.

This is financed via the Section 27 grant and a specific funding line within this budget includes the provision for commissioning 3rd sector services aimed at reducing reoffending and to support desistance.

To date this online skill platform has been very successful with 599 referrals register on 31/01/24 and a total of 4,378 hours completed. Sessions available include support with employment preparation, budgeting, health, addiction support and wellbeing. This service also provided devices to support and engage the disadvantaged to access the online personal development sessions.

Access to this on-line resource allows offenders to complete their community sentence as required by legislation and West Lothian Council to fulfil its statutory duties as outline in sections 27A and 27B of the Social Work (Scotland) Act 1968 as amended. It supports the development of new skills and resilience that offenders can retain post orders which should reduce the propensity for further offending.

The Wise Group is utilised for offenders who are on Community Payback Orders. All funding for the management of the orders and 3<sup>rd</sup> Party payments comes via the grant under sections 27A and 27B of the Social Work (Scotland) Act 1968 as amended and includes specific funding agreed by the Cabinet Secretary for Justice. The Grant is ring-fenced and can only be used for the purposes of delivering and commissioning Justice Social Work.

### **Procurement and Legislative Considerations**

Public procurement legislation and Contract Standing Orders require advertising of contracts for supplies and services of £50,000 and above. The aggregated contract value including previous expenditure over the past 12 months for this particular service is £55,568 With aggregated expenditure in excess of the level whereby the Head of Corporate Services is permitted to authorise Council Executive is, as permitted by Section 6A of Contract Standing Orders, Council Executive is requested to approve a direct award of a contract to The Wise Group for a period of 2 years effective from 1 May 2024.

## **2. Online Payments/Cashless Catering**

The Council currently uses two systems provided by CRB Cunninghams Limited, online payments (iPayimpact) and cashless catering (Fusion) The two systems are now integrated with payments being made in iPayimpact passing through to update accounts in Fusion.

This provides parents/carers with a single portal to pay for school meals, school excursions, uniforms, milk etc on one platform irrespective of their child attending primary school or secondary school. The systems are also used for staff and customers who use the Cafe in the Civic Centre.

This direct award combines the two software solutions into one award which also includes cloud hosting and data factory reporting.

In addition to the payment options detailed above, the system also allows for pre-ordering of meal choices for primary schools from the online menus either at home online or via smartboards in the classroom each morning.

The introduction of an online payments system for schools was one of the initiatives proposed by Education Services for the council's channel shift programme in 2014/15. The aims of this project were:

- To meet the growing demand from parent's/carers to enable them to make payments to schools on line for school meals, school milk, school trips, school uniform etc;
- Removes stigma for those qualifying for free school meals;
- To reduce cash handling within schools and potential risk to staff and pupils;
- To reduce the need for cash uplift services within schools and staff (both from Education and Operational Services (Facilities Management) having to visit a local bank twice weekly and achieve a revenue budget efficiency.

Following the required procurement process, iPayImpact supported by CRB Cunninghams Limited the current supplier support for cashless catering across West Lothian secondary schools were selected and the system went live in 2015. There are now 90% of parents/carers across all schools are now registered on the system.

iPayImpact cost £208.21 per site (74 sites) per annum = £15,407.54 or £77,037.70 over 5 years.

### **Cashless Catering**

The 13 high schools and Civic Centre Cafe use Fusion (Cashless catering). Cashless catering has been used in West Lothian since 1996. It provides a mechanism for those students who qualify for free meal to have credit automatically added to their account daily. Other students can add funds to their accounts via cash deposit units in school or by using the iPayimpact solution.

The secondary school setup is of a cafeteria style with 'grab n go' options or full meals on offer. Students pay for their meal using their contactless card.

The system also offers students the option to pre-order their lunch via terminals in school or by using the mobile phone app which speeds up service times and eases queues to meet school timetables. The system is cloud hosted and allows enhanced management of sites, till layouts, pricing and offers.

Historically tills, cash deposit and pre-order machines were purchased and a maintenance only agreement was put in place. In 2020, as hardware was nearing end of its life, and the Council had no capital to replace all of the kit, the decision was made to move to a rental model to ensure all kit was refreshed and maintenance / support put in place.

Rental averages £7,384 per site (14 sites) per annum = £99,007.49 or £495,037.45 over 5 years.

#### Requirement for Direct Award

Although there are other suppliers who offer similar options in the market place a direct award is required due to the following technical reason :

- Because both systems are owned by CRB Cunninghams, other suppliers would not be allowed to integrate with either of their solutions and no other supplier offers both online payments and cashless catering solutions.

It is also noted that because of the business model adopted by CRB Cunninghams, it is not possible for a lease contract of a shorter duration to be considered.

#### Procurement and Legislative Considerations

Regulation 3 (10) of the Public Procurement (Scotland) Regulations 2016 makes provision for the aggregation of public contracts where the value of all contracts for similar supplies and services awarded during the previous 12 months must be aggregated. The aggregated value is £721,495

Regulation 33 (1) of the Public Contracts (Scotland) Regulations 2015 allows a contracting authority to make a direct award of a public contract following a negotiated procedure without prior publication where competition is absent for technical reasons. With no other provider able to integrate a cashless catering solution to iPayImpact and with aggregated expenditure in excess of the level whereby the Head of Corporate Services is permitted to authorise, as permitted by Section 6A of Contract Standing Orders, Council Executive is now requested to approve an exemption from Standing Orders, for a direct award of a contract to CRB Cunninghams Limited for a period of 5 years, effective from 1st July 2024 until 30 June 2029 with an estimated total value of estimated total value of £572,075.

#### Central Purchasing Bodies

Although the supplier is contracted to provide services awarded by Central Purchasing Bodies, the council is not able to make a direct award call off as the frameworks only offer purchase of equipment.

### **3. Occupational Health Services**

Optima Health and PAM Group have been delivering occupational health services, including Employee Assistance Programme (EAP) and physiotherapy to the council effectively since 1 June 2019. During the period of the current contract, the service usage changed, particularly during the pandemic and has not fully stabilised due to health surveillance backlogs and therefore prior to embarking on a new contract tender, greater analysis of appointment volumes is required in preparation for that process.



The current contract is due to expire 31 May 2024 and all available contract extensions have been utilised.

In order to accurately forecast for the council's occupation health requirements under a new contract, an analysis of potential demand going forward needs to be completed. That level of demand will be influenced by a new Policy on Supporting Attendance at Work which is anticipated to impact on occupational health requirements. The new policy is expected to be implemented early autumn, subject to Council Executive approval. To fully analyse the impact of the new policy, a reference period of at least 6 months under the new policy will be required to enable a meaningful assessment to be made. Entering into a new contract tender process before the impact of the new policy has been quantified would run the risk of relying on potentially inaccurate demand forecast which could result in an overspend on occupational health services.

### Procurement and Legislative Considerations

The Public Contracts (Scotland) Regulations 2015 Reg 72 (b) provides that for additional works, services or supplies by the original contractor that have become necessary and were not included in the original procurement where a change of contractor: cannot be made for economic or technical reasons; and would cause significant inconvenience or substantial duplication of costs for the Contracting Authority, provided that any increase in price does not exceed 50% of the value of the original contract. To allow for a period of assessment prior to undertaking competitive tendering, Council Executive is now requested to approve an exemption from Standing Orders, for a direct award of a contract to Optima Health and PAM Group for a period of 1 year, effective from 1st June 2024 until 31 May 2025 with an estimated total value of estimated total value of £385,973

### **CONCLUSION**

It is recommended that the Council Executive approves the procurement set out in the report, which will support delivery of effective Council Services.

**E.**

### **F. BACKGROUND REFERENCES**

Appendices/Attachments: The Wise Group CPO Connect Topics Overview Jan 24 Publication

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

Date of meeting: 16 April 2024



**CONNECT JAN 24**



## **Connect: helps people develop their life and digital skills through online learning.**

- All sessions are delivered live and online via Microsoft Teams at flexible times throughout the week, including evenings and weekends.
- Our Connect Mentor provides one-to-one support to each customer, ensuring they have all the help they need to access the live online sessions.
- Each session is facilitated by trained counsellors or experts on the topic.
- We regularly add new topics based on feedback from customers; ensuring the timetable is always relevant.

The following sessions are available via a time-table updated weekly:

	Topic	Content	Learning outcome
1	<b>Mental wellbeing</b>	Explore different ways to improve your wellbeing and mental health. Learn about self-esteem, mindfulness and self-care. Discover tools to manage anxiety and depression.	Develop a toolkit of techniques to improve mental wellbeing and prioritise self-care.
2	<b>Emotional and physical wellbeing</b>	Explore how emotional and physical wellbeing improves overall health. Discover the importance of positive thinking and relaxation techniques.	Learn how to look after your Emotional and Physical Wellbeing better. Learn how to implement relaxation techniques.
3	<b>Emotions, Thoughts and Behaviours</b>	Explore how emotions impact thought processes, leading to how we behave.	Understand the link between emotions, thoughts and behaviours. Understand that emotions can control behaviour and how to control this better.
4	<b>Dealing with Conflict</b>	Understand the difference between anger and aggression. Use this to help manage conflict in different environments. Learn what is acceptable and what is not and how to approach challenging situations.	Be able to identify triggers and how to manage anger.
5	<b>Building positive networks</b>	Learn about positive relationship with self (self-worth). Understand personal boundaries and peer relationships. How to build positive relationships with friends, family and support organisations.	Ability to differentiate between a positive and negative relationship and the impact that this can have on your life and choices. Understand the importance of building a support network.

	Topic	Content	Learning outcome
6	<b>Preparing your CV and Job searching</b>	How to design and write your C.V; what content to include; how to regularly update your C.V; ten tips for a great C.V; sourcing job opportunities and best practice when applying for jobs.	To be confident and equipped to design, prepare and write a great CV. How and where to search, apply and source job opportunities to give you the best chance of employment success.
7	<b>Interview and Presentations Skills</b>	Preparing for an interview; conducting yourself at an interview; top-ten tips for interview success; how to present yourself in a confident way, how to present or pitch yourself or an idea.	To be confident and equipped to prepare for and conduct yourself at an interview; to be able to present and pitch yourself confidently. To help and assist you in yourself awareness and confidence.
8	<b>Diet and Healthy Eating</b>	Understand the link between diet and mental/physical health. Learn what our body needs to adequately fuel it. Shopping on a budget.	Develop knowledge on healthy eating and how to eat well on a limited budget.
9	<b>Food and Mood</b>	Understand the importance of fuelling your body with the right food. Learn the link between the food we eat and our mood.	Develop practical knowledge of cooking and menu ideas and the importance of eating well for our physical and mental wellbeing.
10	<b>Benefits and Budgeting</b>	Benefits overview and benefit maximisation. Energy advice. Budgeting skills. Accessing bank accounts and credit unions accounts.	Understand the financial support that they may be entitled to and how to access this.

	Topic	Content	Learning outcome
11	<b>Alcohol and Drug Education</b>	Understand the effects of drugs and alcohol on the body. How to identify when drugs and alcohol use becomes problematic. How to access support with Drugs and alcohol.	To provide a level of education/insight to the participant on alcohol and drug use and the link to addiction.
12	<b>Understanding Gambling &amp; Addiction</b>	Learn about the impact of problematic gambling and how it can develop into an addiction. Understand how problematic gambling can be managed and treated using a CBT approach.	Increase understanding and awareness of gambling addiction, possible causes, the links to other addictions and mental health issues.
13	<b>Self-Reflective Practice</b>	In this Self-Reflective Group, participants will have the space to check-in, express their feelings, and unpack their needs.	Understand how reflection can lead to insight and self-awareness.
14	<b>Work Readiness</b>	How to prepare for getting back into work, getting settled into work life & dealing with work issues & work life balance.	Feel suitably prepared for work life. To understand and deal with going into employment, integrating into a new job and balancing work and life.
15	<b>Overcoming Life Issues/Challenges</b>	Understand the effects that negative addiction and trauma can have on your world. Learn how to move forward and turn negative experiences into positives actions.	Solving some of the problems that have been draining us mentally and emotionally. Free up energy to start setting some goals.

	Topic	Content	Learning outcome
16	<b>Overcoming Anxiety</b>	Understand what is Anxiety, what keeps it going and what makes it worse? What can we do about it? Learn techniques to address bodily sensations, thoughts and behaviour that can impact anxiety.	Learn to understand, manage and beat anxiety – step by step.
17	<b>Low mood, depression &amp; unhelpful thinking</b>	Diving into the fact and fiction of low mood, depression and unhelpful thinking. The triggers/symptoms and mechanisms to combat these issues.	To be aware of the situations and triggers that these issues arise from and how to deal with them from the point of realisation.
18	<b>Cost of living</b>	This session will cover: •What is the cost-of-living crisis •What has changed recently that affects me •How it directly affects me •What can you do	To be aware of current pressures on cost of living and to be aware of what actions you can take and what help is available to you
19	<b>Home Energy Advice</b>	This session will cover: • Why are my energy bills going up? • Government Support • Energy Awareness & Behavioural Change • Support from energy companies – Warm Home Discount	To answer any questions surrounding energy issues and/ or point customers in the right direction of how to deal with their specific issues

	Topic	Content	Learning outcome
20	<b>Understanding Neurodiversity</b>	<ul style="list-style-type: none"> <li>Dive into the world of neurodiversity with our training course. Gain insights, foster inclusion, and learn practical strategies for a more diverse and supportive environment. Join us in celebrating differences and unlocking the unique strengths of neurodivergent individuals</li> </ul>	Increase understanding and awareness of Neurodiversity, learning coping strategies and raise awareness.
21	<b>How to manage your mental load &amp; stress</b>	Looking at managing mental load and stress, designed to empower you with practical strategies and insights for a more balanced and resilient life. Explore effective techniques to identify, prioritize, and delegate tasks, allowing you to navigate daily challenges with greater ease. Learn mindfulness and relaxation exercises to cultivate a calm mind amidst life's demands. Our expert-led sessions will guide you in setting realistic goals, enhancing time management skills, and fostering a positive mindset. Elevate your well-being and regain control over your mental load	Learn to understand, manage and beat stress.





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## **COUNCIL EXECUTIVE**

### **APPOINTMENT OF INDEPENDENT DIRECTORS TO WEST LOTHIAN LEISURE**

#### **REPORT BY DEPUTE CHIEF EXECUTIVE (EDUCATION, PLANNING, ECONOMIC DEVELOPMENT AND REGENERATION SERVICES)**

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

To inform the Council Executive of the recommendations of the Nominations Committee of West Lothian Leisure (WLL) for the appointment of two Independent Directors to vacant positions on the Board of West Lothian Leisure.

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

That Council Executive agrees to the appointments of Ms Michelle Chambers-Cran and Ms Kim Walker to the Board of WLL as Independent Directors.

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

<b>I Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; working in partnership.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	West Lothian Leisure is a registered charity and company limited by guarantee, the relationship with the sole owner and shareholder, West Lothian Council, is set out in the Articles of Association.
<b>III Implications for scheme of delegation</b>	None
<b>IV Impact on performance and performance indicators</b>	The efficient operation of West Lothian Leisure contributes to key performance indicators in sports, leisure and culture.
<b>V Relevance to Local Outcome Improvement Plan</b>	We live longer, healthier lives and have reduced health inequalities. We live in resilient, cohesive and safe communities.
<b>VI Resources - (Financial, Staffing and Property)</b>	The council is providing WLL with core funding of £2.048 million in 2024/25.
<b>VII Consultations at PDSP</b>	Not applicable.
<b>VIII Other consultations</b>	West Lothian Leisure; Finance and Property Services.

## **D. TERMS OF REPORT**

WLL's Articles of Association provide for the appointment of a maximum of eleven Directors to WLL Board, with Council Directors not forming a majority. There are currently four Council Director positions, one Employee Director position and six Independent Director positions.

Two vacancies with Independent Director positions had arisen and so it was necessary to seek to make appointments to these. Independent Directors are appointed by the council. They do not receive remuneration for their services.

West Lothian Leisure established a Nominations Committee to guide West Lothian Council in relation to the selection of appropriate individuals for appointment as Independent Directors. The Nominations Committee membership included a Council Director and the Strategic Partnerships Manager in line with related provisions in the in the Articles of Association.

The Committee considered applications received following public advertisement and through subsequent interviews has recommended that Ms Michelle Chambers-Cran and Ms Kim Walker be appointed as Independent Directors to fill the vacant positions.

Ms Chambers-Cran is an experienced commercial leader in the health, fitness and wellbeing industry, with a track record of delivering performance improvement, income growth and capital investment projects across a multi-national portfolio of facilities.

Ms Walker is an experienced leadership development consultant with a strong background of leading and implementing business change, scrutinising the performance of complex businesses, analysing long term business needs and in Board governance across a range of relevant sectors.

## **E. CONCLUSION**

The Council Executive is invited to approve the appointments of Ms Chambers-Cran and Ms Walker as Independent Director, who in the view of the Nominations Committee have the relevant skills and experience to assist the company in carrying out its objects.

## **F. BACKGROUND REFERENCES**

West Lothian Leisure Articles of Association:

<https://www.westlothianleisure.com/about-xcite/documents/>

Council Executive – 7 November 2023 - Proposed Changes to West Lothian Leisure Articles of Association - Report by Depute Chief Executive (Education, Planning, Economic Development and Regeneration Services and related minute:

<https://coins.westlothian.gov.uk/coins/submissiondocuments.asp?submissionid=56645>

Appendices: None

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**Elaine Cook**

**Depute Chief Executive**

**Education, Planning, Economic Development and Regeneration Services**

**16 April 2024**



## **COUNCIL EXECUTIVE**

### **CHANCELLOR'S SPRING STATEMENT 2024**

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

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

To provide Council Executive with an update in relation to the announcements contained in the Chancellor of the Exchequer's Spring Statement 2024.

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

It is recommended that Council Executive:

1. Notes the latest economic position and key announcements outlined in the Spring Statement 2024;
2. Agrees that the Head of Finance and Property Services should continue to report to Council Executive on relevant UK and Scottish Government funding and spending announcements and provide quarterly horizon scan reports to the Corporate Policy and Resources Policy Development and Scrutiny Panel (PDSP);
3. Agrees that the Head of Finance and Property Services should ensure that information contained within the Spring Statements, Autumn Budgets and the Scottish Government Spending Review, including the impact of additional Barnett Consequentials, is reflected when updating the council's financial plans going forward.

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

<b>I</b>	<b>Council Values</b>	Open, honest and accountable.
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	The council is required to approve a balanced revenue budget for each financial year. The CIPFA Financial Management Code requires financial plans to be prepared for at least five years in duration, and detailed budgets are prepared for at least three years.
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None.
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	Ongoing restraint in relation to government funding inevitably has implications for the council's budget and performance.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	Government funding provides resources to help deliver the Single Outcome Agreement, Corporate Plan priorities and council activities. Effective prioritisation of resources is essential to achieving key outcomes.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	Spending decisions made by the UK Government impact on the Scottish Government's budget through the Barnett formula. This in turn has implications for available resources for the council through the local government finance settlement from the Scottish Government.

The economic and fiscal position outlined in the announcement emphasises the importance of proactive financial planning, linked to priorities and outcomes, to address public spending challenges.

## **VII Consideration at PDSP**

Quarterly horizon scan reports on the latest economic indicators and announcements and the council's estimated revenue budget position are considered by Corporate Policy and Resources PDSP.

## **VIII Other consultations**

This report is part of the ongoing process of briefing elected members on issues relating to future year funding and the council's financial strategy.

# **D. TERMS OF REPORT**

## **D.1 Introduction**

The Chancellor of the Exchequer delivered his Spring Statement to the House of Commons on 6 March 2024. The Spring Statement is not a budget update, but provides a more general statement on the UK economy and includes an assessment and forecast from the Office for Budget Responsibility (OBR) on borrowing, growth and employment. The statement also sets out details on other forthcoming government policies.

## **D.2 Overall Economic Position**

The Chancellor's Spring Statement 2024 included the OBR's updated projections for the economy, growth and government borrowing. In summary, the key economic announcements were as follows:

- GDP grew by 0.1% in 2023, however, growth is expected to be 0.8% in 2024 as interest rates fall and real household incomes recover. GDP growth is forecast to reach 2% by 2025 before falling back towards its assumed trend rate of around 1.67% by 2028.
- The latest ONS data suggests that unemployment fell to 3.8% in the final quarter of 2023, which is low by historic standards. Unemployment is projected to rise moderately, peaking at 4.5% at the end of 2024. The peak in unemployment of around 1.6 million people is marginally lower than in the November forecast, but it is expected to occur six months earlier than previously expected. The unemployment rate is then forecast to fall gradually to 4.1% by 2028.
- Consumer Price Index (CPI) was 4.2% in the final quarter of 2023, 0.6% lower than the forecast in November 2023. CPI is expected to fall further to an average of 2.2% for 2024 and 1.5% in 2025 before gradually returning to the Bank of England's target of 2% by 2028. The forecast for inflation is based on larger than anticipated falls in global energy prices and subsequently weaker domestically generated inflation. These forecasts assume that the current disruptions in the Red Sea make only a small upward contribution to inflation (0.2%) with risks of a widening conflict in the Middle East also taken into consideration.
- Living standards are set to recover more quickly than forecast in November 2023 and are expected to grow by about 1% per year on average over the forecast period to 2028. 2022/23 remains the fiscal year with the largest year-on-year drop in living standards since ONS records began in the 1950s. Real household disposable income per person is forecast to recover its pre-pandemic peak by 2025/26, two years earlier than was forecast in November.

The revised projections compared to the Spring Statement 2023 are as follows:

<b>Spring Statement 2023</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
Growth (GDP)	(0.2%)	1.8%	2.5%	2.1%	1.9%
Public Sector Net Borrowing	£131.6bn	£85.4bn	£76.7bn	£63.5bn	£49.3bn
Government Debt (% GDP)	103.1%	102.4%	99.1%	97.6%	96.9%

<b>Spring Statement 2024</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
Growth (GDP)	0.3%	0.8%	1.9%	2.0%	1.8%
Public Sector Net Borrowing	£114.1bn	£87.2bn	£77.5bn	£68.7bn	£50.6bn
Government Debt (% GDP)	97.6%	98.8%	96.4%	95.5%	95.1%

Since the 2023 Autumn Statement, borrowing has been lower than the OBR forecast. Public sector net borrowing (PSNB) is estimated to be £96.6 billion to the end of January 2024, £9.2 billion lower than the OBR forecast in November 2023. Inflation has fallen faster than expected resulting in lower debt interest costs, and is driving the fall in borrowing.

The International Monetary Fund (IMF) estimates that, in 2023, UK general government gross debt as a share of GDP was lower than all G7 peers other than Germany and the level of UK general government net borrowing as a share of GDP was the third-lowest in the G7. The UK's focus on reducing debt is in line with other G7 countries, such as Canada and Japan, and the reintroduction of the Stability and Growth Pact in the European Union (EU).

### **D.3 Public Services and Public Spending**

Total departmental spending (DEL) will grow in real terms at 3.2% a year on average over this Parliament. Public sector net investment as a proportion of GDP will average 2.1% over the forecast period, delivering over £600 billion of planned public sector gross investment over the next five years.

<b>Revenue Expenditure – Cash Figures</b>	<b>2023/24 £'bn</b>	<b>2024/25 £'bn</b>	<b>2025/26 £'bn</b>	<b>2026/27 £'bn</b>	<b>2027/28 £'bn</b>
Autumn Statement 2023	1,089.5	1,102.5	1,134.2	1,170.7	1,203.0
Spring Statement 2024	1,082.9	1,090.4	1,119.6	1,158.0	1,191.3
Difference	(6.6)	(12.1)	(14.6)	(12.7)	(11.7)

<b>Capital Expenditure – Cash Figures</b>	<b>2023/24 £'bn</b>	<b>2024/25 £'bn</b>	<b>2025/26 £'bn</b>	<b>2026/27 £'bn</b>	<b>2027/28 £'bn</b>
Autumn Statement 2023	132.8	134.2	130.3	130.6	130.6
Spring Statement 2024	133.4	136.0	132.1	132.2	131.7
Difference	0.6	1.8	1.8	1.6	1.1

Spending Review 2021 set UK government departments' resource and capital Departmental Expenditure Limit (DEL) budgets and the devolved administrations' block grants from 2022/23 to 2024/25.

The Autumn Statement 2023 reaffirmed the commitments made at Autumn Statement 2022, to make available up to £14.1 billion for the NHS and adult social care, and provide an additional £2 billion for schools in both 2023/24 and 2024/25. The Spring Budget includes an additional £2.5 billion of day-to-day funding for the NHS in England in 2024/25 to support the NHS to continue to improve performance and reduce waiting times.

Planned departmental day-to-day spending for the years beyond 2024/25 will follow the cash profile set out at the Autumn Statement 2023. This will see overall resource spending continue to grow at 1% a year in real terms on average. Departmental capital spending will follow the cash profile agreed at the Autumn Statement 2023, with new commitments on productivity, funded in addition to this.

As a result, total departmental spending will be around £86 billion higher in real terms by 2028/29 than it was at the start of this Parliament (2019/20). DEL budgets beyond 2024/25 will be set at the next Spending Review.

However, the real per person value of departmental spending plans has fallen significantly since the UK Government first set them out in the October 2021 Spending Review. Taking into account government commitments, particularly with regard to the NHS, the OBR estimate that the day-to-day spending budgets of unprotected departments, such as Local Government will fall by 2.3% a year in real terms from 2025/26 for 2028/29.



## D.4 Other Key Announcements

### **National Insurance**

The government is cutting the main rate of employee National Insurance by 2p from 10% to 8% from 6 April 2024. The government is also cutting a further 2p from the main rate of self-employed National Insurance, meaning that from 6 April 2024 the main rate of Class 4 NICs for the self-employed will be reduced from 9% to 6%.

### **Household Support Fund**

The government is providing an additional £500 million (including Barnett impact) to extend the provision of the Household Support fund in England from April to September 2024. This will continue to provide targeted support to vulnerable households with the cost of essentials such as food and utilities.

### **Child Benefit**

From April 2024, the threshold for the High Income Child Benefit Charge will increase to £60,000 from £50,000. Partial child benefit will be paid where the highest earners earn up to £80,000.

### **Public Sector Productivity Plan**

£4.2 billion of funding has been committed to improve the productivity of the Public Sector. This includes £3.4 billion of additional capital departmental expenditure over three years from 2025/26 as part of the NHS's productivity plan in England, investing in technological and digital transformation. It is expected that this investment will help to deliver £35 billion in cumulative savings by 2029/30. £0.8 billion of funding has been announced for wider Public services to help deliver up to £1.8 billion of benefits over the same period.

### **Fuel Duty**

For a further 12 months, fuel duty rates will be maintained at current levels, by extending the temporary 5p cut and cancelling the planned increase in line with inflation for 2024/25.

### **Alcohol Duty**

The alcohol duty freeze will be extended from 1 August 2024 until 1 February 2025.

### **Energy Profits Levy (EPL)**

This will be extended for a further year until March 2029, raising £1.5 billion. Legislation will be introduced in the Spring Finance Bill to disapply the levy when prices return to normal.

### **VAT Registration Threshold**

The VAT Registration threshold will be increased from £85,000 to £90,000 from April 2024.

### **New Residence-Based Tax**

The current tax regime for non-UK domiciled individuals is being abolished and replaced with a new residence-based regime. Anyone who has been resident in the UK for more than four years will pay UK tax on their foreign income and gains, as is the case for other UK residents. This is expected to generate £2.7 billion in the year 2028/29.

### **Capital Gains Tax**

In an attempt to support the housing market, the government is cutting the higher rate of capital gains tax from 28% to 24%. The lower rate will remain at 18% for any gains that fall within an individual's basic rate band. It is hoped this will encourage landlords and second-home owners to sell their properties, making more available for buyers.

## D.5 Main Implications for Scotland

The Chancellor announced that there was an extra £295 million for the Scottish Government through the Barnett formula for 2024/25. Around £237 million of this relates to the top-up that NHS England received for its current (day-to-day) budget, in order to avoid a year-on-year real terms decline in spending. The majority of the rest of the funding, approximately £48 million, relates to extra funding for English councils with regards to adult and children's social care spending.

The Scottish Government is free to spend this money how it wishes, however, if it does not give the NHS related cash to NHS Scotland then it will see a real terms cut in its budget for 2024/25, according to the Institute for Fiscal Studies (IFS). There have been no changes to the capital allocations for 2024/25 with all the consequential relating to revenue. The Scottish Government would be allowed to move resource consequential into the capital budget, however movements from capital to revenue are not permitted.

The Government has announced that the Investment Zones programme will be extended from five to ten years in both Scotland and Wales. Further details on the shape and make-up of the Scottish and Welsh Investment Zones will be made available later this year. To ensure every city in Scotland benefits from levelling up, the government will work with the cities yet to receive an allocation, Perth and Dunfermline, to invest a shared £10 million for cultural investment.

Elsewhere, it was confirmed that the government is extending the duration of the current Additional Jobcentre Support (AJS) pilot, currently live in 90 jobcentres in England and Scotland, for a further 12 months. As part of the pilot extension, claimants will be required to accept a new claimant commitment at six, 13 and 26 weeks, agreeing to more work requirements or have their claim closed.

While the UK economy's performance has improved compared to the OBR's November 2023 forecast, significant challenges remain. Inflationary pressures, initially driven by global factors are continuing to weigh on household incomes and dragging on growth. Since the Covid-19 pandemic, higher interest rates, coupled with slowing economic growth, have hit the public finances, against a backdrop of higher levels of government debt.

Furthermore, structural factors, including low business investment and increased labour market inactivity have impacted on growth and likely pushed up inflation. Changing economic circumstances, such as global supply chain issues following the pandemic, as well as Russia's invasion of Ukraine, the conflict in the middle east and the continued attacks in the Red Sea are contributing to the increased cost of living for families.

## **D.6 Main Implications for West Lothian**

Following the Spring Statement, the deputy first minister wrote to COSLA on 7 March 2024 to confirm that the additional £62.7 million in funding that was proposed to support the delivery of the council tax freeze in February 2024 would be provided and baselined to local authorities who agreed to freeze council tax for 2024/25.

This is a result of £48 million in Barnett Consequential from the UK Government arising from the increase in funding to local government in England. The Scottish Government have agreed they will pass on this funding and make the necessary decisions to top up funding to £62.7 million, being the amount COSLA noted was the cash reduction in core revenue funding for councils in 2024/25. The timescales for full funding being passed to councils have yet to be confirmed and at this stage no information has been provided on the potential basis of distribution for this additional funding. Based on previous distribution for general funding of this type, it is expected that West Lothian Council's share of the funding could be over £1.9 million subject to the basis of distribution agreed.

In line with other local authorities, and as outlined in the approved four-year financial plan to 2027/28, the council continues to face substantial budget challenges. The two-year detailed revenue budget for 2024/25 and 2025/26 approved by Council on 22 February 2024 has a recurring funding gap of £2.9 million. Council agreed as part of this report that should additional recurring resources be forthcoming at a later date, that these should in the first instance be used to balance the revenue budget on a recurring basis. Taking account of this decision, officers will review and update budget model assumptions to incorporate the funding when distribution is confirmed.

In line with the established approach to financial planning officers will continue to monitor and update the budget model for known risks and expenditure movements resulting from ongoing developments and policy announcements.

## E. CONCLUSION

The Chancellor's Spring Statement 2024 provides an update on the UK's fiscal outlook, providing information on the UK's economic position, public services expenditure and economic forecasts as provided by the OBR.

The UK economy's performance has improved compared to the OBR's November forecast, however the impact of uncertain economic factors, such as the invasion of Ukraine, the conflict between Israel and Gaza, continued attacks in the Red Sea and the cost of living crisis buoyed by higher inflation, means that it remains a challenging position for the UK economy and public sector spending.

Most of the spending additions relate to non-devolved areas, however, £295 million in Barnett consequentialia have been announced for 2024/25. Fraser of Allander have stated they understand that £237 million relates to spending on the NHS in England and £48 million as a result of a larger settlement for English Local Government. The £48 million, along with a further £14.7 million from the Scottish Government was committed to local government in a letter to councils on 7 March 2024. This additional general funding should be recurring with councils only being able to access the money if they agree to freeze council tax in 2024/25.

The continued uncertain economic outlook, and its effect on public sector expenditure, emphasises the importance of the council having a robust approach to financial planning. The strategic and integrated approach to corporate and financial planning helps the council to ensure that outcomes are achieved and balanced budgets are delivered within the context of uncertain, constrained public sector funding.

## F. BACKGROUND REFERENCES

Spring Statement 2024 – Published on HM Treasury website

Office for Budget Responsibility Economic and Fiscal Outlook March 2024 – Published on OBR website

Autumn Statement 2023 and Revenue Budget Strategy Update – Report by Head of Finance and Property Services to Council Executive on 12 December 2023

### Appendices/Attachments:

None

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**Patrick Welsh**  
**Interim Head of Finance and Property Services**  
16 April 2024

DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **COMMUNITY ASSET TRANSFER POLICY REVIEW**

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

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

The purpose of this report is to advise Council Executive of work undertaken by officers to review and update the council's approved Community Asset Transfer Policy in light of operational experiences since the policy was approved by Council Executive on 28 November 2017. The report seeks to provide Council Executive with an updated version of that policy and its supporting guidance notes and asks Council Executive approve those updated documents.

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

It is recommended that Council Executive:

1. Notes the work undertaken by officers to review and update the council's approved Community Asset Transfer Policy in light of operational experiences since the policy was approved by the Executive on 28 November 2017.
2. Approves the updated Community Asset Transfer Policy and its supporting Guidance Notes for Applicants included in this report at Appendix 1 Appendix 2 respectively.
3. Notes that officers will consider the outcome of the Scottish Government's ongoing review of community asset transfer provisions and its scheduled consultation on Community Right to Buy and thereafter further review the council's Community Asset Transfer Policy as necessary.

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

<b>I Council Values</b>	Caring and compassionate, open, honest, accountable and collaborate, inclusive and adaptive.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	<p>The proposed updated policy complies with the council's legal requirement to obtain the best terms obtainable under the 1973 and 2003 Local Government (Scotland) Acts and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.</p> <p>It is also compliant with the requirements of Part 5 of the Community Empowerment (Scotland) Act 2015 and the council's approved Surplus Property Procedure.</p>

<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 efficient and effective disposal of surplus property assets contributes to performance relating to annual capital receipts targets.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	Effective management of the council's property assets influences all of the key outcomes set out in the Single Outcome Agreement.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	The letting, sale, asset transfer or demolition of assets identified as surplus allows resources used for these assets to be re-directed to other retained property assets. They may also produce revenue income or a capital receipt.
<b>We</b>	<b>Consideration at PDSP</b>	Economy Community Empowerment and Wealth Building Policy Development and Scrutiny Panel on 26 March 2024.
<b>VIII</b>	<b>Other consultations</b>	Legal Services. Community Regeneration.

## **D. TERMS OF REPORT**

### **D.1 Introduction**

The council's Community Asset Transfer Policy was approved by Council Executive at its meeting on 28 November 2017. That policy and its supporting governance arrangements were developed in response to statutory requirements arising from the introduction of Part 5 of the Community Empowerment (Scotland) Act 2015.

A periodic review of that policy is now required under the council's internal governance arrangements to ensure that it remains compliant and fit for purpose going forward. Having undertaken that review, officers have prepared an updated policy document and supporting guidance notes that contain suggested refinements reflecting operational experiences since the policy was approved in November 2017.

A copy of the updated Community Asset Transfer Policy is included at Appendix 1 of this report and a copy of the updated Guidance Notes for Applicants is included at Appendix 2.

### **D.2 Part 5 of The Community Empowerment (Scotland) Act 2015**

Part 5 of the Community Empowerment (Scotland) Act 2015 (the Act) gives community bodies a right to make requests to all local authorities, Scottish Ministers and a wide-ranging list of public bodies, for the transfer of any land or buildings they feel they could make better use of.

The background to this legislation is a belief that empowering communities is key to creating a more prosperous and fairer Scotland and that it is the role of central and local government to work in partnership with communities and support them to lead change for themselves. The legislation is designed to support the view that community ownership or control of land and buildings can make a major contribution towards strengthening communities in this way.

The Act gives significant rights to qualifying community groups and puts substantial procedural responsibilities on local authorities and other public bodies.

### **D.3 The council's existing Community Asset Transfer Policy**

The council's existing Community Asset Transfer Policy was approved by Council Executive at its meeting on 28 November 2017. That policy and its supporting governance arrangements were developed in response to statutory requirements arising from the introduction of the Act.

Since that time and in response to community interest in asset transfer, the council has appointed a dedicated Community Empowerment and Property Modernisation Officer to work in partnership with community groups to discuss and explore their specific asset transfer aspirations and proposals. This has resulted in a number of community-led projects coming forward and two council properties transferring into community control by way of approved community asset transfer requests, namely the Eastfield Training Centre in Fauldhouse and the Low Port Centre in Linlithgow.

There have been no legislative changes to the Act since the council's existing Community Asset Transfer Policy was introduced in November 2017 and as such, that policy and its supporting governance arrangements remain compliant with the legislation and reflective of the Scottish Government's published best practice advice.

Reflecting upon and learning from operational experiences around implementation of the legislative requirements over the past six years however, officers consider that this scheduled policy review presents an opportunity to introduce a number of refinements that, if approved, would enhance the policy and improve the community asset transfer process for both the council and our communities.

Those suggested refinements and the reasons for them are set out in Appendix 3 of this report and, for ease of reference, the amended sections have been highlighted in bold text within the policy document itself at Appendix 1.

The proposed updated Community Asset Transfer Policy and its supporting Guidance Notes for Applicants were considered by the Economy Community Empowerment and Wealth Building Policy Development and Scrutiny Panel on 26 March 2024 and the Panel were content with its provisions.

Council Executive is recommended to approve the updated Community Asset Transfer Policy at Appendix 1 of this report and the updated supporting Guidance Notes for Applicants at Appendix 2.

The Scottish Government is currently undertaking a review of community asset transfer provisions and will also be undertaking a consultation on Community Right to Buy legislation later this year. The Executive is recommended to note that officers will consider the published outcome of that work when it is available and further review the council's Community Asset Transfer Policy as necessary thereafter. Officers will also take that opportunity to engage further with community groups that have completed the asset transfer process to seek their input on any potential procedural and/or policy improvements.

## **E. CONCLUSION**

The council's Community Asset Transfer Policy and its supporting governance arrangements remain compliant with legislative requirements and reflect the Scottish Government's published best practice advice to local authorities. Officers consider however that this scheduled policy review presents an opportunity to introduce a number of refinements that, if approved, would enhance the policy and improve the community asset transfer process for both the council and our communities.

Council Executive is recommended to approve the updated Community Asset Transfer Policy at Appendix 1 and the updated supporting Guidance Notes for Applicants at Appendix 2.

The Executive is also recommended to note that officers will consider the published outcome of the Scottish Government's ongoing review of community asset transfer provisions and its scheduled consultation on Community Right to Buy when these are available and further review the council's Community Asset Transfer Policy as necessary thereafter.

## **F. BACKGROUND REFERENCES**

Council Executive – 28 November 2017 – Community Asset Transfer Policy  
 Council Executive – 12 December 2024 – Surplus Property Procedure Review  
 Parts 5 of the Community Empowerment (Scotland) Act 2015  
 The Disposal of Land by Local Authorities (Scotland) Regulations 2010  
 The Local Government (Scotland) Acts 1974 and 2003

Appendices/Attachments:

Appendix 1 – Updated Community Asset Transfer Policy  
 Appendix 2 – Updated Community Asset Transfer Guidance Notes for Applicants  
 Appendix 3 – Key changes proposed under the updated policy  
 Appendix 4 – Equality Impact Assessment

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**Patrick Welsh**  
**Interim Head of Finance and Property Services**

Date of meeting: 16 April 2024



APPENDIX 1



# **COMMUNITY ASSET TRANSFER POLICY**

(Updated: 16 April 2024)

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## 1. Introduction

Part 5 of the Community Empowerment (Scotland) Act 2015 (the Act) gives community bodies a right to make requests to all local authorities, Scottish Ministers and a wide-ranging list of public bodies, for the transfer of any land or buildings they feel they could make better use of.

The background to this legislation is a belief that empowering communities is key to creating a more prosperous and fairer Scotland and that it is the role of central and local government to work in partnership with communities and support them to lead change for themselves. The legislation is designed to support the view that community ownership or control of land and buildings can make a major contribution towards strengthening communities in this way.

The Act gives significant rights to qualifying community groups and puts substantial procedural responsibilities on local authorities and other public bodies.

## 2. Summary of asset transfer under Part 5 of the Act

Under Part 5 of the Act, an asset transfer request can be made by a “community transfer body” to a local authority or other “relevant authority”. The community transfer body can ask to buy, lease, manage or use any land or buildings which belong to or are leased to the relevant authority. The community transfer body must set out what they plan to do with the property and how much they are prepared to pay. No land or property assets are exempt from the provisions of the Act.

When an asset transfer request is made, the relevant authority must decide whether to agree or refuse the request. The authority must agree to the request unless there are reasonable grounds for refusal.

The Act does not provide a definition of what reasonable grounds are since these will depend upon the individual circumstances of each case. It does however indicate that reasonable grounds are likely to include cases where the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal (including existing use or potential disposal in the case of surplus assets), or where agreeing to the request would restrict the relevant authority’s ability to carry out its functions.

Once an asset transfer request has been made, the relevant authority is not allowed to sell, lease or otherwise dispose of the land it relates to, to anyone other than the community transfer body that made the request, until the whole application process is completed (including internal reviews and/or appeals to the Scottish Ministers).

That prohibition does not apply if, before the asset transfer request is made, the land has already been marketed for sale or lease, or the relevant authority has entered into negotiations or begun proceedings to transfer or lease the land to another party.

The council’s position is that written communication between the council and another party relating to negotiations or proceedings around a proposed sale, lease or transfer of the land will be considered to be meaningful engagement and demonstrable evidence that such negotiations / proceedings have begun. For clarity, such correspondence will be between delegated officers and the other party only. General property enquires received by the council shall not be considered sufficient to trigger an exemption to the aforementioned prohibition.

The Act does not say how much should be paid to purchase an asset or in rent, whether it should be at market value or at a discount. The community transfer body has to state in its asset transfer request how much they are prepared to pay, alongside the benefits the project will deliver, and the relevant authority has to decide whether to accept that price.

If the request is agreed, the community transfer body makes an offer and a final contract is negotiated. If the request is refused, or no answer is given, or the community transfer body does not agree with the conditions set by the relevant authority, the community transfer body can ask for the decision to be reviewed internally by the relevant authority. If the outcome of the internal review does not resolve the issue, or if no decision is made within the required period, the community transfer body can then appeal directly to the Scottish Ministers. They can also appeal if the request is agreed and an offer made but no contract is completed within six months of the date of the offer.

Scottish Ministers may allow the appeal (i.e. agree with the community transfer body's case), or reject it. They may reverse or change any part of the original decision by the relevant authority, including changing the terms and conditions under which the asset transfer is to take place. A decision by the Scottish Ministers cannot be appealed, other than by way of a judicial review through the courts.

It should be noted that this asset transfer legislation is not the only route open to community bodies and, in some instances, it may not be the best option for them. Early engagement and collaborative working are encouraged in order to identify key objectives and potential solutions, which in some instances may not involve asset transfer at all.

For example, where a community body wishes to run an existing council service that is tied to a particular property, and they do not want to use that property for any other purpose, then a Participation Request may alternatively offer the best solution. The council has a separate approved procedure in place for the consideration and processing of Participation Requests and information on that procedure is available upon request.

### **3. The council's Community Asset Transfer Policy**

#### **3.1 Policy context**

The council's policy for the transfer of property assets to community transfer bodies recognises that handing over the ownership or stewardship of an asset, be that by way of sale or lease, can have a valuable role in supporting and sustaining local communities.

It recognises that community ownership of assets can make an important contribution to the range of innovative, bottom-up solutions that community groups can develop to address local needs. Importantly, these solutions not only meet the needs of the local people, they can also contribute to the delivery of council and national strategic priorities.

It is anticipated that most interests in asset transfer will come from community transfer bodies that identify a specific opportunity. However, opportunities may also be identified by the council and the ongoing review of council service delivery is expected to identify properties that have potential for a more intensive use, or a greater variety of social, community and public purposes, to the benefit of the local community.

The aim of this policy is to make it as simple as possible for community groups to make an enquiry about asset transfer and start the application process to purchase or lease land or property from the council.

The policy, its associated procedures and supporting governance arrangements have been specifically developed to ensure the council can competently comply with the statutory requirements of the Act.

### 3.2 Which assets may be subject to asset transfer requests?

The Act provides that a community transfer body may apply for the transfer of any land or buildings that belong to or are leased to the council.

The council will fully consider all asset transfer requests on their own merits in accordance with Scottish Government guidelines. As suggested in those guidelines, an application is likely to be recommended for refusal when the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal (including existing use or potential disposal in the case of surplus assets), or where agreeing to the request would restrict the council's ability to carry out its functions.

Asset transfer requests that would result in the council losing existing or projected revenue or capital income may be recommended for refusal on the grounds that any loss of income will restrict the council's ability to carry out its functions.

### 3.3 Who is eligible to apply for asset transfer?

The Act provides that a community can be any group of people who feel they have something in common. It may be that they live in the same area or that they share an interest or characteristic. Communities of interest could include faith groups, ethnic or cultural groups, people affected by a particular illness or disability, sports clubs, conservation groups, clan and heritage associations, etc. They may be very specialised or local, ranging up to national or international groups with thousands of members.

To make a valid asset transfer request, an organisation must qualify as a "community transfer body", defined in the Act as being either:

- a community-controlled body, or
- a body that is designated as a community transfer body by an order made by the Scottish Ministers.

Further information on the criteria for eligibility is provided in the "Community Asset Transfer Policy Guidance Notes for Applicants" that accompany this policy.

### 3.4 What information will applicants be asked to provide?

The Act requires that community transfer bodies must provide certain mandatory information as part of any asset transfer request. Failure to provide that mandatory information renders an application invalid. The required mandatory information is set out in the council's "Asset Transfer Request Form". In the interests of consistency and completeness, community transfer bodies are asked to submit asset transfer requests using that application form. Information on how to access that form is provided in the "Community Asset Transfer Policy Guidance Notes for Applicants" that accompany this policy.

In addition to the mandatory information and to enable the council to fully consider asset transfer requests and reach a competent decision within the statutory timescale, community transfer bodies are recommended to provide the following supporting documentation as part of their application:

- A copy of the community transfer body's constitution;
- A business plan (that is proportionate to the nature of the asset transfer request);
- Audited accounts (or a financial projection where the applicant has been operating for less than one year).
- Annual reports (where these are available).
- **Evidence of community engagement that demonstrates need and support for the proposed project.**
- **A skills audit that evidences the community transfer body's ability to successfully deliver and sustain the proposed project.**
- **A valuation report prepared by the Valuation Office Agency or an alternative appointed RICS Registered Valuer that confirms the market value of the property. The valuation date stated in that report will be no more than three months from the date of the asset transfer application. That valuation report will be instructed jointly by the applicant and the council and the associated costs will be shared equally between those two parties.**

Further details on the level of information that community transfer bodies will be asked to provide, along with a copy of the council's Community Asset Transfer Request Form, are provided in the "Community Asset Transfer Policy Guidance Notes for Applicants" that accompany this policy.

#### **4. The application process**

##### 4.1 Pre-application discussions

Community groups are encouraged to discuss their options, their suitability and the scope of community asset transfer with the council at the earliest possible opportunity. These informal pre-application discussions will help to prepare for the process of making a formal application for transfer.

The pre-application stage is a voluntary but important component of the asset transfer process, as it gives both the council and the community transfer body an opportunity to fully explore the desired outcomes of the proposed project and discuss how these can be best achieved.

At the pre-application stage, the council will appoint its Community Empowerment and Property Modernisation Officer to act as the applicant's single point of contact in the council. The community transfer body and the Community Empowerment and Property Modernisation Officer will then work in partnership to discuss the asset transfer proposal.

To assist community transfer bodies in considering and developing their asset transfer proposals, the council has a statutory obligation to make available information that it holds relating to the property in question. Examples of this might include title deed information, building condition reports or information relating to running costs. Further information in this regard is provided in the "Community Asset Transfer Policy Guidance Notes for Applicants" that accompany this policy.

Community groups are under no obligation to undertake pre-application discussions and may submit an asset transfer request without prior consultation with the council should they wish to do so. It is recognised however that early engagement and collaborative working are likely to produce the most positive outcomes.

## 4.2 Upon receipt of an asset transfer request

The start of the timeline for processing an application is triggered by the receipt of a valid community asset transfer application. When a valid application is received, the council's Community Empowerment and Property Modernisation Officer will issue an acknowledgment letter confirming the application's validation date.

The council has an obligation to determine an asset transfer request and issue a formal decision notice within six months of an application's validation date. That deadline for issuing a decision can be extended, as long as it is mutually agreed by both the council and the community transfer body.

To create a robust decision making process and in accordance with Scottish Government guidance, the council has brought together officers with key responsibilities within the authority (including property, legal, finance, economic development, and those with a focus on community development, community engagement, and community wealth building) to review and assess asset transfer requests. This group is called the Community Asset Transfer Board (CATB) and is chaired by the Head of Finance and Property Services.

The CATB comprehensively assesses and scores applications against specified criteria, then submits a report with recommendations to the Asset Transfer Committee (ATC), a committee of elected members. That report will either recommend the application be accepted, and if so on what terms, or it will recommend rejection of the application and it will set out the reason(s) for refusal.

Where an asset transfer request relates to a property within a specific ward, the elected members for that ward will be provided with a copy of the ACT committee report for information.

The ATC will consider the report and make a formal decision on whether the asset transfer request should be accepted (and if so, on what terms) or refused. A decision notice will be issued to the applicant by the council's Community Empowerment and Property Modernisation Officer thereafter, confirming that decision and the reason(s) behind it.

The council's Scheme of Delegations to Officers provides that the Head of Finance and Property Services is responsible for the development and implementation of the council's Community Asset Transfer Policy and procedures, with responsibility for determining all asset transfer requests resting with the ATC (or the Asset Transfer Review Body in the case of applications for internal review). The Scheme of Delegation also reflects the appointment of the Head of Finance and Property Services as Chair of the CATB.

## 4.3 Rights of internal review and appeals to the Scottish Ministers

The Act requires that community transfer bodies must have a right of internal review, with that review being undertaken by elected members who were not involved in the initial decision making process.

A community transfer body can seek a review or appeal if:



- their request is refused,
- the request is agreed, but the terms and conditions in the decision notice are significantly different from those in the request,
- no decision notice is issued within the required period or
- once an asset transfer request has been agreed, no contract has been concluded within the period allowed (via appeal directly to the Scottish Ministers).

Accordingly, under this policy, the community transfer body have the right to seek an internal review by way of referral to the council's Asset Transfer Review Body (ATRB).

The ATRB acts independently of the ATC and comprises a different group of elected members from those who made the ATC's original decision.

In terms of the Act, an application for internal review must be made in writing to the council within 20 working days of the date of the council's decision notice (or the latest date the council should have issued a decision notice) and the ATRB must undertake its review and issue a further decision notice within 6 months of the date of the review application.

The ATRB will either uphold the ATC's original decision, or amend it. A decision by the ATRB represents the council's final position.

If the outcome of the internal review does not resolve the issue, or if no decision is made within the required period, the community transfer body can appeal directly to the Scottish Ministers within 20 working days of the council's decision notice or the latest date the council should have issued a decision notice).

Scottish Ministers may allow the appeal (i.e. agree with the community transfer body's case), or reject it. They may reverse or change any part of the original decision by the council, including changing the terms and conditions under which the asset transfer is to take place. In all cases, the final decision lies with the Scottish Ministers. There is no further route of appeal beyond them (except by judicial review).

#### 4.4 Timescales for determination of an application

Upon receipt of a valid application, the following timescales will apply:

<u>Action</u>	<u>Timescale</u>
Acknowledgement letter issued confirming validation date:	Within 10 working days of receipt of the valid application.
Assessment of application by CATB:	Within 3 months of validation date.
Determination of application by ATC & decision notice issued:	Within 6 months of validation date, in accordance with statutory requirements.
Determination of any reviews referred to the ATRB:	Within 6 months of a review application date, in accordance with statutory requirements.

## 5. Terms of asset transfer

### 5.1 Transfer of asset and responsibility

The tenure under which an asset transfer may include:

- the transfer of management responsibility for an asset through a service level or management agreement;
- a short or long term lease arrangement, or
- transfer of outright ownership.

The means of asset transfer will reflect the requirements of both the applicant and the council, so each proposal will be different. In all cases involving transfer of ownership/occupation, appropriate legal mechanisms will be put in place to protect the council's responsibilities as stewards of public assets. This may include clawback and standard security provisions to safeguard any discounts applied to market values, or restrictions on changing the use of the asset from the purpose for which transfer was originally intended.

In cases where a project is reliant upon the community transfer body securing external funding (e.g. the Lottery or Sportscotland), the council may be required to accept a standard security that is less than first ranking.

From the date of any transfer, by whatever means that transfer takes place, the community transfer body will become immediately and entirely responsible for the property and payment of all costs associated with their occupation and use. The council will cease to have any financial and operational commitments relative to the property from the date of transfer. This will include generally, but will not be limited to, costs and responsibilities relating to the following:

- the upkeep, repair and maintenance of the asset;
- alterations or improvements to the asset;
- all other running costs (including utilities, rates liabilities and insurances);
- statutory compliance and health and safety requirements.

### 5.2 Funding support from the council

**Beyond any discounted market value that may be agreed for the sale or lease of the property, the council will not provide any additional revenue or capital funding in support of the proposed asset transfer project, other than by virtue of the community transfer body making a successful bid into any general funds that are administered by the council and that are accessible to all community groups (for example the Placed Based Investment Fund).**

### 5.3 Price, valuation and non-financial benefits

**The council recommends that, as part of its application, the applicant provides a valuation report that establishes the market value of the property in question. The report, which is also likely to be required by any potential external funders, should be prepared by the Valuation Office Agency or an alternative qualified RICS Registered Valuer and the stated valuation date in the report should be not more than 3 months from the date of the asset transfer application.**

**That valuation report will be instructed jointly by the applicant and the council and the associated costs will be shared equally between those two parties. This will enable all parties to understand the value of the property from the outset and provide context for any discount from market value that the community transfer body may seek from the council.**

The community transfer body must state in its application how much they are prepared to pay to purchase or lease the property, alongside the benefits the project will deliver, to allow the council to decide whether to accept that price and other terms.

The council has a duty to secure the best terms obtainable in their operations, including when disposing of or letting property. The best terms obtainable does not always mean the highest possible price, and the council has the ability to dispose of property at less than market value where there are wider public benefits to be gained. This is set out in the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

When the price offered in an asset transfer request is less than the market value of the property, the council will need to consider whether the proposed benefits to be delivered by the community transfer body justify the proposed discount. This will be based solely on the analysis of the information included in the asset transfer request. The benefits of the request should be proportionate to the value of the asset and the level of discount, with an appropriate level of information to support the application. Any decision to transfer an asset must always represent the best use of public resources.

**Whilst every asset transfer request will be considered individually on its merits and in accordance with statutory requirements, the council will typically expect the community transfer body to pay either the established full market value of the property, or that value less an appropriate discount that reflects the non-financial community benefits that the proposed project would deliver.**

## **6. Criteria for assessing requests**

Section 82 of the Act defines the criteria against which asset transfer requests must be evaluated and determined. The CATB evaluates and scores asset transfer requests in accordance with those stated criteria using a standardised scorecard approach.

During this process the council engages with applicants to ensure a clear understanding of the exact nature of the proposals. An assessment of the benefits of the proposal is prepared by the CATB, which in turn forms the basis of their subsequent report to the ATC.

Through that process, the council has put in place a consistent and transparent corporate process for assessing the benefits, costs and risks of the transfer of responsibility associated with asset transfer.

**Further details of the criteria for assessing requests, including access to a copy of the CATB scorecard, are provided in the “Community Asset Transfer Policy Guidance Notes for Applicants” that accompany this policy.**

## **7. Surplus Property Procedure**

The council's updated Surplus Property Procedure was approved by Council Executive on 12 December 2023. The purpose of the Surplus Property Procedure is to:

a) Provide a consistent, transparent and compliant process that ensures surplus property assets can be disposed of efficiently and effectively, minimising vacant property holding costs and securing the best terms reasonably obtainable for the council.

b) Establish that the disposal of surplus property assets is agreed as being a commercial exercise, the primary aim of which is to secure the best consideration reasonably obtainable for the council, either by way of a capital receipt or commercial rental income, or disposal in accordance with the 2010 Regulations, securing Best Value.

c) Establish a link to the council's approved Community Asset Transfer Policy through which any community or third sector organisation seeking to acquire or occupy council property on concessionary terms, or who wish "community benefit" to be taken into consideration, should pursue their interest by way of a community Asset Transfer Request under the provisions of Part 5 of The Community Empowerment (Scotland) Act 2015.

Accordingly, any community transfer body interested in acquiring council land or property and who wish to do so on concessionary terms or who wish community benefit to be taken into consideration shall be required to pursue their interest via the council's approved Community Asset Transfer Policy and its supporting governance arrangements.

Where the council is disposing of a property that has been formally declared surplus by the Council Executive in accordance with the approved Surplus Property Procedure, community benefit will only be taken into consideration where it forms part of a validated community asset transfer application.

Notwithstanding the provisions of the Act, the council will not delay or postpone the disposal or marketing of a surplus property to afford a community transfer body additional time to prepare and submit a community transfer application.

In order to raise awareness amongst any community groups with aspirations to explore community ownership and/or asset transfer, details of surplus properties are provided on the council's community asset transfer webpage.

## **8. Common good property**

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.

**Part 8 of the Act imposes duties on local authorities in relation to common good property and 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.**

**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.” The first version of the council’s Common Good Register was approved for publication by Council Executive on 22 March 2022 and supporting governance arrangements for the management of common good property were subsequently approved by Council Executive on 25 October 2022. The register is, by definition, a live and continually evolving document as properties are added to or removed from the register.**

**Community asset transfer requests that involve common good property must take cognisance of the statutory requirements of the Act and the council’s approved procedures for the management of common good property and their supporting governance arrangements. Any decision notice issued by the council will require to take account of those statutory requirements.**

## **9. Annual reporting**

The Act requires the council to publish an annual report setting out the numbers of asset transfer request received and their outcomes. The report must state:

- how many asset transfer requests were received
- how many requests were agreed to or refused
- for requests agreed to, whether they resulted in transfer of ownership, lease or conferral of other rights
- for appeals relating to requests made to the relevant authority, how many have been allowed, dismissed, or have resulted in any part of the authority’s decision being reversed or changed
- where decisions made by the authority have been reviewed, how many have been confirmed, modified or substituted by a different decision.

The report must also describe anything the relevant authority has done to promote the use of asset transfer requests and support community transfer bodies to make requests.

Annual reports cover each year from 1 April to 31 March and must be published by 30 June. The report will show the number of requests received in that year and the numbers agreed to or refused in that year.

The council’s Community Asset Transfer Annual Report will be prepared by the Community Empowerment and Property Modernisation Officer and reported annually to the Council Executive by the Head of Finance and Property Services prior to publication.

(END)



# **COMMUNITY ASSET TRANSFER POLICY GUIDANCE NOTES FOR APPLICANTS**

(Updated: 16 April 2024)

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## 1. Introduction to Community Asset Transfer

This guidance is for all voluntary and community organisations interested in the transfer of property assets that are owned, leased or managed by West Lothian Council in order to develop and deliver services, and to generate benefits for their local communities. It is intended to compliment the council's approved Community Asset Transfer Policy and should be read in conjunction with that policy (a link to that policy is provided at section 20 of this guidance note, under "Further Information").

For the purpose of this guidance note, all eligible voluntary or community organisations shall be referred to as 'community transfer bodies'.

These guidance notes aim to:

- Explain the scope of the council's policy on community asset transfer;
- Provide guidance to interested groups on how to apply to take on an asset, and
- Explain how the council will determine an application, including the appeals process.

The guide outlines our process and timescale for responding to requests for individual property asset transfers, which we believe is in line with being an open and transparent local authority.

Our objective is to make it as simple as possible for an organisation to make an enquiry about asset transfer and start the application process to purchase or lease land or property from the council. The information supplied will help us to ascertain whether an organisation is ready to take on the asset and whether the purpose the applicant has in mind for the property will bring about benefit for the community and support council objectives.

There must be a clear proposal, business case and rationale for any transfer. This could include opportunities for new and innovative ways of supporting the priorities of the council in providing services to the community, delivering services directly, or the provision of new activities or services that would otherwise not be available and where there is clear evidence of 'need' for such a service.

Community asset transfer is driven by the delivery of services, not the availability of assets. It provides an opportunity to engage people in providing services, and adding value in their local communities. This may be by delivering services that are additional or complementary to services delivered by the council, the need for which has been identified by the local community. It may also allow a group to develop a commercial venture which will support community benefit. In addition, community transfer bodies may be able to access development funding from a range of external funders that might not otherwise be available.

Each asset transfer will be judged on its own merits and the detail of any arrangements for transfer will be arrived at through individual negotiation. However, the council's objective is to have a consistent, fair and transparent process for responding to proposals from local communities. Each asset transfer request will be judged on the benefits it will deliver, not on the community it represents. Community transfer bodies interested in any potential asset transfer are encouraged to engage with the council at the earliest opportunity.

## **2. Policy context**

The need for local authorities to consider the methods of service delivery, and the growing interest from community-led organisations in assuming responsibility for the delivery of local services, are fuelling the drive for communities to take responsibility for publicly owned property assets. This trend is reflected in significant recent changes to public policy and legislation, most notably the Community Empowerment (Scotland) Act 2015 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

The council's policy for the transfer of property assets to community transfer bodies recognises that handing over the ownership or stewardship of an asset can have a valuable role in supporting and sustaining local communities.



The community ownership of assets can make an important contribution to the range of innovative, bottom up solutions which community groups can develop to address local needs. Importantly, these solutions not only meet the needs of the local people, they can also contribute to the delivery of council and national strategic priorities.

It is anticipated that most interest in transfer of responsibility will come from community transfer bodies that identify a specific opportunity. However, opportunities may also be identified by the council. The ongoing review of council services is expected to identify properties that have potential for a more intensive use, or a greater variety of social, community and public purposes, to the benefit of the local community.

Proposals may be many and varied, and it is likely that the legal structure for transferring any property asset will vary to reflect the specific needs and circumstances of the proposal or organisation making the proposal – there will be no single model. Solutions will depend on the nature of the proposal and the property assets involved. They will also be affected by the way the proposal is being funded, the type of community transfer body that is implementing it, and the organisations with whom they have to reach separate agreements with such as funders.

If transfer is proposed, there must also be a critical appraisal as to whether it assists in delivering agreed outcomes. The council has to ensure that there is a robust justification for transfer. Transfer should be a means to an end, not an end in itself.

The council's responsibility for the stewardship of public assets will mean that we may need to protect the public interest through conditions or burdens within the legal structure of any transfer.

The council are keen to engage with community organisations early in the process, so that discussions around any potential for asset transfer can be investigated in the interest of all parties at a pre-application stage.

### **3. Which assets may be suitable for transfer?**

The council's physical assets include land and buildings that are used for a variety of different social, community and public purposes.

Part 5 of The Community Empowerment (Scotland) Act 2015 (the Act) introduces a right for community transfer bodies to make requests to all local authorities, Scottish Ministers and a wide-ranging list of public bodies, for any land or buildings they feel they could make better use of. Community transfer bodies can request ownership, lease or other rights, as they wish. The Act requires those public authorities to assess requests transparently against a specified list of criteria, and to agree the request unless there are reasonable grounds for refusal.

The Act deliberately avoids giving detailed guidance on what may be reasonable grounds for refusal, as this must be determined by the circumstances of each individual case. However, they are likely to include cases where the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal, where agreeing to the request would restrict the council's ability to carry out its functions (including a loss in revenue and/or capital income), or where another obligation on the council prevents or restricts its ability to agree to the request.

#### **Participation Requests**

A community transfer body can ask to buy or lease land, or to have other rights, for example to occupy or use the land for a particular purpose. It may also wish to take over a building or land and the services which are delivered by the council from those premises.

This could be addressed by an asset transfer request, or a participation request in relation to improving the outcome of the services. It is not recommend using both types of request for the same project.

Further information on participation requests can be obtained by contacting the council's Community Planning Team at [community.planning@westlothian.gov.uk](mailto:community.planning@westlothian.gov.uk) or by writing to Community Planning & Regeneration, 2<sup>nd</sup> Floor South, West Lothian Civic Centre, Howden South Road, Livingston, West Lothian EH54 6FF.

#### **4. Register of Land**

The council is required to maintain and publish online a Register of Land (including buildings) that it owns or leases. That Register is available by contacting the council's Community Empowerment and Property Modernisation Officer via email at [propertymanagement@westlothian.gov.uk](mailto:propertymanagement@westlothian.gov.uk) or by writing to: Community Empowerment and Property Modernisation Officer, Property Services, 2<sup>nd</sup> Floor South, West Lothian Civic Centre, Howden South Road, Livingston, EH54 6FF.

It should be noted that legislation provides for certain categories of assets to be excluded from the register on practical grounds. Examples include roads, underground railways, canals, bus stations, houses, hostels and lodging-houses, police radio masts and sites used for covert policing, land used for the supply of drinking water and disposal of waste water and certain reservoirs, souvenir plots and mineral rights. Whilst these assets are exempt from inclusion in the register, they may still be subject to an asset transfer request.

#### **5. Obtaining further information on specific land and/or buildings**

Once they have identified one or more properties that may be suitable for their project, a community transfer body will need further information about them. They will need to decide whether the land or building is suitable for their planned activities, what the running costs will be, and how much to offer for it. If they intend to request ownership or a lease with repairing responsibilities, they will need information about the condition of any building, other rights on the land, and so on.

The council will be open about the information it holds, including practical knowledge about managing the property, and how other information might be obtained.

Ultimately, it is the responsibility of the community transfer body to ensure it has all the necessary and relevant information to develop its proposals. There is no requirement for the council to obtain information or commission reports to provide to the community transfer body, which it does not already have.

As part of the pre-application discussions, and where appropriate, the council will aim to share any information it holds on a relevant asset, such as:

- Title reports
- Rateable Value
- Size (including site or building plans if appropriate)
- Any planning restrictions, heritage designations, environmental designations, or other restrictions on future use
- Information on any tenancies, occupancy agreements etc. (as far as possible under confidentiality)
- Coal authority reports
- Utility / service Information
- Condition and suitability reports
- Asbestos reports and management plan
- Energy costs (for current use) and/or Energy Performance Certificate
- Contamination reports
- For agricultural or forestry land, any relevant planting records, management plan or similar

If it appears that significant cost would be involved in answering the enquiry, or it involves information that it thinks should be withheld, the council is entitled to consider it in line with the

requirements of the Freedom of Information (Scotland) Act (FOISA) and the Environmental Information Regulations (EIRs).

## **6. Who is eligible to apply for asset transfer?**

To make an asset transfer request, an organisation needs to qualify as a “community transfer body” and Section 77 of the Act defines this as being either:

- a community-controlled body, or
- a body that is designated as a community transfer body by an order made by the Scottish Ministers.

Asset transfer legislation does not define what a community can be. It simply requires a community transfer body to define the community it relates to, and ensure the body is open to and controlled by members of that community, and uses its assets to benefit that community. Whether an organisation is eligible to make an asset transfer request depends on their constitution meeting the requirements, not on what community it represents.

A community can be any group of people who feel they have something in common. In many cases, it is that they live in the same area. However, it can also be that they share an interest or characteristic. Communities of interest could include faith groups, ethnic or cultural groups, people affected by a particular illness or disability, sports clubs, conservation groups, clan and heritage associations, etc. They may be very specialised or local, ranging up to national or international groups with thousands of members.

Applicant organisations may take many forms, e.g. community associations, development trusts, community councils, community forums, tenant organisations and community based housing associations, etc. They can also adopt different types of legal structures such as company limited by guarantee, unincorporated association, partnership organisation, Community Interest Company, or industrial and provident society (co-operative). Many will have charitable status. The key thing is not the precise model, but that they are recognised in their communities as valuable, open, accountable and inclusive organisations.

A community transfer body does not have to be incorporated, but it must have a compliant written constitution. A community transfer body that wants to make an asset transfer request for ownership must also be incorporated as a company, a SCIO (Scottish Charitable Incorporated Organisation) or a BenCom (Community Benefit Company), with a minimum of 20 members and provision for transfer of its assets upon winding up.

A community transfer body does not have to be incorporated in order to make an asset transfer request for lease or other rights. Since the property remains in the ownership of the council, it is for the council to decide what type of legal structure is appropriate, depending on the rights being requested.

An asset transfer request must be accompanied by a copy of the community transfer body's constitution or other governing documents.

In addition to the foregoing legislative requirements, the council expects that all applicants will have the following characteristics. They should:

- a) Be formally constituted; have appropriately experienced management; and have sound and relevant governance arrangements in place;
- b) Have its own decision-making system and accountability to independent trustees or its own members or constituents;
- c) Exist for community, social, environmental or economic benefit objectives;

- d) Have a strong track record in bringing in and managing money and/or a robust financial plan moving forward. (The council will wish to review copies of audited accounts and forward projections where appropriate);
- e) Not distribute any profit, dividends or surplus to owners or members, but must reinvest it to further its social aims/community benefits (i.e. commercial concerns are excluded, but organisations which charge users or the public for services or whose activities include contracts with the council are eligible);
- f) Have a minimum of 20 members and provision for transfer of its assets to a similar organisation on winding up.
- g) Operate within West Lothian.
- h) Be non-political and not engaged in supporting candidates for political office
- i) Have an element of involvement of volunteers.
- j) Demonstrate it has the skills and capacity within, or available to, its managing body to effectively deliver services and manage the asset, and comply with statutory obligations, e.g. health and safety.

## **7. The application process**

### Introduction

The council recognises that asset transfer will require a significant commitment from a voluntary or community group. However, as the stewards of public assets we have to be sure that there is a robust justification for any transfer. Our asset transfer process reflects Scottish Government guidance and we believe it is both transparent and proportionate.

In the first instance, groups are encouraged to discuss their options, their suitability and the scope of community asset transfer with the council's Community Empowerment and Property Modernisation Officer. These informal discussions will help to prepare for the process of making a formal application for transfer. Contact details for the council's Community Empowerment and Property Modernisation Officer are provided at the end of this guide.

### Pre-application stage

The pre-application stage is a voluntary but important component of the asset transfer process as it gives both the council and the community transfer body an opportunity to fully explore the desired outcomes of the proposed project and discuss how these can be best achieved. Proposals that are fully discussed and developed through partnership working at the pre-application stage are likely to have the best chance of being successfully delivered.

Community transfer bodies are strongly advised to contact the council's Community Empowerment and Property Modernisation Officer to discuss their proposals at an early stage, prior to the submission of a formal asset transfer request. However, community transfer bodies do have the right to submit applications without going through any pre-application stage if they so wish. An asset transfer request is not treated as having been made until a community asset transfer application form has been submitted.

The level of detail required for each application will be proportionate to the scale and nature of the request and the community transfer body will always be given the opportunity to provide any missing information that is considered key to the decision making process.

If the council considers at an early stage that a request is likely to be refused in its current form, but could agree to an alternative proposal, this will be raised with the community transfer body and a suggestion made that they may wish to consider a revised proposal. However, this must be entirely at the community transfer body's choice as they have a right to persist with the any request they want to make and receive a formal decision, which will then be open to appeal.

At the pre-application stage, the council will appoint the Community Empowerment and Property Modernisation Officer to act as the applicant's single point of contact in the council. The community transfer body and the Community Empowerment and Property Modernisation Officer will then work in partnership to discuss the asset transfer application.

#### Price, valuation and non-financial benefits

The council recommends that, as part of its application, the community transfer body provides a valuation report that establishes the market value of the property in question. The report, which is also likely to be required by any potential external funders, should be prepared by the Valuation Office Agency or an alternative a qualified RICS Registered Valuer and the stated valuation date in the report should be not more than 3 months from the date of the asset transfer application. That valuation report will be instructed jointly by the applicant and the council and the associated costs will be shared equally between those two parties.

This will enable all parties to understand the value of the property from the outset and provide context for any discount from market value that the community transfer body may seek from the council.

The community transfer body must state in its application how much they are prepared to pay to purchase or lease the property, alongside the benefits the project will deliver, to allow the council to decide whether to accept that price and other terms.

The council has a duty to secure the best terms obtainable in their operations, including when disposing of or letting property. The best terms obtainable does not always mean the highest possible price, and the council has the ability to dispose of property at less than market value where there are wider public benefits to be gained. This is set out in the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

When the price offered in an asset transfer request is less than the market value of the property, the council will need to consider whether the proposed benefits to be delivered by the community transfer body justify the proposed discount. This will be based solely on the analysis of the information included in the asset transfer request. The benefits of the request should be proportionate to the value of the asset and the level of discount, with an appropriate level of information to support the application. Any decision to transfer an asset must always represent the best use of public resources.

Whilst every asset transfer request will be considered individually on its merits and in accordance with statutory requirements, the council will typically expect the community transfer body to pay either the established full market value of the property, or that value less an appropriate discount that reflects the non-financial community benefits that the proposed project would deliver.

#### Outline of the application process

When the council receives an asset transfer application, the first step is to check it contains all the required information and that the organisation making the request qualifies as a community transfer body. If the organisation making the request is not eligible to do so, technically it is not an asset transfer request and no further action is required. In such cases the council will reply explaining in general terms why the organisation is not eligible.

If the request does not contain all the required information the council will send the community transfer body a notice confirming what is missing. No further action will be taken until all the required information is received.

Following on from the pre-application stage described above and upon receipt of a valid application, the formal application process is as follows.

- The start of the timeline for processing an application is triggered by the receipt of a valid community asset transfer application. When a valid application is received, an acknowledgment letter will be issued confirming the application's validation date.
- In order to create a robust decision making process, the council has brought together officers with key responsibilities within the authority, including property, legal, finance, economic development, and those with a focus on community development, community engagement, and community wealth building, to review and assess the application. This group is called the Community Asset Transfer Board (CATB) and is chaired by the Head of Finance and Property Services. Applications are assessed by the CATB against a specified list of criteria which are outlined section 11 of this guidance.
- Once an application has been assessed, the CATB will submit a report to the council's Asset Transfer Committee (ATC). The ATC is the formal decision-making committee made up of elected members. The report will outline the proposal and either recommend that the application be accepted, and if so on what terms, or it will recommend rejection of the application and it will set out the reason(s) for refusal.
- The ATC will consider the report and make a formal decision on behalf of the council. A decision notice will be issued thereafter confirming the decision and its basis.
- If the ATC refuses an application, the community transfer body has the right to seek an internal review by way of a referral to the council's Asset Transfer Review Body (ATRB). The ATRB is a separate committee comprising an entirely different group of elected members from those who made the original decision.
- The ATRB will either uphold the ATC's original decision, or amend it. A decision by the ATRB represents the council's final position and the only recourse for applicants thereafter is a formal appeal directly to the Scottish Ministers.

#### How long will it take?

The council has an obligation to issue a decision notice within no more than 6 months of an application's validation date. The deadline for issuing a decision can be extended, as long as it is mutually agreed by both the council and the community transfer body.

The following shows how long the application process will take:

- Pre-application stage: There is no set timescale for this stage of the process. The intention is that all interested parties work together to prepare the relevant information required to submit a valid application and in doing so give the proposed project the best chance of success. Time and effort invested in proposals at the pre-application stage will undoubtedly prove beneficial later in the asset transfer process.
- The timeline for completion of the application process is triggered by confirmation of the validation date. When a valid application is received, the following timescales will apply:

<u>Stage</u>	<u>Timescale</u>
Acknowledgement letter issued confirming validation date	Within 10 working days of receipt of the application.
Assessment of the application by CATB	Within 3 months of validation date.
Determination by ATC & decision notice issued	Within 6 months of validation date.
Determination of any reviews referred to the ATRB:	Within 6 months of a review request being received.

## **8. Actions required of the council upon receipt of an application**

When the council receives a valid asset transfer request, there are certain actions it requires to undertake. These actions are summarised as follows.

### Acknowledgement

Once the council is satisfied that all the required information has been provided, an acknowledgement will be sent to the community transfer body. The acknowledgement will include the following information:

- the validation date – this is the date on which the last of the required information was received. This is the date from which other time limits will be calculated.
- an explanation of the timescale for the council to issue the decision notice. The council must issue a decision notice within 6 months after the validation date, unless a longer period is agreed.
- information about the right to appeal to the Scottish Ministers or request a review, as appropriate.
- whether another asset transfer request has already been made in respect of the same land (or part of the same land).
- whether the council considers that it is prohibited from disposing of the asset to any other party.

### Publication of documents

The council will make copies of each asset transfer request and any documents or information accompanying it will be available online, until the request process is completed. Any representations made about the request will also be put online. In order to comply with data protection requirements, any personal information will be redacted from these documents before they are published.

The council will maintain an archive of completed requests online. In particular, this will help community transfer bodies to know if previous requests have been made, and refused, for the same property.

### Notification and representations

It is the responsibility of the council to formally give notice that a request has been received and to invite representations. The council will make third parties aware that an asset transfer request has been made, and of how they can make representations about it, as soon as practicable after the validation date.

This will involve direct notification of any tenant or occupier of the land the request relates to. This would include any group which has an agreement for regular use of the land or building, including the owner, if the council leases the land.

Notice of the asset transfer request will also be published online, and put up at the site. It is also required for it to be displayed at a public place in the vicinity of the land to which the asset transfer request relates.

Notices sent to tenants, occupiers and owners and those published online and near the land must:

- state that an asset transfer request has been made
- identify the community transfer body making the request and the land to which the request relates
- give a brief description of the nature of the rights requested and how the community transfer body propose to use the land
- say how the asset transfer request and associated documents can be inspected
- say how representations about the request may be made, and by what date. This must be at least 20 working days after the notice is given or published
- advise that all representations will be copied to the community transfer body for their comments, and published

If any representations are received in response to these notices, the council will send copies to the community transfer body and inform them how and by what date they can make comments about them. The date must be at least 20 working days from the date on which the copy is sent. Any personal information will be redacted from representations before they are copied to the community transfer body or published online.

#### Prohibition on disposal of land

Once an asset transfer request has been formally made, the council is not allowed to sell, lease or otherwise dispose of the land it relates to, to anyone other than the community transfer body that made the request, until the whole process is completed.

The process is completed when:

- a contract for the transfer is concluded;
- the request is refused and the community transfer body has followed all routes of appeal without success, or
- the community transfer body fails to take the next action in the process within the time required. For example, if it does not make an offer, or does not request a review or appeal if the request is refused.

The prohibition on disposal does not apply if, before the asset transfer request is made, the land has already been marketed for sale or lease, or the council has entered into negotiations or begun proceedings to transfer or lease the land to another person. Marketing can also occur to establish other interests in the property with which the asset transfer application can be evaluated against.

The council's position is that written communication between the council and another party relating to the proposed sale, lease or transfer of the land will be considered to be meaningful engagement and demonstrable evidence that such negotiations / proceedings have begun. For clarity, such correspondence shall be between delegated officers and that other party only. General property enquires received by the council shall not be considered sufficient to trigger an exemption to the aforementioned prohibition.



In these cases, an asset transfer request can still be made, but it will not prevent negotiations or proceedings continuing with, or bids being made by, any other person.

Where an asset transfer request is received under these circumstances, that request will be considered in the same manner as any other. It will be considered first by the CATB and a report submitted to the ATC. The ATC will then determine the application and a decision notice will be issued thereafter. The applicant may request an internal review of that decision and thereafter appeal it to the Scottish Ministers in accordance with the provisions of the Act.

## **9. What information should the application contain?**

The Act requires that community transfer bodies must provide certain mandatory information as part of any asset transfer request. Failure to provide that mandatory information renders an application invalid. The required mandatory information is set out in the council's "Asset Transfer Request Form" (a link to that form is provided at section 20 of this guidance note under "Further Information"). In the interests of consistency and completeness and in addition to the mandatory information, community transfer bodies are recommended to submit all asset transfer requests using that application form.

In addition to the mandatory information and to enable the council to fully consider asset transfer requests and reach a competent decision within the statutory timescale, community transfer bodies are recommended to provide the following supporting documentation as part of their application:

- A copy of the community transfer body's constitution;
- A business plan (that is proportionate to the nature of the asset transfer request);
- Audited accounts (or a financial projection where the applicant has been operating for less than one year).
- Annual reports (where these are available).
- Evidence of community engagement that demonstrates need and support for the proposed project.
- A skills audit that evidences the community transfer body's ability to successfully deliver and sustain the proposed project.
- A valuation report prepared by the Valuation Office Agency or alternative appointed RICS Registered Valuer that confirms the market value of the property. The valuation date stated in that report will be no more than three months from the date of the asset transfer application. That valuation report will be instructed jointly by the applicant and the council and the associated costs will be shared equally between those two parties.

If mandatory information is missing or incomplete, the application may be rejected.

Since most of the required information should be contained in these supporting documents, the council is looking for a concise summary to be provided in the application form itself. Applicants are encouraged to cross-reference each section in the application form to the relevant section in any supporting documents.

## **10. Key points for consideration in preparing an application**

The provision of information in the following areas is key to ensuring that applications can be properly assessed. Applicants should carefully consider each aspect and provide sufficient information via their completed application form and its supporting documentation.

### **The Business Plan**

If proposals are to be successful in delivering long term community benefit, both the viability (i.e. having the financial resources to become established and to continue operating) and the sustainability (i.e. being run by people with the right skills, knowledge and aspirations to succeed) of the project are fundamental. In order to demonstrate that a proposal is viable and sustainable, and has been thoroughly and competently developed, there is a requirement for a Business Plan.

Such a plan will demonstrate that a proposal has merit and is consistent with the council's own aspirations. Applicants will need to submit a Business Plan alongside any application for external funding support, and applicants may want to consider this when they are drafting a Business Plan in support of their application, to avoid duplication of effort.

The following outlines the structure of a Business Plan, which we expect applicants to follow:

- **Project Objectives:**
  - A statement of the objectives/outcomes the project is to accomplish;
  - The plan for reaching them and the reason why they are attainable;
  - Consistency with Council objectives/outcomes;
  - Means of measuring performance against objectives/outcomes (tell us what the benefits are perceived to be, and how these will be measured).
- **Project Feasibility:** An assessment of whether and how the proposed project can be developed / delivered to meet its objectives given the demand for it, the context it will operate in, and the resources available. Feasibility will also outline the steps that need to be taken to progress the proposal from idea to reality. It should demonstrate:
  - The level of demand;
  - Prove that the proposed project will not duplicate activities, services or facilities already provided in the local community;
  - The potential to generate income;
  - Copies of recent accounts (if available);
  - Appropriate financial forecasts;
  - The availability of financial support for implementation (if required);
  - An understanding of what is needed (skills, finances and other resources) to run and maintain the project when complete;
  - The level of involvement of volunteers;
  - An assessment of the extent of existing provision in the local market (where the applicant is engaged in a commercial venture);
  - The approach to managing the design and construction process if the proposal includes capital works.
- **Constitution and Governance:**
  - Outlining the legal structure of the body that will take forward the proposal (who makes the decisions and how these are made)
  - Providing information on the capacity and skills of the organisation to manage and implement the proposal (including CV's where appropriate);
  - We also need information on what would happen to an asset if the applicant's organisation ceases to exist
- **Viability:**
  - Demonstration of how the project will cover all its costs with income over a specified period. Usually three to five years, although this may need to be longer depending on the nature of the project (e.g. if loans are proposed for capital works) including a financial breakeven and sensitivity analysis);
  - Setting out how assets will be managed to a high standard (covering insurance, statutory compliance, security, Health and Safety etc.).
- **Sustainability**

- Demonstrating how the asset will be maintained and operated by the organisation for the foreseeable future, showing how the project can continue in the long term. In considering an application we will want to know that applicants have the ability and capacity to maintain and operate the asset for the foreseeable future, including succession planning.

It is expected that the initial assumption in any Business Plan will be that the asset will transfer at market value. It will be incumbent on the applicant to demonstrate, through the Business Plan, why there is a financial deficit that results in a requirement for transfer at less than market value.

#### How the applicant intends to use the asset

Applicants must clearly demonstrate that the transfer of the asset is to provide services or facilities that will meet the needs of the local communities or directly benefit local residents. The council will expect each proposal to explain the proposed use of the building and how the asset transfer would enable and enhance the activities within the community; i.e.:

- Demonstrate that the asset will support community and voluntary activities in the area.
- For assets that are still in use, we may want to know how existing users would be able to continue their use of a property;
- Outline the future opportunities for enhancing the use of the asset as a community facility that transfer would bring;
- Identify opportunities for using the assets to develop and provide new and innovative services, which may be linked to current council service provision.
- Applicants will need to give us details of how they intend to alter the property, and how they will pay for this.

#### Demand for the proposed use, engagement with and support from the local community

We expect applicants to identify a clear community/social demand for the transfer, and to demonstrate how that demand has been identified through engagement and consultation in the local community. We will be looking for evidence of community support for the transfer. This has to be obtained through consulting any existing building users, other community groups and other stakeholders from within the community. Applicant's research should demonstrate that the proposal is the best approach to address the identified demand.

There may be differences of opinion within communities, and the council do not expect unanimous support for a proposal. However, one of the intended benefits of community ownership and community-led activity is to increase community cohesion and resilience. A scheme that attracts substantial opposition and causes division in the community may not have a net benefit.

If the request is from a body representing a community of interest, they must show how they have engaged with the geographic community in the area where the asset is located.

#### The applicant's organisation

To make an asset transfer request, an organisation needs to be a community transfer body, as defined in Section 77 of the Act. Beyond that basic legal requirement, we will have to be satisfied that the applicant has the necessary expertise and resources to deliver the project/activities outlined in the application. Applicants must:

- Demonstrate that they have the skills and capacity to manage the asset.
- Show that they have good governance and robust financial systems in place, and be able to demonstrate that all necessary policies expected of a community group, such as training plans, Health and Safety policies, compliance with relevant equalities legislation, etc., are in place.
- Show that they fully understand the risks associated with the project, and that they have the expertise and processes in place to manage them.

### Alignment to council's priorities and functions

The council will consider how any benefits relate to other matters the authority considers relevant, including, in particular, the functions and purposes of the authority. In many cases, the proposed benefits of an asset transfer request will contribute to achieving the council's outcomes or to national outcomes more generally. However, there may be cases in which agreeing to the request would have an unacceptable impact on the council's ability to deliver its functions (including a loss in revenue and/or capital income). This could be a direct impact, for example because the proposed activities would physically interfere with the council carrying out its operations. There may also be cases where the community transfer body's proposals conflict with a policy of the council.

Applicants must show how the proposal contributes to the strategic objectives and outcomes of the council and the Community Planning Partnership Single Outcome Agreement. Details of these can be found on the council's website or upon request from the council's Community Empowerment and Property Modernisation Officer at [propertymanagement@westlothian.gov.uk](mailto:propertymanagement@westlothian.gov.uk).

### Obligations and restrictions

Another matter to be considered are any obligations that may prevent, restrict or otherwise affect the council's ability to agree to the request, whether these arise from legislation or otherwise. These will be explained to the community transfer body as early as possible, as they may influence their decision if the property is suitable for their needs.

If an obligation imposes an absolute ban on the transfer of the rights sought by the community transfer body, or on the use they propose for the asset that would be reasonable grounds for refusal.

If it would be inclined to agree to the request, and, if appropriate, considers it would meet the requirements for removing the restrictions, the council can then investigate the possibility of doing so.

### Community benefits and transfer value

Changes in legislation mean that councils are no longer required to obtain best consideration (full market rent or price) when disposing of assets where a community-led applicant has been able to make a robust case showing how the transfer is likely to benefit the local community. However, any transfer must contribute to the promotion or improvement of one, or more of the following:

- Economic development or regeneration
- Public health
- Social well-being
- Environmental well-being
- Reducing inequalities of outcomes for socio-economic disadvantage

The procedure for such transfers is set out in the 'Disposal of Land by Local Authorities (Scotland) Regulations 2010 (the Regulations). In order to allow transfers to take place at less than best consideration, the council has to be satisfied that the provisions of the Regulations can be appropriately met. In such cases the level of discount to be applied will be determined, principally, by the potential benefits to the community.

As noted above we expect the proposal to have the support of the local community. If an application seeks the transfer of the asset at less than the established market value, we will also need a demonstration of the projected community benefit. This will result in a financial figure

that must equal the difference between the established market value and the suggested transfer value.

The exact model for evaluating community benefit will vary to ensure it is proportionate to the scale of the proposed transfer. Advice and support can be offered by council officers in the pre-application discussions on the form of evaluation and the level of detail that will be required in any community benefit evaluation, but the following criteria is designed to give an indication of the scale of reporting required.

- Assets with a market value below £10k (or annual rental value of £1,000): Evaluations must include a narrative clearly demonstrating that community benefits will be delivered that fit under one or more of the following headings: economic development or regeneration, public health, social well-being, environmental well-being or reducing inequalities of outcomes for socio-economic disadvantage. It is not expected that a financial evaluation of these benefits will be included.
- Assets with a market value between £10k and £200k (or annual rental value of £1,000 to £20,000): Evaluations must include a narrative to clearly demonstrate that community benefits will be delivered that fit under one or more of the following headings: economic development or regeneration, public health, social well-being, environmental well-being or reducing inequalities of outcomes for socio-economic disadvantage. A financial evaluation of these benefits must be included. The exact model used to conduct the evaluation will be determined by the community transfer body, and ideally will have been agreed by both parties at the pre-application stage.
- Assets with a market value over £200k (or annual rental value of over £20,000): Evaluations must include a detailed narrative to clearly demonstrate that community benefits will be delivered that fit under one or more of the following headings: economic development or regeneration, public health, social well-being, environmental well-being or reducing inequalities of outcomes for socio-economic disadvantage. A financial evaluation of these benefits must be included. The exact model used to conduct the evaluation will be determined by the community transfer body, and will have been agreed by both parties at the pre-application stage.

Whilst every asset transfer request will be considered individually on its merits and in accordance with statutory requirements, the council will typically expect the community transfer body to pay either the established full market value of the property, or that value less an appropriate discount that reflects the non-financial community benefits that the proposed project would deliver.

#### Terms of the asset transfer (tenure)

The tenure under which an asset transfer may include:

- the transfer of management responsibility for an asset through a service level or management agreement;
- a short or long term lease arrangement, or
- transfer of outright ownership.

The selected means of transfer will reflect the requirements of both the applicant and the council, so each proposal will be different. In all cases involving transfer of ownership/occupation, appropriate legal mechanisms will be put in place to protect the Council's responsibilities as stewards of public assets. This may include restrictions on changing the use of the asset from the purpose for which transfer was originally intended.

From the date of any transfer, by whatever means that transfer takes place, the community transfer body will become immediately and entirely responsible for the payment of all costs associated with their occupation and use of the property. The council shall cease to have any financial or operational commitments relative to the property from the date of transfer. This will include generally, but will not be limited to, costs relating to the following:

- the upkeep, repair and maintenance of the asset;
- alterations or improvements to the asset;
- all running costs (including utilities, rates liabilities and insurances);
- statutory compliance and health and safety requirements.

If the request is for land which is leased to the council by another relevant authority, in certain circumstances restrictions in the lease do not apply. The circumstances are that:

- the land is leased by one relevant authority, or a company wholly owned by a relevant authority, to another relevant authority
- the request is for lease or a right of occupancy of the land, and
- no other person is entitled to occupy the land.

In this case, any restrictions in the lease which restrict the ability of the council to sub-let or share occupancy of the land, or restrict how the land may be used, do not prevent the council agreeing to lease the land to the community transfer body or allow them to occupy the land. This does not affect any restrictions on the power of the council to assign or transfer rights and liabilities under the lease, and the Council continues to be subject to any obligations under the lease.

#### Terms of the asset transfer (funding)

Applicants will be compelled from the pre-application stage onwards to undertake investigations into how the asset transfer will be funded both in terms of capital and revenue requirements.

Beyond any discounted market value that may be agreed for the sale or lease of the property, the council will not provide any additional revenue or capital funding in support of the proposed asset transfer project, other than by virtue of the community transfer body making a successful bid into general community grant funds that are administered by the council and that are accessible to all community groups (for example the Placed Based Investment Fund).

#### Subsidy control considerations

All asset transfers must comply with subsidy control rules. A disposal at less than market value may constitute a subsidy and there are tests that need to be considered in order to establish whether or not that is the case. Applicants should liaise with the council's Community Empowerment and Property Modernisation Officer to clarify any issues around subsidy control.

#### Costs and council officer support

The council will work in partnership with community transfer bodies to help them through the asset transfer process. This will include the provision of information, guidance and the support from the council's Community Empowerment and Property Modernisation Officer.

It is recognised that there will be costs associated with any asset transfer proposals and applicants will be expected to pay these. Costs may include:

- Valuation fees;
- Feasibility studies;
- Architects' fees;
- The applicant's legal fees;
- Consultancy fees.

These are the costs that the community transfer body may incur when contracting independent, professional advisors to help them with the transfer. These must be considered when developing a plan for community asset transfer along with the ongoing costs of maintaining an asset.

There are a range of funding options available which can enable community groups to purchase assets from the council. These can involve grants, borrowing and fundraising and it is important that a group investigates these in full. Where commercial borrowing is considered, repayments will need to feature in the Business Plan. A lender's requirement for security may also influence the method by which an asset is transferred.

In each case the council can help applicants to identify the appropriate sources of financial help, or guide them towards those who may provide help.

### Other issues

There are a range of other issues that need to be considered and community groups should take independent advice on these before proceeding with their application. These include:

- Skills and experience to manage statutory requirements of property ownership with public access
- Tax liability in respect of VAT and corporation tax
- Nature of any contractual relationship to be entered into with the council for the provision of goods and services
- Voluntary / community organisation taking on staff 'assigned' to an existing organisation or contract (or part of).

## **11. Criteria for assessing requests**

### How the Council will assess an application

The council has put in place a consistent, compliant and transparent corporate process for assessing the benefits, costs and risks of the transfer of responsibility associated with asset transfer. That evaluation process considers how the proposed asset transfer request contributes to the established themes of Best Value.

During this process the council will engage with applicants to ensure a clear understanding of the exact nature of the proposals. An assessment of the benefits of the proposal will be prepared by the CATB using a standardised scorecard approach, which in turn will form the basis of the CATB's report to the ATC. A link to the CATB's standardised scorecard is provided at section 20 of this guidance note under "Further Information".

The process will be led by the council's Community Empowerment and Property Modernisation Officer. During this process the council will engage with applicants, through dialogue and/or meetings, to ensure a clear understanding of the exact nature of the proposals.

This assessment will inform both the legal means by which a transfer can take place (including the value at which the asset can be transferred) and the CATB's report to the ATC.

The council will fully consider all asset transfer requests on their own merits in accordance with Scottish Government guidelines. As suggested in those guidelines, an application is likely to be recommended for refusal when the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal (including existing use or potential disposal in the case of surplus assets), or where agreeing to the request would restrict the council's ability to carry out its functions.

Asset transfer requests that would result in the council losing existing or projected revenue or capital income may result in a recommendation to the ATC for refusal on the grounds that any loss of income will restrict the council's ability to carry out its functions.

### Understanding Best Value

The council has a requirement to ensure resources are being put to good use by demonstrating 'Best Value'. Best Value is the requirement to ensure continuous improvement in performance whilst maintaining an appropriate balance between effectiveness and economy. It also requires due regard to equal opportunities requirements, and to contribute to the achievement of sustainable development.

There are seven Best Value themes and public bodies across Scotland have a duty to secure Best Value for public money and can sell, or lease, at less than market value where there are wider public benefits to be gained from a transaction. The matters which the council must consider include the following types of benefit:

- Economic development
- Regeneration
- Public health
- Social wellbeing
- Environmental wellbeing
- Reducing inequalities of outcome from socio-economic disadvantage
- Any other benefits that might arise through the alternative use of the asset.

Asset transfer at less than market value is justified when these additional benefits empower communities and align with local and national priorities to enable the delivery of Best Value across the public sector as a whole. Such benefits are likely to align with one or more of the Scottish Government's National Outcomes, which all Scottish public authorities are required to have regard to in carrying out their functions. They may also contribute to the council's policy objectives or local priorities are determined through Community Planning, but the value of benefits should be judged on a broad basis, not only in relation to the particular authority to which the request is made.

When the price offered in an asset transfer request is less than the market value of the property, the council will need to consider whether the proposed benefits to be delivered by the community transfer body justify the proposed discount. This will be based solely on the analysis of the information included in the request. The benefits of the request should be proportionate to the value of the asset and the level of discount, with an appropriate level of information to support the application. Any decision to transfer an asset must represent good use of public resources.



The information provided in the asset transfer request should demonstrate that the project has clear objectives, including the projected outcomes and impacts sought by the community transfer body alongside any associated dependencies, constraints and risks identified.

Best Value themes should be explored with the evidence provided on those relevant to the application used to evaluate the strength of the case being made, including the sustainability of the proposal in the longer term. The request should include information on both qualitative and quantitative benefits that will be delivered as part of the proposal.

### Assessment of outcomes

It is recognised that measuring the value derived from community activity is not straightforward, especially for qualitative outcomes which may only be apparent in the long term, or cannot be directly attributed to one particular intervention. A number of methodologies have been developed for measuring social impact, including Social Return on Investment, Social Audit and others.

In reviewing each request, the following matters, though not exhaustive, will be considered:

1. Value to council in existing use
  - feasibility and cost of relocation of services elsewhere
  - potential revenue savings arising from transfer
2. Value for alternative use/redevelopment
3. Value for proposed and other community purposes
4. Level of community benefits
  - extent of community served
5. Nature of benefits to be delivered
  - links to council's corporate priorities and outcomes
  - community need/demand for the services
6. Likelihood that benefits will be delivered over a 5-year period
  - strength of organisation
  - sustainability of business plan/project
  - sources and level of funding support
7. Impact of project failure
  - to surrounding local environment
  - to reputation of the parties
  - to the service users/Council's objectives

The strength of the proposals will then be considered against the financial implications of any decision both for short-term budget planning and long-term asset strategies. This will include the consideration of the current use of the asset and any consequent implications that could arise from the transfer of the asset. A larger discount will require a stronger and more detailed case to be made with an appropriate level of benefits demonstrated effectively.

## **12. Multiple requests for the same property**

While we expect community-led organisations to work together to achieve locally agreed objectives it is recognised that there may be occasions when two or more organisations are interested in the same asset. In these circumstances each will be expected to complete an

application, and demonstrate engagement with, and the support of the local community for their proposal.

Each asset transfer request that is received must be processed in line with the procedures and timescales, even if further requests are received for the same land before the first has been concluded. There is no provision for the council to delay a decision on one request until it has considered another, unless the community transfer body making the first request has agreed to an extension of the timescale. Ideally, all community transfer bodies interested in a particular property would work together to submit a single request, but this is not always practical.

Each asset transfer request that is received prohibits the council from disposing of the land to anyone other than the community transfer body making that request, until it has been completed. Where there are multiple requests for the same land, this could result in overlapping prohibitions. The ultimate disposal of the land could not take place until all requests have been concluded, including any appeals.

The prohibition on disposal does not apply if the land has already been marketed or negotiations for transfer have begun before any asset transfer request is received. In this situation the council will keep the community transfer body informed of the progress of that process, so they can understand how this may affect their request.

### **13. Power to decline repeat requests**

The Act allows the council to choose not to consider a request which is the same or very similar to a previous request which was refused. This applies if the new request relates to the same land or building, and seeks the same type of transfer, as a request made in the previous two years, which was refused. Declining to consider a request under these circumstances does not count as a refusal of the request and therefore is not eligible for appeal or review. Where a repeated request is declined, the council will write to the community transfer body to advise them of the situation and the reason for declining the request.

### **14. Decision Notice**

Having made its decision, the council must issue a decision notice to the community transfer body setting out its decision and the reasons for it. This must be done within six months from the validation date, or a longer period if agreed between the council and the community transfer body. If no decision notice is issued within this time, the community transfer body has the right to request a review or appeal to the Scottish Ministers, as appropriate.

Longer periods may be required for complex requests or where another process is required to remove a restriction on the relevant authority. In such cases the council will advise the community transfer body of any potential delays at the earliest opportunity, and seek their agreement to an extension to the time period. An extension should always be agreed before the prescribed period expires.

The information to be provided in a decision notice must do the following:

- state the date on which the asset transfer request was made
- identify the community transfer body which made the request
- identify the land to which the request relates
- set out the council's decision to agree to or refuse the request
- set out the council's reasons for its decision
- contain notification of the right of appeal or review, how an appeal or application for review may be made, and the date by which it must be made.

And if the request is agreed:

- specify the terms and conditions on which the council is prepared to transfer ownership, lease the land or confer the rights requested
- state that, to proceed with the process, the community transfer body must submit an offer,
- specify the period within which the offer must be submitted (this must be at least 6 months from the date of the decision notice)

An asset transfer request must be agreed unless there are reasonable grounds for refusal: it is the decision notice that will set out those grounds, and if the community transfer body does not believe they are reasonable they may appeal or seek review of the decision. In particular, if a request is refused because an alternative proposal is preferred, the decision notice will describe the alternative proposal and how it was considered to provide greater benefits. The council's intention is for this process to be as transparent as possible and reasons will be given for any key information that is withheld, for example on grounds of commercial confidentiality.

If the request is agreed, the reasons may simply be that there were no reasonable grounds for refusal. However, if there were alternative proposals for the property, or objections to the transfer, the reasons might set out why the community transfer body's proposals were favoured.

The decision notice will be sent to the community transfer body at the contact address, and published online. The council will also inform anyone who made representations (and provided an address) of its decision and where the decision notice can be seen.

#### Notification of the right of appeal or review

As with the acknowledgement letter, the decision notice will advise the community transfer body of the type of appeal or review that is available to them. This notification will explain the circumstances, in which the appeal or application for review can be made, i.e. if the request has been refused, or if it has been agreed, in case the terms and conditions are significantly different from those in the request. Notification will also state who the appeal or application for review should be made to, with the address it should be sent to, and refer the community transfer body to the guidance on how to make the application. Any appeal must be made within 20 working days beginning with the date of the decision notice.

#### Terms and conditions for transfer

The terms and conditions (including price or rent) on which the council would be prepared to agree to the transfer may be the same as or different from, any terms and conditions set out in the request, or may add to those in the request. However, if they are significantly different the community transfer body may apply for a review or appeal against them.

The terms and conditions set out in the decision notice form the basis of the offer to be made by the community transfer body, and subsequent negotiations to conclude the contract for transfer. They will therefore be detailed enough for the community transfer body to decide whether or not they are willing to agree, and to write a meaningful offer.

The terms and conditions set out in the request will cover any issues that are key to the community transfer body's proposal; those set out in the decision notice will add anything the Council considers essential. They will also clearly include anything that may affect the community transfer body's ability to deliver their proposals or secure funding, such as any restrictions on use or conditions requiring repayment if benefits are not delivered.

The decision notice may be conditional on a range of factors, such as the community transfer body securing funding, planning permission or confirmation of charitable status.

## 15. After agreement

### Community transfer body's offer

The Act sets out the next steps after a relevant authority has issued a decision notice agreeing to an asset transfer request. The same process applies whether the request was agreed to initially or following a review or appeal.

In response to the decision notice, the community transfer body must submit an offer to take ownership of the land, lease it or take up the rights covered by the request. They must do this by the date stated in the decision notice, which has to be at least 6 months from the date of the decision notice. The offer must reflect the terms and conditions set out in the decision notice; if those terms and conditions are significantly different from those included in the request, and are not acceptable to the community transfer body, they can appeal or request a review. The offer can also include other reasonable terms and conditions that may be needed to make sure the transfer goes ahead within a reasonable time.

If no offer is made by the date set in the decision notice, (and the community transfer body did not appeal or request a review in relation to the terms and conditions within 20 working days of the decision notice), the process is at an end. The agreement to transfer the property to the community transfer body has no further effect, and the authority is free to keep it or dispose of it as it wishes.

The community transfer body can, of course, submit their offer at any point after the decision notice is issued. It may take much less than six months in straightforward cases.

### Conclusion of contract

Once the council has received the community transfer body's offer, there can be further negotiations between both parties to conclude the contract. If the request is for ownership or a long-term lease this will be like any other property transaction, with exchanges between lawyers to agree the final wording, although for other rights the process may be much simpler.

The contract must normally be concluded within 6 months of the date of the community transfer body's offer. This does not mean the transfer has to take place within that time, but the date for the transfer, the price or rent and any other terms and conditions must be agreed. The contract may be conditional on other factors that are needed to allow the community proposals to go ahead, such as confirmation of funding or planning permission.

### No contract concluded

If no contract is concluded within 6 months of the offer, and no other action is taken, the process is at an end. The community transfer body has no further claim on the property, and the council can keep it or dispose of it as they wish. Sometimes this is by mutual consent –circumstances may change, funding or other requirements may not be secured, and it may no longer be practicable to take the project forward. However, if the community transfer body believes there is still progress to be made, they can act to keep the request alive.

There are three options available to the community transfer body to keep the asset transfer request going beyond 6 months after the offer date:

- agree an extension with the council,
- apply to the Scottish Ministers for a direction to extend the period, or
- appeal to the Scottish Ministers, under section 83(6), to determine the terms and conditions of the contract, which the relevant authority can be required to accept.

An application to the Scottish Ministers for an extension must be made between 6 weeks and 4 weeks before the end of the 6 month period. The community transfer body must first try to agree an extension with the council, so this may be raised around 4 months into the negotiations. An extension can be agreed at any point, and need not be used if the contract is concluded sooner than expected. There is no limit on how long the extension may be, but there must be an end date.

If the end of the period is reached, either the original 6 months or an extended period, and no contract has been concluded, the community transfer body can appeal to the Scottish Ministers. This must be done within 10 working days of the end of the period.

#### Application to Scottish Ministers for an extension

The community transfer body can apply to the Scottish Ministers for a direction to extend the time allowed to conclude a contract in relation to an asset transfer request. The community transfer body must make its application between 30 working days (6 weeks) and 20 working days (4 weeks) before the end of the period of 6 months from the date of the community transfer body's offer.

At the same time as making the application to the Scottish Ministers, the community transfer body must send a copy of the application to the council. The council will have 10 working days to send any comments to the Scottish Ministers and the community transfer body.

Having considered the application and any comments made by the council, the Scottish Ministers will decide whether or not to make the direction as requested. The direction will be copied to both the council and the community transfer body, and will state the period within which the contract must be concluded.

## **16. Reviews and Appeals**

A community transfer body can seek a review or appeal if:

- their request is refused,
- the request is agreed, but the terms and conditions in the decision notice are significantly different from those in the request,
- no decision notice is issued within the required period or
- once an asset transfer request has been agreed, no contract has been concluded within the period allowed.

The community transfer body can apply for an internal review by the council's Asset Transfer Review Body (ATRB). That application for review must be made in writing to the council within 20 working days of the date of the council's decision notice and the ATRB must undertake its review and issue a further decision notice within 6 months of the date of review application.

If the outcome of the internal review does not resolve the issue, or if no decision is made within the required period, the community transfer body can then appeal directly to the Scottish Ministers. The community transfer body must send a notice of appeal in writing to the Scottish Ministers within 20 working days of the date of the council's decision notice. There is no defined timescale for the determination of appeals by the Scottish Ministers.

In all cases the final decision lies with the Scottish Ministers. There is no further route of appeal beyond them (except by judicial review).

## 17. Annual Reporting

The Act requires the Council to publish an annual report setting out the numbers of asset transfer request received and their outcomes. The report must state:

- how many asset transfer requests were received
- how many requests were agreed to or refused
- for requests agreed to, whether they resulted in transfer of ownership, lease or conferral of other rights
- for appeals relating to requests made to the relevant authority, how many have been allowed, dismissed, or have resulted in any part of the authority's decision being reversed or changed
- where decisions made by the authority have been reviewed, how many have been confirmed, modified or substituted by a different decision.

The report must also describe anything the relevant authority has done to promote the use of asset transfer requests and support community transfer bodies to make requests.

Annual reports cover each year from 1 April to 31 March and must be published by 30 June. The report will show the number of requests received in that year and the numbers agreed to or refused in that year.

The council's Community Asset Transfer Annual Report will be prepared by the Community Empowerment and Property Modernisation Officer and reported annually to the Council Executive by the Head of Finance and Property Services prior to publication.

## 18. Surplus Property Procedure

The council's updated Surplus Property Procedure was approved by Council Executive on 12 December 2023. The purpose of the Surplus Property Procedure is to:

- a) Provide a consistent, transparent and compliant process that ensures surplus property assets can be disposed of efficiently and effectively, minimising vacant property holding costs and securing the best terms reasonably obtainable for the council.
- b) Establish that the disposal of surplus property assets is agreed as being a commercial exercise, the primary aim of which is to secure the best consideration reasonably obtainable for the council, either by way of a capital receipt or commercial rental income, or disposal in accordance with the 2010 Regulations, securing Best Value.
- c) Establish a link to the council's approved Community Asset Transfer Policy through which any community or third sector organisation seeking to acquire or occupy council property on concessionary terms, or who wish "community benefit" to be taken into consideration, should pursue their interest by way of a community Asset Transfer Request under the provisions of Part 5 of The Community Empowerment (Scotland) Act 2015.

Accordingly, any community transfer body interested in acquiring council land or property and who wish to do so on concessionary terms or who wish community benefit to be taken into consideration shall be required to pursue their interest via the council's approved Community Asset Transfer Policy and its supporting governance arrangements.

Where the council is disposing of a property that has been formally declared surplus by the Council Executive in accordance with the approved Surplus Property Procedure, community benefit will only be taken into consideration where it forms part of a validated community asset transfer application.

Notwithstanding the provisions of the Act, the council will not delay or postpone the disposal or marketing of a surplus property to afford a community transfer body additional time to prepare and submit a community transfer application.

In order to raise awareness amongst any community groups with aspirations to explore community ownership and/or asset transfer, details of surplus properties are provided on the council's community asset transfer webpage.

## **19. Common good property**

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.

Part 8 of the Act imposes duties on local authorities in relation to common good property and 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.

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.” The first version of the council's Common Good Register was approved for publication by Council Executive on 22 March 2022 and supporting governance arrangements for the management of common good property were subsequently approved by Council Executive on 25 October 2022. The register is, by definition, a live and continually evolving document as properties are added to or removed from the register.

Community asset transfer requests that involve common good property must take cognisance of the statutory requirements of the Act and the council's approved procedures for the management of common good property and their supporting governance arrangements. Any decision notice issued by the council will require to take account of those statutory requirements.

## **20. Useful contacts and further information**

### West Lothian Council

- Community Empowerment and Property Modernisation Officer, Rachel Donald, [rachel.donald2@westlothian.gov.uk](mailto:rachel.donald2@westlothian.gov.uk), business mobile: 07979 724459.
- Strategic Property Asset Manager, Scott Hughes, [scott.hughes@westlothian.gov.uk](mailto:scott.hughes@westlothian.gov.uk), business mobile: 07920 086282.
- Community Business Growth Advisor, Martin Thomson, [martin.thomson@westlothian.gov.uk](mailto:martin.thomson@westlothian.gov.uk), direct dial: 01506 283089
- Community Regeneration & Employability Team Leader, Douglas Grierson, [Douglas.Grierson@westlothian.gov.uk](mailto:Douglas.Grierson@westlothian.gov.uk), business mobile: 07500 816852.

### The Community Ownership Support Service (COSS)

COSS is a Scottish Government funded service that helps community-based groups in Scotland take on land or building assets for the benefit of their community. COSS also support local authorities and other landowners wishing to transfer a building or land asset into community ownership. COSS's service includes independent expert advice, information on good practice, and training.

For further information contact Fiona Taylor, COSS Advisor, [fiona@dtascot.org.uk](mailto:fiona@dtascot.org.uk), business mobile: 07946 024029.

### Voluntary Sector Gateway West Lothian (VSGWL)

VSGWL aims to build capacity in the voluntary sector; to support the development of both individuals and social enterprise. They can provide advice on issues such as: funding, governance, training, legal structure, start-up, staff and volunteer recruitment, monitoring and evaluation, and networking.

VSGWL is located at 2 - 22 King Street, Bathgate, EH48 1AX and can be reached by email: [vsg@vsgwl.org](mailto:vsg@vsgwl.org) or by telephone (01506) 650111.

### Further information

The following additional information can be found on the council's Community Asset Transfer webpage at [www.westlothian.gov.uk/article/34944/Community-Asset-Transfer](http://www.westlothian.gov.uk/article/34944/Community-Asset-Transfer)

- West Lothian Council's Community Asset Transfer Policy
- West Lothian Council's Community Asset Transfer Request Form
- Community Asset Transfer Board Scorecard
- Scottish Government guidance for community transfer bodies
- Community Ownership Support Service (COSS) website
- Voluntary Sector Gateway West Lothian (VSGWL) website

(END)



**Appendix 3: Key changes proposed under the updated policy**

Proposed change	Relevant section of the policy document	Commentary and reasons for the proposed change
1. Information to be provided by the applicant	Section 3.4	<p>To enable the council to fully consider asset transfer requests and reach a competent decision within the statutory timescale, the updated policy suggests that community transfer bodies should be encouraged to provide the following additional supporting documentation as part of their application:</p> <ul style="list-style-type: none"> <li>• Evidence of community engagement that demonstrates need and support for the proposed project.</li> <li>• A skills audit that evidences the community transfer body's ability to successfully deliver and sustain the proposed project.</li> <li>• A valuation report prepared by the Valuation Office Agency or an alternative appointed RICS Registered Valuer that confirms the market value of the property. The valuation date stated in that report will be no more than three months from the date of the asset transfer application. That valuation report will be instructed jointly by the applicant and the council and the associated costs will be shared equally between those two parties.</li> </ul>

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Proposed change	Relevant section of the policy document	Commentary and reasons for the proposed change
2. Funding support from the council	Section 5.2	<p>The proposed updated policy seeks to establish that, beyond any discounted market value that may be agreed for the sale or lease of the property, the council will not provide any additional revenue or capital funding in support of the proposed asset transfer project, other than by virtue of the community transfer body making a successful bid into any general funds that are administered by the council and that are accessible to all community groups (for example the Placed Based Investment Fund).</p> <p>This reflects not only the serious financial revenue and capital pressures facing the council, but also the availability of designated national public funds such as the Scottish Land Fund and the Community Ownership Fund, who's function is to support, enable and fund community ownership projects, in addition to other national funders such as The National Lottery, Sportscotland and The Robertson Trust.</p>
3. Price to be paid by the applicant to acquire the property	Section 5.3	<p>The Scottish Government's published guidance confirms that community groups should not assume that assets will transfer at a nominal value and points to the duty on local authorities to secure Best Value. The updated policy seeks to clarify that guidance.</p> <p>The updated policy makes it clear that every asset transfer request will be considered and assessed on its own merits and that applicants should expect to pay either the established full market value of the property, or that value less an appropriate discount that reflects the non-financial community benefits that the proposed project would deliver.</p>
4. Community Asset Transfer Board Scorecard	Section 6	The updated policy references the Community Asset Transfer Board's scorecard used to assess and score asset transfer requests and provides information on how to access a copy of that scorecard.

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Proposed change	Relevant section of the policy document	Commentary and reasons for the proposed change
5. Surplus Property Procedure	Section 7	<p>The council's Surplus Property Procedure was updated and approved by Council Executive on 12 December 2023. The updated procedure establishes a link to the council's Community Asset Transfer Policy through which any community or third sector organisation seeking to acquire or occupy council property on concessionary terms, or who wish "community benefit" to be taken into consideration, should pursue their interest by way of a community asset transfer request.</p> <p>The updated policy seeks to reflect the provisions of the updated Surplus Property Procedure.</p>
6. Information on surplus properties	Section 7	In accordance with the provisions of the Surplus Property Procedure, the updated policy confirms that details of all properties that are declared surplus by the council will be listed on the council's community asset transfer webpage.
7. Common Good property	Section 8	The updated policy confirms that community asset transfer requests that involve common good property must take cognisance of statutory requirements and the council's approved procedures for the management of common good property and their supporting governance arrangements.

(END)

## APPENDIX 4: Equality Relevance Assessment

1. Details of proposal	
Policy title	The Community Empowerment (Scotland) Act 2015 – Community Asset Transfer Policy & Governance Review
Lead officer	Scott Hughes (Strategic Property Asset Manage
Date relevance considered	14 March 2024
2. Does the council have control over how this policy will be implemented?	
YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/> No Legislation will influence Council Policy
3. Do you have evidence or reason to believe that this policy will, or may potentially:	
General Duties	Impact on equality (Yes or No)
Reduce or increase discrimination, victimisation or harassment against people covered by the equality protected characteristics?	No
Reduce or increase equality of opportunity between people who share an equality protected characteristic and those who do not?	No
Provide opportunity to improve good relations between those who share an equality protected characteristic and those who do not?	No
4. Equality impact assessment required? (Two Yes above = full assessment necessary)	
YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/> No
5. Decision rationale	
<p>The proposed policy and processes for Community Asset Transfer makes no discrimination on the grounds of gender, religion, ethnicity, age, or sexual orientation.</p> <p>The aims of the strategy is to ensure that opportunities for asset transfer and the determination of application is open, transparent and fair.</p>	

- No assessment required – process ends



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## **COUNCIL EXECUTIVE**

### **PROPOSED EXTENSION OF LEASE TO THE LORD ADVOCATE OF OFFICE ACCOMMODATION AT THE WEST LOTHIAN CIVIC CENTRE, LIVINGSTON**

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

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

The purpose of this report is to seek Council Executive approval for a five year lease extension of office accommodation at the West Lothian Civic Centre, Howden South Road, Livingston in favour of the Lord Advocate.

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

It is recommended that Council Executive;

1. Approves a five year lease extension of office accommodation at the West Lothian Civic Centre, Howden South Road, Livingston to the Lord Advocate on the terms set out in this report.
2. Authorises the Head of Finance and Property Services to negotiate any further terms and conditions or changes to those outlined in the report on the basis that these continue to represent the achievement of best value for the council.

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

<b>I</b>	<b>Council Values</b>	Caring and compassionate, open, honest, accountable and collaborate, inclusive and adaptive. Focusing on our customers' needs, Making best use of our resources.
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	The disposal and leasing of property is governed by S74(2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	Rental income as set out in the report will contribute toward the council's revenue budget targets for the Tenanted Non-Residential Property (TNRP) portfolio.

<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	Our economy is diverse and dynamic and West Lothian is an attractive place for doing business. 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>	The income as set out in the report will contribute to the council's revenue budget targets.
<b>VII</b>	<b>Consideration at PDSP</b>	Not applicable.
<b>VIII</b>	<b>Other consultations</b>	Local elected members for the ward have received a copy of this report for their information.

## **D. TERMS OF REPORT**

### **D1. Background**

Under the governance of the Lord Advocate, the Crown Office Procurator Fiscal Service (COPFS) currently occupy 401m<sup>2</sup> of office accommodation on the second floor, north wing of the West Lothian Civic Centre, Howden South Road, Livingston. The extent of that accommodation is shown crosshatched in black on the floor plan provided at Appendix 1 of this report.

The COPFS has occupied that accommodation since 2009 under the terms of a fifteen year lease that is due to expire on 31 August 2024. The COPFS are seeking a five year extension to that existing agreement in order to provide them with security of tenure during that period and enable them to continue to benefit operationally from being co-located in the same building as other linked public services, such as the Scottish Courts Service.

### **D2. Proposed lease terms**

The following terms for a lease extension have been provisionally agreed between the parties:

Landlord:	West Lothian Council
Tenant:	The Lord Advocate
Subjects:	401m <sup>2</sup> of office accommodation on the second floor, north wing at the West Lothian Civic Centre, Howden South Road, Livingston
Lease term:	5 years from 1 September 2024
Rental:	£106,965 per annum plus VAT
Other lease terms:	All other existing lease terms shall remain unchanged.
Fees:	The landlord's professional fees and costs will be borne by the tenant.

The annual rental figure agreed with the Lord Advocate represents full market value for the lease of the accommodation in question.

**E. CONCLUSION**

It is considered to be in the council's best interests to grant a five year lease extension to the Lord Advocate on the terms set out in this report and as such Council Executive is recommended to approve the granting of that lease extension.

**F. BACKGROUND REFERENCES**

None.

Appendices/Attachments: Appendix 1 – Floor plan

Contact Person: Jacqueline Steven (Commercial Property Surveyor)  
Property Services, West Lothian Council  
Tel: (01506) 283405  
E-mail: [jacqueline.steven@westlothian.gov.uk](mailto:jacqueline.steven@westlothian.gov.uk)

**Patrick Welsh**

**Interim Head of Finance and Property Services**



Date of meeting: 16 April 2024





CIVIC CENTRE- SECOND FLOOR

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

	<b>Second Floor, Civic Centre, South Howden Road, Livingston</b>			Not to Scale	A4	<div>N</div> 
	Property Services, West Lothian Civic Centre, Livingston, EH54 6FF	26/2/2024	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 AC0000849533 2024			

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## **COUNCIL EXECUTIVE**

### **PROPOSED LEASE EXTENSION FOR NURSERY PREMISES AT LAIRD'S LODGE, POLKEMMET COUNTRY PARK, WHITBURN**

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

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

The purpose of this report is to seek Council Executive approval for the council to grant a fifteen-year lease extension for the nursery premises occupied by Polkemmet Daycare Limited at Laird's Lodge, Polkemmet Country Park, Whitburn on the terms set out in this report.

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

It is recommended that Council Executive:

1. Approves the lease extension for the nursery premises at Laird's Lodge, Polkemmet Country Park, Whitburn based on the terms set out in this report, and;
2. Authorises the Head of Finance and Property Services to negotiate any further terms and conditions or changes to those outlined in the report on the basis that these continue to represent the achievement of Best Value for the council.

##### **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>	Disposal and leasing of property governed by S74(2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	Recommendation B2 seeks approval to authorise the Head of Finance and Property Services to execute and deliver any further terms and conditions or changes to those outlined in the report on the basis that these shall continue to represent the achievement of Best Value.
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	Rental income as set out in the report will contribute towards the council's revenue budget targets for the tenanted non-residential

portfolio (TNRP).

<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	The proposal will support the delivery of Single Outcome Agreement objectives including: Our economy is diverse and dynamic and West Lothian is an attractive place for doing business; and 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>	Rental income as set out in the report will contribute to the council's approved revenue budget targets.
<b>VII</b>	<b>Consideration at PDSP</b>	None, not applicable.
<b>VIII</b>	<b>Other consultations</b>	The local elected members for the ward have received a copy of this report for their information.

## **D. TERMS OF REPORT**

### **D.1 Background**

The subject nursery premises located at Laird's Lodge, Polkemmet Country Park, Whitburn. The Council granted a lease of the property to R. J. Bushcraft Limited which was subsequently assigned to Polkemmet Daycare Limited in 2018. The original lease was for a term of six years. The current lease terms are as follows;

- i) Lease Term: 6 years.
- ii) Expiry Date: 30 September 2024
- iii) Current Rent: £4,250 per annum

Polkemmet Daycare Limited is seeking an additional fifteen-year lease term. Polkemmet Daycare Limited have also requested that the proposed lease variation incorporates the inclusion of a small outdoor area highlighted by the straight hatched area on Appendix 1 which they currently utilise under a licence agreement.

### **D.2 Proposed Lease Terms**

The Proposed lease terms negotiated by officers are as follows;

- i) Tenant: Polkemmet Daycare Limited.
- ii) Term: The lease shall be extended by fifteen years with an expiry of 30 September 2039.
- iii) Annual Rent: Increased to £5,000 pa from 1 October 2024.
- iv) Rent Review: 5 yearly (upward only) rent reviews calculated utilising RPI.

v) Other Terms: The outdoor area currently utilised under the licence agreement shall be included within the tenant's demised area as per Appendix 1. All other terms and conditions will remain unchanged.

vi) Fees: All costs associated with this transaction shall be borne by the tenant.

It is proposed that the Head of Finance and Property Services is authorised to carry out any further negotiations with the proposed tenant in respect of the lease conditions on the basis that any revised terms still represent the achievement of Best Value for the council.

#### **E. CONCLUSION**

It is considered to represent good estate management principles to secure as long a lease term as possible and also in the best interests of the council to extend the lease for the Nursery premises located at Laird's Lodge, Polkemmet Country Park, Whitburn for a period of fifteen years in accordance with the terms and conditions set out above.

#### **F. BACKGROUND REFERENCES**

None.

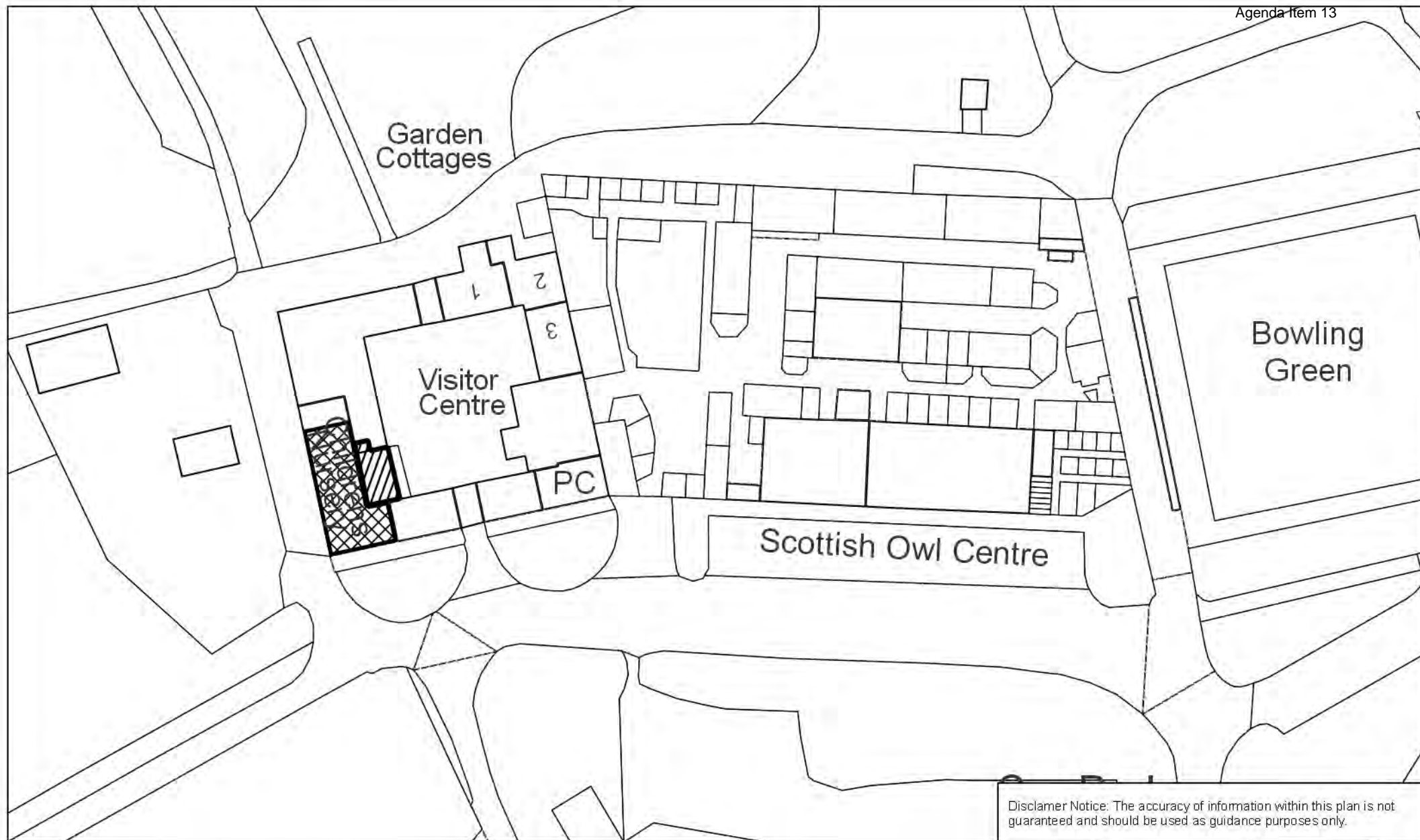
**Appendices/Attachments:** Appendix 1 - Location plan.

**Contact Person:** Tracey J W Thomson, Commercial Property Surveyor.

Tel: 0750017848 / Email: tracey.thomson@westlothian.gov.uk

**Patrick Welsh,**  
**Interim Head of Finance and Property Services**

Date of meeting: 16 April 2024.



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# **Lairds Lodge, Polkemmet Country Park, Whitburn**

Not to Scale

A4



Property Services, West Lothian Civic Centre, Livingston, EH54 6FF

27/3/2024

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## **COUNCIL EXECUTIVE**

### **PROPOSED SALE OF 337M<sup>2</sup> AT UNION ROAD, LINLITHGOW TO MR. ALLAN McFARLANE**

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

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

The purpose of this report is to seek Council Executive approval for the sale of 337m<sup>2</sup> of land at Union Road, Linlithgow to Mr. Allan McFarlane for the sum of £120,500.

#### **B. RECOMMENDATION**

It is recommended that Council Executive:

1. Approves the sale of 337m<sup>2</sup> of land at Union Road, Linlithgow to Mr. Allan McFarlane for £120,500 on the terms set out in this report.
2. Authorises the Head of Finance and Property Services to carry out any further negotiations in respect of the terms of sale for the property, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

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

<b>I</b>	<b>Council Values</b>	Caring and compassionate, open, honest, accountable and collaborate, inclusive and adaptive.
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
<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 sale of this land will contribute towards the council's 2024/25 capital receipts target.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	We make the most efficient and effective use of resources by minimising our impact on the built and natural environment. Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.



<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	A capital receipt of £120,500 will be received during the 2024/25 financial year for the Housing Revenue Account.
<b>VII</b>	<b>Consideration at PDSP</b>	Not applicable.
<b>VIII</b>	<b>Other consultations</b>	Housing Customer and Building Services  The local elected members for the ward have received a copy of this report for their information.

## **D. TERMS OF REPORT**

### **D1. Background**

The area of council-owned land at Union Road, Linlithgow shown crosshatched in black on the location plan at Appendix 1 of this report extends to 337m<sup>2</sup> and is held on the Housing Revenue Account (HRA). A title check has been undertaken and the site is confirmed as not being common good property.

Tenant's Panel approval was previously secured to dispose of this site and in January 2024 officers openly marketed it for sale, with a closing date for offers to purchase set for 13 March 2024.

A number of offers were received at that closing date. Following appraisal of those offers, officers consider that the offer received from Mr. Allan McFarlane for the sum of £120,500 represents the best terms reasonably obtainable by the council. The offer made by Mr. McFarlane was the highest offer received at the closing date. Mr. McFarlane has confirmed that he proposes to build a residential property on the site, however his offer is not conditional upon him securing planning permission for his proposed development.

There were no offers or expressions of interest received from community groups at the closing date and no community asset transfer requests have been received for this property.

### **D2. Proposed terms of sale**

The proposed terms of sale can be summarised as follows:

Seller:	West Lothian Council
Purchaser:	Mr. Allan McFarlane
Subjects:	337m <sup>2</sup> at Union Road, Linlithgow
Purchase price:	£120,500 (excluding any VAT payable)
Date of entry:	Upon conclusion of the legal conveyance in favour of the purchaser.
Legal fees:	Each party shall meet their own legal fees.

Suspensive conditions:	The sale is not conditional upon the purchaser securing planning permission for his proposed development of the subjects.
------------------------	---

Delegated authority is sought for the Head of Finance and Property Services to negotiate detailed terms and conditions, provided that these do not materially affect the offer outlined above and that the transaction continues to represent best value.

In accordance with statutory requirements relating to the disposal of HRA assets, the purchase price received from the sale of this site will be retained by HRA.

## **E. CONCLUSION**

The offer received from Mr. Allan McFarlane for £120,500 represents the best terms reasonably obtainable by the council from the sale of the 337m<sup>2</sup> site at Union Road, Linlithgow. Council Executive is therefore recommended to approve the sale of that site to Mr. McFarlane on the terms set out in this report.

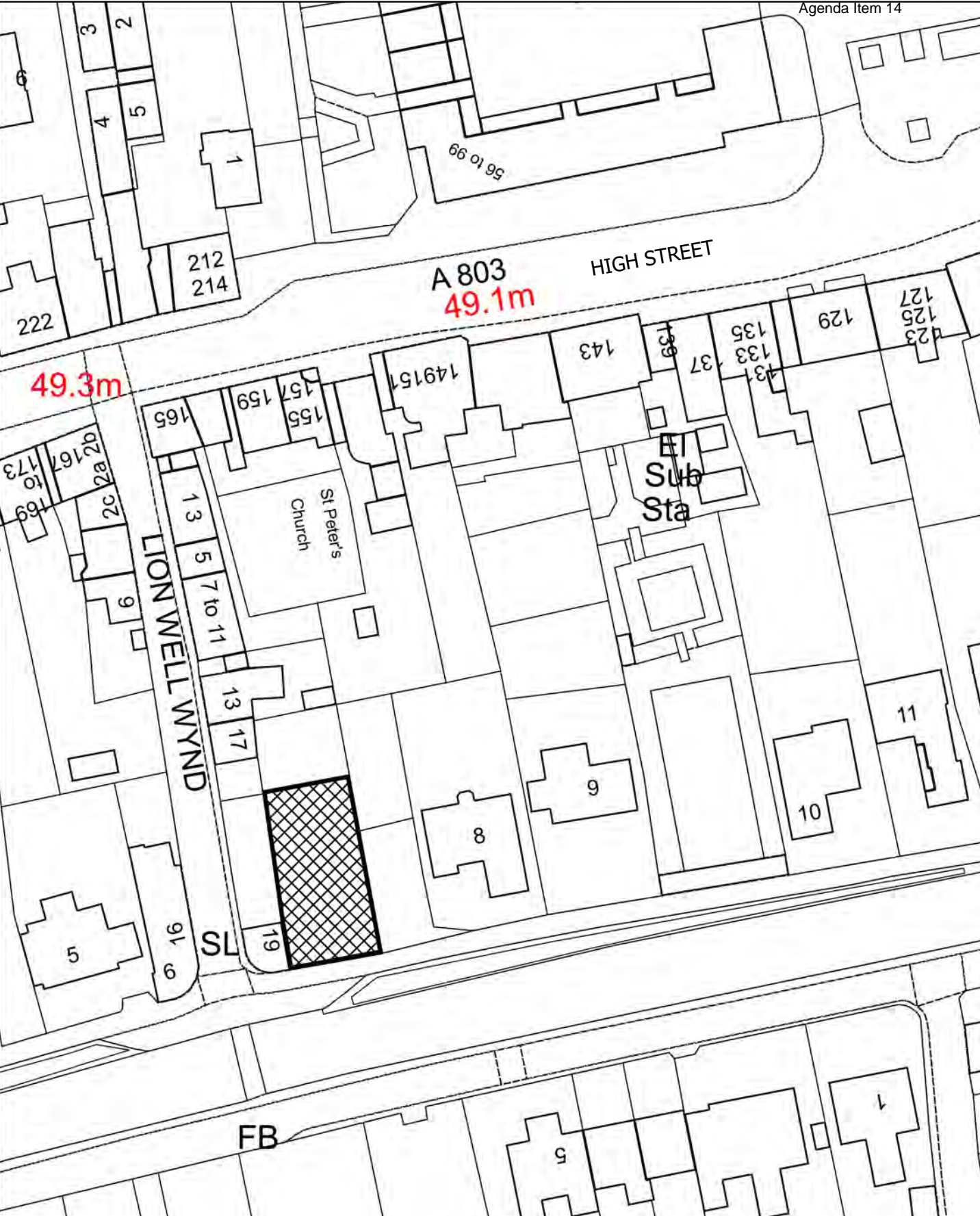
Appendices/Attachments: Appendix 1 - Location plan



Contact Person: Jacqueline Steven (Commercial Property Surveyor)  
Property Services, West Lothian Council  
Tel. 07901114348  
E-mail: [jacqueline.steven@westlothian.gov.uk](mailto:jacqueline.steven@westlothian.gov.uk)

**Patrick Welsh**  
**Interim Head of Finance and Property Services**

Date of meeting: 16 April 2024





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	<b>Plot at Union Road, Linlithgow</b> Property Services, West Lothian Civic Centre, Livingston, EH54 6FF	Not to Scale	 26/3/2024

DATA LABEL: PUBLIC

**COUNCIL EXECUTIVE****WEST LOTHIAN IJB 2023/24 SOCIAL POLICY OVERSPEND****REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES****A. PURPOSE OF REPORT**

To provide Council Executive with an update on the West Lothian Integration Joint Board (IJB) proposal for managing the overspend in Social Policy functions delegated to the IJB.

**B. RECOMMENDATION**

It is recommended that Council Executive:

1. Notes the IJB proposal for managing the overspend in Social Policy IJB.
2. Agrees that the year-end overspend within Social Policy IJB be funded equally by the council and from IJB reserves, with the council's share to be met from the Risk and Inflation reserve as necessary, based on the council's final outturn position for 2023/24.

**C. SUMMARY OF IMPLICATIONS**

<b>I</b>	<b>Council Values</b>	Being caring, compassionate, open, honest and accountable. Working collaboratively, inclusively and adaptively.
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Public Bodies (Joint Working) (Scotland) Act 2014. Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014. West Lothian Integration Scheme.
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None.
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	Ongoing funding restraint is likely to have implications for performance.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	None.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	Budget resources allocated to the IJB for 2023/24 are £96.440 million.

The forecast outturn position for Social Policy IJB is an overspend of £850,000.

**VII Consideration at PDSP** None required.

**VIII Other consultations** Chief Officer and Chief Finance Officer of West Lothian IJB, Head of Social Policy, Governance Manager.

## **D. TERMS OF REPORT**

### **D.1 Background**

**D.1.1** West Lothian IJB was established on 1 April 2016 under the Public Bodies (Joint Working) (Scotland) Act 2014, and has been delegated a number of functions by West Lothian Council and NHS Lothian related to health and social care.

The IJB's role is to set the strategic direction for the functions delegated to it and to deliver the priorities set out in its Strategic Plan. The IJB brings together the planning, resources and operational oversight for a substantial range of adult health and social care functions into a single system. The delegation of duties, the arrangements for funding, and the specifics for integration and joint working are described in the Integration Scheme between West Lothian Council and NHS Lothian. As a matter of law, the council, NHS Lothian and the IJB must all act in accordance with the Scheme.

### **D.2 Current Social Policy IJB Position**

**D.2.1** As reported to Council Executive on 6 February 2024, the forecast outturn for the General Fund revenue budget at month 9 is an overspend of £2.025 million, and this figure includes a forecast overspend for Social Policy IJB of £850,000.

As previously reported to Council Executive, the current forecast overspend is due to growing demands for care and support, especially in Adults with Learning Disabilities, along with pressures related to staff costs in internal services. The forecast overspend of £850,000 at month 9 in Social Policy IJB was also reported to the IJB in the Finance Report by the IJB Chief Finance Officer on 26 March 2024. The budget-setting decisions made by council on 22 February 2024 were for future years and did not touch on the 2023/24 position.

### **D.3 Management of IJB Overspends**

**D.3.1** The Integration Scheme sets out the process for managing variances in the individual partner budgets of the IJB, including where there is an overspend position. The IJB Chief Finance Officer works with the partners to develop remedial action. Should that remedial action not be fully effective, the Scheme requires that the relevant partners work together to propose a recovery plan to address the forecast overspend. This recovery plan was presented to and approved by the IJB on 26 March 2024, and includes actions relating to scrutiny and ongoing review of high cost care packages, along with review of staff costs and transportation that is intended to enable the 2023/24 overspend to be managed within budget in future years.

Where an overspend is forecast to occur at the financial year end, as is the case for 2023/24, the partners may make additional payments to the Board. The Chief Finance Officer of the IJB and the partners shall engage in discussion and negotiation about the amounts to be paid by each partner.

The Scheme requires all parties to approach discussions and negotiations in good faith, recognising the pressures and constraints on their respective budgets and

services. Discussions to address this overspend have been carried out in that manner. However, the Scheme recognises and the parties to it accept that an overspend is at the risk of the Party incurring the overspend, and the residual amount of overspend after usage of reserves must, in the absence of any other agreement, be met by that Party. In this case, that would be the council's risk in the absence of agreement.

#### **D.4 Proposal Regarding Funding of Overspend Position**

- D.4.1** The IJB Finance Report of 26 March 2024 proposed that the funding of the overspend position be shared equally between the council and the IJB. In line with the Integration Scheme, this proposal was discussed with council officers in advance of the meeting and considered a fair and equitable approach. The IJB agreed to the proposal, subject to the council agreeing to it as well.
- D.4.2** As precedent for this proposal, it is noted that on 20 June 2023, Council Executive made the decision to allocate additional one-off resources of £1.216 million to establish a new earmarked reserve specifically for the three long term placement care homes. This represented 50% of the cash value of the savings measure associated with the three care homes, with the remaining 50% to be funded by the IJB. In line with this previous agreement by both parties for care homes savings, the proposal for the current overspend position is that this will be funded in the same manner, with 50% funded by the council and 50% from IJB reserves. Based on the current forecast overspend position of £850,000, this would mean £425,000 would be contributed by each partner, but the final share will be based on the year end overspend position for Social Policy IJB functions.
- D.4.4** The forecast overspend of £2.025 million for the General Fund revenue budget at month 9 included the full £850,000 forecast overspend for Social Policy IJB. It is important to note that there is still a number of risks around the overall council outturn and the Social Policy outturn in particular. The final share of the Social Policy IJB overspend will be confirmed in the draft outturn report for 2023/24 which will be reported to Council Executive in June 2024. Taking account of council and IJB officer discussions and the agreed Integration Scheme, it is recommended that this approach to managing the overspend in Social Policy IJB is agreed by Council Executive.

#### **E. CONCLUSION**

Based on the month 9 monitoring exercise, the forecast outturn for Social Policy IJB is an overspend of £850,000. Taking account of discussions with council officers, a proposal was put to and agreed by West Lothian IJB to fund the final year end overspend equally between the council and the IJB. Based on a prior agreement related to long term placement care home savings, it is considered that this is a fair and equitable approach to managing the overspend on Social Policy IJB for 2023/24. Based on the council's final outturn position for 2023/24, the council's share of the Social Policy IJB overspend would be met through the Risk and Inflation reserve.

#### **F. BACKGROUND REFERENCES**

2023/24 Forecast Outturn – report to West Lothian IJB on 26 March 2024  
 2023/24 General Fund Revenue Budget - Month 9 Monitoring Report – report to Council Executive on 6 February 2024  
 Draft 2022/23 General Fund Revenue Budget Outturn And Update On One-Off Resources – report to Council Executive on 20 June 2023  
 Integration Scheme between West Lothian Council and Lothian Health Board

Appendices/Attachments:

None

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**Patrick Welsh**  
**Interim Head of Finance and Property Services**  
**16 April 2024**

DATA LABEL: PUBLIC



## **COUNCIL EXECUTIVE**

### **HOWDEN PARK CENTRE UPDATE**

#### **JOINT REPORT BY DEPUTE CHIEF EXECUTIVE (EDUCATION, PLANNING, ECONOMIC DEVELOPMENT AND REGENERATION SERVICES) AND HEAD OF FINANCE AND PROPERTY SERVICES**

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

This report provides updates on the work undertaken by officers since the decisions taken by Council Executive at its meeting on 16 January 2024 in relation to the lease and operation of Howden Park Centre, Livingston, for the period beyond 31 March 2024.

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

It is recommended that Council Executive notes the updates provided in the report and that the work undertaken by officers to date will allow for the overarching objectives for the project to be delivered.

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

<b>I. Council Values</b>	Caring and compassionate; open, honest and accountable; and collaborate, inclusive and adaptive.
<b>II. Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	The lease agreement under which Reconnect SCIO will operate Howden Park Centre takes account of the council's existing commitments to Firefly Arts, has been progressed in accordance with the council's approved Surplus Property Procedure, ensures the council is compliant with the legal requirement under section 74 of the Local Government (Scotland) Act 1973 when disposing of land, and fulfils its statutory duties under best value as set out in the Local Government Scotland Act 2003.
<b>III. Implications for Scheme of Delegations to Officers</b>	None.  The delegated authority previously provided to officers will not be required beyond the point of implementation.
<b>IV. Impact on performance and performance Indicators</b>	Potential for the proposed changes to impact positively on associated Local Government Benchmarking Framework indicators and those aligned to Local Outcome Improvement Plan outcomes shown below.

- |   |  |
|---|--|
| <b>V. Relevance to Single Outcome Agreement</b>           | We live longer, healthier lives and have reduced health inequalities. We live in resilient, cohesive and safe communities. We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.  |
| <b>VI. Resources - (Financial, Staffing and Property)</b> | <p>On 23 May 2023, Council Executive agreed that £140,000 of one-off revenue funding be provided to support the ongoing operation of Howden Park Centre for the period to 31 March 2024.</p> <p>The associated grant funding agreement with Reconnect SCIO will conclude on that date.</p> |
| <b>VII. Consideration at PDSP</b>                         | Not applicable.  |
| <b>VIII. Other consultations</b>                          | <p>Education Services.</p> <p>Finance &amp; Property Services.</p> <p>Legal Services.</p> <p>Corporate Transformation Team.</p> <p>Economic Development and Regeneration.</p>  |

## **D. TERMS OF REPORT**

### **D.1 BACKGROUND**

At its meeting on 16 January 2024, Council Executive noted updates and further information on the work undertaken by officers to facilitate the continued operation of Howden Park Centre for the period up to and beyond 31 March 2024.

It was noted that, having concluded a marketing, bidding and assessment process, an offer submitted by Reconnect SCIO to lease and operate the venue was considered by officers to represent the best terms that could reasonably be obtained by the council in compliance with section 74 of the Local Government (Scotland) Act, whilst also facilitating continued compliance with the council's ongoing funding obligations to Creative Scotland.

In turn, Council Executive agreed to lease Howden Park Centre to Reconnect SCIO for the period to 17 February 2035, with delegated authority being provided to the Head of Finance and Property Services to carry out further lease negotiations on the basis that any revised terms and conditions still represented the best terms that could reasonably be obtained.

Delegated authority was also provided to the Depute Chief Executive (Education, Planning, Economic Development and Regeneration Services) to seek Creative Scotland consent for the recommended arrangements and to enter into any operating or other agreements required to achieve implementation of the bid proposals by Reconnect SCIO.

The overarching objectives were to ensure that the venue could remain open and operate successfully going forward under a viable and sustainable business model, that the council's ongoing obligations under its grant funding agreement with Creative Scotland were protected, and that the subjects were let on the best terms reasonably obtainable in accordance with the statutory requirements of section 74 of the Local Government (Scotland) Act 1973.



## **D.2 CREATIVE SCOTLAND CONSENT AND LEASE POSITION**

Officers have continued to engage with representatives of Creative Scotland on matters relating to Howden Park Centre. This engagement has been positive and Creative Scotland consent has been secured for Reconnect SCIO's lease of the premises and the associated operational arrangements for the period to 17 February 2035, making that lease period coterminous with the council's historic funding agreement with Creative Scotland.

The lease between Reconnect SCIO and the council for Howden Park Centre for the period to 17 February 2035 is in place and Reconnect SCIO is currently occupying and operating the facility under the terms of that concluded agreement.

The programme proposed by Reconnect SCIO as part of its recent bid is also considered to fully align with the terms of the funding agreement with Creative Scotland and, as set out in section D.3 below, provisions have been included in the future operating agreement to ensure that the council will continue to meet all related conditions of funding.

## **D.3 OPERATING AGREEMENT**

A separate operating agreement has been prepared to complement the aforementioned lease which includes:

- Specific operator undertakings for Reconnect SCIO which will allow the council to continue to meet its funding obligations to Creative Scotland. For example, relating to the ongoing provision and development of the venue programme, partnerships with key stakeholders and organisations using the venue, and public access provisions.
- Details of the threshold liability mechanism which will be used to calculate sinking fund contributions and the value of the rent payments to be made by Reconnect SCIO to the council going forward.
- Arrangements for the ongoing monitoring and reporting of Reconnect SCIO's financial and operational performance in respect of the venue.
- Provision for the subjects of lease to be varied to include a small, external seated area immediately adjacent to the building that will support Reconnect SCIO's ongoing operation of the facility.

Although the development and related discussions on the terms of the operating agreement are in the final stages and are yet to be formally concluded by both parties, Reconnect SCIO has confirmed this will not interrupt or in any way impact upon service delivery given that Creative Scotland consent has been obtained by the council and due to the subsequent continuation of its lease for the period to 17 February 2035.

## **E. CONCLUSION**

This report provides updates on the arrangements that have been agreed and implemented for the ongoing lease and operation Howden Park Centre.

Through its previously submitted offer and the operational and financial performance it has demonstrated since 1 September 2023, Reconnect SCIO is well placed to operate the venue going forward on a sustainable basis, without ongoing funding from the council and in a manner which facilitates continued compliance with the council's ongoing obligations to Creative Scotland.



Programming and marketing support for the venue will continue to be provided by officers, particularly in relation to ongoing development of the venue's community programme and related partnerships, alongside general promotion of venue activity via council social media channels.

## **F. BACKGROUND REFERENCES**

Council Executive – 16 January 2024 - Proposed Leasing Arrangements for Howden Park Centre, Livingston – Joint Report by Deputy Chief Executive (Education, Planning, Economic Development and Regeneration Services) and Head of Finance & Property Services

Council Executive – 3 October 2023 - Howden Park Centre: Updates and Future Planning – Joint Report by Deputy Chief Executive (Education, Planning, Economic Development and Regeneration Services) and Head of Finance & Property Services

Council Executive – 12 December 2023 – Surplus Property Procedure – Report by Head of Finance and Property Services

Appendices: None

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**16 April 2024**