



## STANDING ORDERS

# SCHEME OF DELEGATION TO OFFICERS

DOCUMENT HISTORY
<b>This version was updated and published on 4 July 2022 to incorporate changes made up and including meetings until 30 June 2022</b>
The Scheme is updated quarterly by the Governance Manager to incorporate:- <ul style="list-style-type: none"><li>• changes flowing from decisions of full council or committee</li><li>• management restructures, service reorganisations, replacement or re-enactment of existing legislation</li></ul>
The updated Scheme is then published on the <a href="#">internet</a> and <a href="#">intranet</a> . It is available for inspection by the public at West Lothian Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF.
(See Paragraph 1.6 and Appendix 1 for procedures for updating and re-publication).
See Introduction paragraph 1.9 in relation to powers delegated during or as a result of the COVID-19 pandemic in 2020 and 2021.

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## **1 INTRODUCTION**

- 1.1 Legislation governs the decision-making processes of the council. In terms of sections 56 and 57 of the Local Government (Scotland) Act 1973, all decisions which are to be binding on the council must be taken at meetings of the full council, a committee or sub-committee of the council, or be taken by individual officers exercising authority specifically given to them by the council.
- 1.2 Section 50G(2) of the 1973 Act also requires the council to publish a list of all the powers delegated by the council to officers where such powers are to last for longer than six months. This Scheme has been produced to comply with these sections of the 1973 Act.
- 1.3 The council has reserved few powers to itself and has agreed extensive delegation to committees and to officers. The matters reserved to the council are listed in section A (paragraph 1) of the council's Scheme of Administration. The matters reserved to committees are mainly the strategic, policy and regulatory issues requiring to be decided by the council, while the day-to-day operational matters of running the council's services are delegated to officers.
- 1.4 The approach in this Scheme to setting out the delegations of authority to officers is to require the delegations to be given to the council's senior officers who are the Chief Executive, Depute Chief Executives and Heads of Service. These officers can, in turn, delegate any of their delegated authority to other officers under their direction, as detailed in paragraph 5.7 of this Scheme. Other than where a delegation is starred (see 7.1, below), In the absence of a Head of Service the relevant Depute Chief Executive and Chief Executive may act. In the absence of a Depute Chief Executive the Chief Executive may act.
- 1.5 The officers' delegated powers are divided into those dealing with services delivered directly to the public or businesses and the West Lothian community (public services) and those which are corporate functions of the council. Corporate functions include those services, such as payroll administration and information technology services, which are delivered internally within the council in support of the council's public services. Corporate functions also include those functions which affect the council as a whole or a number of different services across the council such as preparing and reviewing the council's Corporate Plan. In addition, this Scheme lists the statutory responsibilities of particular officers where legislation requires the council to appoint an officer to carry out a specific statutory function.
- 1.6 In terms of the council's Code of Corporate Governance, this Scheme of Delegation to Officers requires to be reviewed once every administrative term, that is once every four years. The Chief Executive, as Clerk to the Council, is authorised under Standing Order 33 for the Regulation of Meetings to amend this Scheme of Delegation to Officers in order to reflect any decisions of the council and any new legislation which affect this Scheme. The procedure followed by the Clerk to discharge this duty is set out in the Appendix 1 of this Scheme.
- 1.7 References to legislation have been inserted in this Scheme where the council is required by legislation to make appointments, such as proper officers, for specifically defined purposes, or where legislation authorises the council to take specific action affecting individuals' rights, such as issuing fixed penalty notices. Legislation giving the council general enabling powers to carry out functions has not been included in the Scheme. Any reference in this Scheme to legislation should be taken as including

any amendments, replacements and re-enactments of such legislation currently in force.

1.8 Within the Scheme of Delegation to Officers, the following terms mean:-

1.8.1 "Depute Chief Executives"

- Depute Chief Executive (Heath & Social Care Partnership) (joint appointment with Lothian Health Board)
- Depute Chief Executive (Corporate, Operational and Housing Services)
- Depute Chief Executive (Education & Planning Services)

1.8.2 "Heads of Service":-

- Head of Finance & Property Services
- Head of Social Policy
- Head of Corporate Services
- Head of Housing, Customer & Building Services
- Head of Operational Services
- Head of Education (Learning, Policy & Resources)
- Head of Education (Curriculum, Quality Improvement & Performance)
- Head of Planning, Economic Development & Regeneration

1.8.3 "Delivering and reviewing" a strategy, scheme, plan or other similar document referred to in this Scheme includes the preparation and drafting of such documents, consulting on them, and implementing, delivering and reviewing them, but does not include approving them or approving any revisions of them of a material nature. Those matters require the approval of full council or relevant committee, as appropriate, unless specifically delegated to officers in this Scheme.

1.9 Some powers were delegated in response to the COVID-19 pandemic in 2020 without it being clear when the emergency period would end. As a result it was not possible to determine if those powers would endure for more than the six months required for them to be included in the Scheme. They were initially therefore incorporated and shown in red and included reference to COVID-19. Following the extension of the emergency period until 31 March 2021 those powers have been absorbed into the Scheme in the usual way.

## **2 GENERAL TERMS**

The matters in this scheme are delegated to council officers. However, the following rules apply to all delegations.

## **2.1 Policy**

- 2.1.1 Officers must use the authority delegated to them according to the policy of the council, its committees and sub-committees. The relevant committee will decide new policy, subject to the terms of Standing Order 35 for the Regulation of Meetings.
- 2.1.2 If there is a question on whether a decision taken by or action authorised by a committee, sub-committee, Depute Chief Executive or Head of Service sets up or alters council policy on any matter, it will be decided by the Chief Executive in consultation with the Leader of the Council and appropriate Executive Councillors or Committee Chairs.

## **2.2 Consultation with local members**

- 2.2.1 Subject to any stipulation to the contrary in this Scheme and paragraph 2.2.3, in using the authority delegated to them, officers must consult local members if they think that a proposed decision or action is likely to affect directly the constituency interest of local members in a Ward. This does not apply to proposed decisions or actions that have a general effect throughout the area of the council.
- 2.2.2 Subject to any stipulation to the contrary in this Scheme and paragraph 2.2.3, if a local member objects to the proposed decision of the official, then the matter must be sent to committee for a decision.
- 2.2.3 The rights of local members under paragraphs 2.2.1 and 2.2.2 above to be consulted and to object in respect of an officer's delegated authority regarding ward specific matters does not apply to the disposal of individual cases or applications under statutory schemes or council approved schemes or policies such as council benefit claims, sequestration of debtors or pupil placement applications, except where the council has decided otherwise, e.g. some planning applications, or where statutory procedures allow public objections, e.g. some licensing applications.

## **2.3 Statutory requirements, codes and standing orders**

Officers will use the authority delegated to them in compliance with:-

- all statutory requirements affecting their services specifically as well as legislation affecting the council corporately (such as race, sex, disability and age equality, health and safety, disability discrimination, assessment of plans, programmes and strategies for strategic environmental implications)
- statutory Codes affecting the council as well as other Codes adopted by the council (such as the Local Code of Corporate Governance, the Code of Conduct for Employees, and the Prudential Code)
- the procedural requirements of the Standing Orders and Financial Regulations of the council.

## **2.4 Politically controversial**

Items which are politically controversial are not delegated to an officer. The relevant officer, in consultation with the Chief Executive and the relevant Executive Councillor or Chair of the relevant committee will decide whether an issue is politically controversial.

## **2.5 Disputes**

The Chief Executive, in consultation with the Leader of the Council and appropriate Executive Councillors or Committee Chairs, will decide all disputes on whether an issue is delegated to a particular committee or officer.

## **2.6 Conflict of interest**

2.6.1 In using the authority delegated to them, officers must comply with the terms of the council's Code of Conduct for Employees regarding how any conflicts of interest arising out of any private interests must be treated.

2.6.2 In particular, when using their delegated powers, officers:-

- must not allow any private interest to influence their decisions,
- must not use their position to further their own interests or the interests of others who do not have a right to benefit under the council's policies, and
- must not involve themselves in any decision on allocation of council services or resources from which they or their families might benefit. They should ensure that any such matter is referred immediately to their line manager.

2.6.3 Similar rules about conflicts of interest are contained in the Councillors' Code of Conduct. Members must not seek preferential treatment for themselves, their families, friends, colleagues or employees because of their position as a councillor or as a member of a body to which they are appointed by the council, and they must avoid any action which could lead members of the public to believe that preferential treatment is being sought.

2.6.4 Where a member or officer of the council is related to someone applying for employment with the council, any such member or officer must ensure that they are not involved in any aspect of the appointment that might give rise to a conflict of interest.

## **3 ROLE OF DEPUTE CHIEF EXECUTIVES**

3.1 The role of Depute Chief Executives is to ensure that resources are customer-focussed and effectively integrated and co-ordinated across all service areas and with other government agencies and voluntary organisations, as appropriate, to reflect the corporate priorities of the council and to maintain a shared vision for the economic, social and environmental well-being of the community of West Lothian.

3.2 The prime emphasis of the Depute Chief Executives' role is on strategic planning and innovative thinking, aimed at ensuring that the council remains capable of achieving



its short and long-term service and business objectives through effective people, resource and financial management and a continuous drive for best value.

- 3.3 Depute Chief Executives should provide leadership, guidance and general management direction to Heads of Service within the service grouping for whom they are responsible. Depute Chief Executives retain overall responsibility for capital and revenue budgets within their particular service grouping and are also responsible for ensuring that Heads of Service are held accountable for the effective general management, allocation and control of resources within their respective service areas.
- 3.4 One of the Depute Chief Executives, appointed by the Chief Executive on a rotating basis, will act as acting Chief Executive in his or her absence with all of the Chief Executive's powers and responsibilities.

#### **4 ROLE OF HEADS OF SERVICE**

4.1 Heads of Service have two key responsibilities:-

- to contribute to the development of overall council policy, and
- to take responsibility for the operational leadership of the areas for which they are assigned.

4.2 In particular, Heads of Service will:-

- ensure that effective management systems and controls are in place within their service areas to deliver agreed service outputs to the required quality,
- assume significant budget, resource and managerial responsibilities as delegated by the Chief Executive and Depute Chief Executives and council Standing Orders
- formulate and deliver service plans and develop and support employees through the Performance Review and Personal Development Planning process
- ensure proper compliance with best value, service audit requirements and quality standards
- ensure that service managers and other officers to whom authority is delegated are held accountable for the effective general management, allocation and control of resources within their respective service areas

#### **5 GENERAL DELEGATION TO CHIEF EXECUTIVE AND DEPUTE CHIEF EXECUTIVES**

The following matters are delegated to the Chief Executive and Depute Chief Executives in relation to their service areas:-

## **5.1 Appointments**

- 5.1.1 Appointing employees within agreed staffing policies up to but not including Heads of Service, in accordance with procedures issued by the Head of Corporate Services.
- 5.1.2 Engaging fixed-term and casual staff and agency workers in terms of council policy.

## **5.2 Acting Chief Officer appointments**

- 5.2.1 The Chief Executive can appoint an acting Depute Chief Executive from the staff of the council when a Depute Chief Executive is absent or the post is vacant.
- 5.2.2 Depute Chief Executives can appoint an acting Head of Service from the staff of the council when a Head of Service is absent or the post is vacant.

## **5.3 Discipline and appeals**

Conducting disciplinary and grievance proceedings for employees under the council's approved disciplinary and grievance procedures.

## **5.4 Training**

Authorising employees' attendance at training courses, conferences and seminars within the terms of the council's policies.

## **5.5 Service conditions and best value**

- 5.5.1 The Chief Executive, and Depute Chief Executives under guidance from the Chief Executive where necessary, will apply national circulars. Where there is a choice of action, the circular should be referred to committee for a decision.
- 5.5.2 The Chief Executive, and Depute Chief Executives under council Human Resources policies and procedures and/or guidelines set by the Chief Executive, will be authorised to decide the following personnel matters:-
  - special leave, bereavement leave, secondment, leave to work or visit abroad
  - leave of absence under any Trade Union facilities agreement
  - unpaid leave
  - extending sickness allowance beyond the specified contractual levels in exceptional circumstances
  - recovery of maternity pay
  - closing down early for a festive season

- closures or service stoppages due to inclement weather or health and safety factors when there is a risk to either staff or clients
  - attendance at outside organisations' training courses
  - other matters as agreed between the Chief Executive and the Depute Chief Executives
- 5.5.3 The Chief Executive, following consultation with the Leader of the Council, can make changes in staff structures affecting posts up to but not including Heads of Service. The Depute Chief Executives can also make changes in staffing structures in line with guidelines issued by the Chief Executive. Subject to paragraph 7.1, of this scheme, the Chief Executive and Depute Chief Executives can make changes in gradings affecting posts up to but not including Heads of Service in line with guidelines issued by the Chief Executive. If guidelines do not apply, Depute Chief Executives must consult the Chief Executive. The cost of any changes must be contained within approved budgets.
- 5.5.4 The Chief Executive and Depute Chief Executives are authorised to:-
- negotiate with the workforce and Trade Union representatives changes in work practices and conditions including equipment, depots and vehicles
  - implement such changes
  - price in-house tenders accordingly,
- within the terms of the council's policies.
- 5.5.5 The Chief Executive, through the Head of Finance & Property Services, is responsible for the council's Best Value Framework. All Heads of service are responsible for the application of the framework in their service areas, and for providing the Head of Finance & Property Services with the information he or she requires to meet the Framework's monitoring and reporting requirements.

## **5.6 Health and safety legislation**

- 5.6.1 The Chief Executive is responsible for ensuring the health, safety and welfare of all council employees and has overall responsibility for the administration and implementation of the Occupational Health and Safety Policy.
- 5.6.2 Depute Chief Executives are responsible and accountable to the Chief Executive for the health, safety and welfare of everyone affected by work activities in their service areas.
- 5.6.3 The Head of Corporate Services has responsibility for overseeing the implementation of the Occupational Health and Safety Policy and for monitoring its effectiveness.

- 5.6.4 Heads of Service and Head Teachers are responsible to Depute Chief Executives for the operational implementation of the policy, as set out in the Council-Wide Occupational Health and Safety Policy.

## **5.7 Equalities legislation**

- 5.7.1 The Head of Corporate Services is responsible for overseeing the implementation of the council's equalities policies and public sector equality duties, and is responsible for ensuring that the Corporate Management Team makes decisions complying with the council's equalities policies and public sector equality duties, including the duties:-

- to eliminate unlawful discrimination
- to promote equality of opportunity between groups covered by equalities legislation
- to promote good relations between groups covered by equalities legislation
- to assess the impact of all policies on groups covered by equalities legislation
- to gather, monitor and publish information on the effect of policies on groups covered by equalities legislation.

- 5.7.2 The Chief Executive and Depute Chief Executives are responsible for ensuring that the specific services falling within their remits operate in compliance with the council's equalities policies and public sector equality duties.

## **5.8 Anti-fraud and corruption policy and procedures**

- 5.8.1 The Head of Finance and Property Services is responsible for overseeing the implementation of the council's Anti-Fraud and Corruption Policy and monitoring and reviewing its effectiveness, and is responsible for ensuring that the council effectively manages its exposure to fraud and corruption, including bribery, by ensuring that the Corporate Management Team, individually and collectively, recognizes its role in the prevention of such risks, is kept informed and alerted to relevant fraud, corruption and bribery risk management issues, and accepts their individual role in providing appropriate leadership in fostering a prevailing culture of honesty and opposition to all aspects of fraud and corruption.

- 5.8.2 The Chief Executive and Depute Chief Executives are responsible for ensuring that specific services falling within their remits operate in compliance with the council's Anti-Fraud and Corruption Policy including the prevention of offences under the Bribery Act 2010:-

- by elected members or council employees giving or taking a bribe in the United Kingdom (personal liability),
- by the council through giving or taking a bribe in the United Kingdom by elected members or council employees with the consent or

connivance of senior officers of the council (vicarious liability) ["senior officers" include members of the Corporate Management Team and service managers], and

- by the council for failing to prevent bribery where a bribe is given by a person associated with the council to obtain, keep or gain a business advantage for the council (corporate liability) [an "associated person" includes elected members, council employees, agents and contractors to the extent they are performing services for or on behalf of the council]

5.8.3 The Head of Finance and Property Services is also responsible for reporting annually on the council's compliance with its Anti-Fraud and Corruption Policy, and in so doing ensuring that Heads of Service sign an annual statement of compliance affirming that they comply with relevant council policies and that systems and procedures have been developed in their services areas which ensure that the risk of fraud and corruption, including bribery, is minimised.

## **5.9 Information Governance policy**

5.9.1 The Head of Corporate Services is responsible for ensuring the development, publishing and maintenance of the council's Information Governance Policy and its supporting procedures and guidance and for leading the Information Management Working Group across the council.

5.9.2 The Head of Corporate Services is also responsible for reporting annually on compliance as part of the annual report on compliance with the council's Code of Corporate Governance.

5.9.3 Heads of Service are responsible for:-

- Appointing and supporting officers responsible for the implementation of compliance measures
- Accounting for information risks in service planning, strategies, projects and resourcing
- Ensuring appropriate communications, contractual and legal arrangements are in place for any third party accessing or processing council information
- Ensuring that information governance principles and standards of operation are consistently enforced
- Ensuring that staff are appropriately trained in, and comply with, this policy and associated procedures
- Ensuring business continuity plans and processes are in place to safeguard information from inappropriate access, loss, removal or destruction and that any breaches are identified and appropriately responded to

## **5.10 Internet, social media and email policy**

5.10.1 Depute Chief Executives and Heads of Service are responsible for:-

- ensuring that this policy is communicated to all employees
- ensuring that use of the council's systems is monitored and standards of operation are consistently enforced
- applying higher level access for staff where it is appropriate for business purposes
- determining, on the basis of business needs, those staff who require access to
- internet, social media and e-mail facilities to assist them in the performance of their duties
- keeping authorised use/access under general review
- approving the setting up of internet and social media sites for business purposes and monitoring the content of such sites within their service
- ensuring that authorised users are given appropriate training and are fully briefed in the legitimate and lawful use of the systems
- ensuring that all employees are made aware of the possible disciplinary and/or legal consequences of any breach of this policy and any associated procedures or codes of practice
- investigating and acting upon any concern regarding their staff's personal use of the systems
- complying with council procedures for removing or amending the access rights of their staff who change jobs or leave the council.

## **5.11 Supporting attendance at work policy and procedure**

5.11.1 The Head of Corporate Services is responsible for:-

- overseeing the implementation of the council's Supporting Attendance at Work Policy and Procedure
- reporting quarterly to the PDSP on council-wide sickness absence levels

5.11.2 Depute Chief Executives and Heads of Service are responsible for:-

- analysing and monitoring sickness absence by service area on an ongoing basis
- determining as necessary, the requirement for targeted interventions in service areas with higher sickness absence

- monitoring sickness absence by service area on an ongoing basis using monthly SPI data and number of days lost due to sickness
- delegating authority where appropriate to managers and ensuring they are trained in applying the Policy & Procedure
- monitoring action being taken by managers in respect of cases where trigger levels have been reached and follow up on progress
- undertaking Final Absence meetings as required
- ensuring that their service managers monitor absence of individuals and teams on an ongoing basis, undertake return to work meetings in respect of all periods of sickness absence within the stipulated timescales, arrange medical referrals as necessary and conduct absence review meetings in accordance with procedural requirements

5.11.3 All managers with delegated authority are responsible for:-

- monitoring absence of individuals and teams on an ongoing basis
- undertaking return to work meetings in respect of all periods of sickness absence within the stipulated timescales
- arranging medical referrals as necessary in line with policy requirements
- conducting all meetings called for by the Policy and Procedure in accordance with procedural requirements

## **5.12 Asbestos, legionella and fire safety management policies and risk management plans**

5.12.1 The Head of Finance and Property Services is responsible to the Chief Executive for ensuring the implementation of the policies and plans

5.12.2 The Chief Executive is responsible for ensuring that there are appropriate policy, management plan and procedures in place for management of asbestos, fire safety statutory compliance, and

5.12.3 Depute Chief Executives are accountable and responsible to the Chief Executive for ensuring the implementation of the policies and plans within their portfolio of services.

5.12.4 Heads of Service are responsible to the appropriate Depute Chief Executive for implementing the policies and plans through relevant approved operational procedures and by ensuring that all employees and others who may be affected within their service are protected from the hazards associated these risks. The Head of Housing, Customer and Building Services has additional responsibilities for managing legionella safety in the council's domestic properties.

### **5.13 Misuse of alcohol, drugs and other substances**

- 5.13.1 The Head of Corporate Services is responsible for overseeing the implementation of the council's Personal Safety at Work Policy and related procedures and guidance.
- 5.13.2 The Chief Executive and the Depute Chief Executives are responsible for the implementation of the policy in their service areas.
- 5.13.3 Heads of Service are responsible for implementation in their service area, communicating and ensuring compliance is monitored and enforced.

### **5.14 Personal safety at work policy**

- 5.14.1 The Head of Corporate Services is responsible for overseeing the implementation of the council's Personal Safety at Work Policy and related procedures and guidance.
- 5.14.2 The Chief Executive and the Depute Chief Executives are responsible for the implementation of the policy in their service areas.
- 5.14.3 Heads of Service are responsible for communicating and ensuring compliance is monitored and enforced.

### **5.15 Unacceptable behaviour by members of the public**

- 5.15.1 Heads of Service are responsible for determining and recording when contact with members of the public is restricted because of unacceptable behaviour towards councillors or employees through aggressive or abusive behaviour, or unreasonable demands on services or unreasonable persistence with their complaints. Such restrictions on contact must be determined and reviewed regularly by Heads of Service within the terms of the council's Unacceptable Actions Policy.
- 5.15.2 The Chief Executive, or acting Chief Executive, is responsible for considering any appeal from an aggrieved member of the public against restrictions on their contact with the council.

### **5.16 Business, travel and subsistence**

- 5.16.1 The Head of Corporate Services is responsible for the delivery and review of the council's policy on Business Travel and Subsistence, including the coordination of the annual review of user classifications in conjunction with other Heads of Service.
- 5.16.2 Heads of Service are responsible for allocating to each post in their service area a classification of either "Dedicated Vehicle Use" or "Pool Vehicle Use", and for cooperating with the Head of Corporate Services in the annual review of those classifications to reflect changes in duties or working practice.

### **5.17 Corporate complaints procedure**

- 5.17.1 The Chief Executive provides leadership and direction in ways that guide and enable the council to perform effectively across all services. This



includes ensuring that there is an effective complaints handling procedure, with a robust investigation process that demonstrates how the council learn from the complaints it receives.

5.17.2 Depute Chief Executives are responsible for:

- investigating complaints as required
- monitor complaints and the way the council learn from them
- deputising for the Chief Executive on occasion

5.17.3 Heads of Service are responsible for:

- ensuring that the service fully implements the complaints handling procedure
- managing complaints and the way the council learn from them
- overseeing the implementation of actions required as a result of a complaint

## **5.18 Expenditure**

Incurring expenditure within approved capital and revenue budgets for the specific requirements of the service, in accordance with Standing Orders and in accordance with the terms set out in the Financial Regulations.

## **5.19 Transferring funds**

5.19.1 Transferring funds between headings within the approved revenue budget for their service in accordance with the terms set out in the Financial Regulations.

5.19.2 Transferring funds between capital projects included in the approved capital programme for their service (including transfers between years) in accordance with the terms set out in the Financial Regulations.

5.19.3 In carrying out transfers, officers must:-

report to the relevant committee if a change in council policy is involved

report to the relevant committee if the transfer will result in increased expenditure in future years budgets

inform the Head of Finance and Property Services in writing within the terms set out in the Financial Regulations

## **5.20 Fees and charges**

Altering fees and charges for council services in line with council policy.

## **5.21 Contracts**

Cooperating and supporting the Responsible Officer and ensuring compliance with the terms of the council's Standing Orders for the Regulation of Contracts and the Corporate Procurement Procedures issued in terms of those Standing Orders, and relevant UK and Scottish legislation and EU Directives.

## **5.22 Consultants**

Appointing consultants in connection with the procurement of building and civil engineering works and the procurement of supplies and services, within the terms of the council's Standing Orders for the Regulation of Contracts and the Procurement Procedures issued in terms of those Standing Orders.

## **5.23 Freedom of information**

Determining requests for information under the Freedom of Information Act 2000, the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

## **5.24 Business continuity planning**

Maintaining and implementing business continuity plans for their service areas.

## **5.25 COVID-19**

Where authorised by the Chief Executive, to appoint and confer statutory authority on officers to carry out COVID-19 related investigative, regulatory or enforcement activities

## **6 Proper Officer: committee background papers**

Depute Chief Executives and Heads of Service are the proper officers responsible for compiling lists of background papers for reports which they have prepared for committee and which members of the public can inspect under Section 50(A) of the Local Government (Scotland) Act 1973.

## **7 Particular delegations and sub-delegation**

7.1 Subject to the general terms already set out, all other matters on running of services, including ensuring that the statutory requirements placed on the council are met, are delegated to the Chief Executive and Depute Chief Executives, except those areas marked with an asterisk where the delegated authority is to the named officer. Where the named officer has such delegation, the officer must keep their Head of Service or Depute Chief Executive advised of any implications of their decisions affecting:-

- current policies of the council
- approved resource allocations
- issues affecting the council's public and media relations.

- 7.2 The powers delegated in this scheme to the Chief Executive and Depute Chief Executives include doing anything which is calculated to facilitate, or is conducive or incidental to, the effective and efficient delivery of services in their areas.
- 7.3 The council's services and functions are assigned to the Chief Executive, Depute Chief Executives and Heads of Service as outlined below. These may vary to meet new requirements as may be determined from time to time by new legislation or in accordance with paragraph 5.5.3. When this happens, the Clerk to the Council will update this Scheme to reflect such changes.
- 7.4 The Chief Executive, Depute Chief Executives, Heads of Service and those named officers to whom specific authority is delegated in this Scheme as shown marked with an asterisk (see 7.1, above), can authorise other senior officers in their service units who are appropriately qualified and experienced to use their delegated powers, unless they cannot do so by law or because of this scheme.
- 7.5 The Chief Executive, Depute Chief Executives, Heads of Service and the officers named in this Scheme with specific delegated authority shall keep an up to date written record of their authorisations of other officers to use their delegated powers.
- 7.6 Depute Chief Executives can authorise the appropriate Head of Service to use their delegated authority in the absence of the Depute Chief Executive.
- 7.7 Other than where a delegation is starred (Paragraph 7.1), In the absence of a Head of Service the relevant Depute Chief Executive and Chief Executive may act. In the absence of a Depute Chief Executive the Chief Executive may act. In the absence of any other officer with specific delegations in the Scheme, his or her line manager may act, subject to the constraints in relation to powers marked with an asterisk (see 7.1, below).

## **8 Allocation of responsibilities to individual officers**

- 8.1 As detailed in Paragraph 7.1, the running of the council's services, including ensuring that the statutory requirements placed on the council are met, is delegated to the Chief Executive, Depute Chief Executives and Heads of Service subject to the general terms contained in the preceding paragraphs of this Scheme.
- 8.2 The responsibilities of the Chief Executive, Depute Chief Executives and Heads of Service are shown in this Scheme as divided into three categories:-
- Public Services – those services delivered directly to the public and business community in West Lothian
  - Corporate Functions – those services delivered in support of other council services, or activities of a corporate nature delivered across the whole council or a significant part of it
  - Statutory Appointments – functions which the law requires the council to appoint an individual officer of the council to carry out
- 8.3 An index of the statutory and proper officer appointments is provided at Appendix 2 of this Scheme. Role descriptions for the four Statutory Officer positions are provided at Appendix 3 (Head of Paid Service, Monitoring Officer, Chief Financial Officer, and Chief Social Work Officer).

- 8.4 The Chief Executive, as the council's Head of the Paid Service, is responsible for –
- the co-ordination of the discharge of the council's different functions
  - the number and grades of staff required by the council for the discharge of its functions
  - the organisation of the council's staff
  - the appointment and proper management of the council's staff
- 8.5 In support of the Chief Executive, the council has a management structure comprising three Depute Chief Executives and eight Heads of Service, and a number of other officers with specific responsibilities, as detailed in the following paragraphs of this Scheme.

## **9 CHIEF EXECUTIVE'S OFFICE**

### **9.1 Delegated responsibilities and reporting links**

The following officers have the delegated responsibilities as shown below:-

- the Chief Executive
- the Head of Finance and Property Services reporting to the Chief Executive
- the Governance Manager reporting to the Chief Executive
- the Revenues and Benefits Manager reporting to the Head of Finance and Property Services

### **9.2 CHIEF EXECUTIVE**

#### **9.2.1 Chief Executive - Public Services**

- Emergency planning – preparing and keeping under review all necessary plans and associated staff training
- Flying of Flags – determining, in consultation with the Provost, the flying of flags at the council's main offices on appropriate occasions other than those specified in the council's policy for flying the council, Saltire and Union flags
- Unacceptable Actions by the Public – determining appeals from members of the public against decisions by Heads of Service to restrict contact with the council under the council's Unacceptable Actions Policy
- Community Safety Unit – monitoring, in conjunction with the Divisional Commander of West Lothian police, the performance of

the Community Safety Unit established through a partnership with the police to tackle anti-social behaviour in local communities

- Polling Districts and Polling Places – making, in consultation with the Leader of the Council, Leader of the Opposition and relevant local members, any necessary alterations to the council's Scheme of Polling Districts and Polling Places where there is not time to seek approval of the Council Executive before a particular election
- Delivering and reviewing the council's policy on the Display of Election Material on Council Property
- Protocol for The Renaming of Council Buildings And Public Spaces

#### 9.2.2 **Chief Executive - Corporate Functions**

- Clerk of the Council (under the council's Standing Orders), carrying all the Clerk's duties and powers set out in Standing Orders for the Regulation of Meetings, Scheme of Administration, Scheme of Delegations, and Financial Regulations
- Determining, in consultation with the Chair of the Council Executive, whether a matter which is the subject of an item of business, a motion or question put at a council meeting or consideration by a Policy Development and Scrutiny Panel falls within the functions of the council as education authority (under the council's Scheme of Administration)
- Council's complaints procedure – preparing and keeping under review a corporate procedure to deal effectively with complaints from customers about council services
- Complaints to the Scottish Public Services Ombudsman – taking appropriate action to deal with such complaints
- Minor civic hospitality – authorising such hospitality on behalf of the council
- In relation to notices of decisions and resolutions by other local authorities, determining if the subject matter is within the scope of the council's statutory powers to take effective action and so how those notices should be dealt with
- In relation to petitions and requests for council support for a particular issue or campaign, determining if the subject matter is within the scope of the council's statutory powers to take effective action and so how those petitions or requests should be dealt with
- Council's Scheme of Delegations - amending the Scheme to reflect decisions of the council and any new legislation which affect the Scheme

- Emergency action on behalf of the council – taking such action, including the incurring of expenditure. The Chief Executive must report such action to the council at the earliest opportunity
- Representing the council's interests on the Chief Officers Group, providing leadership, direction, governance and oversight of public protection arrangements
- COVID-19: Authorising appropriate Heads of Service to be responsible for, and to appoint and confer statutory authority on officers to carry out, COVID-19 related investigative, regulatory or enforcement activities
- COVID-19: Utilisation of hardship funding from Scottish Government
- Early retiral and voluntary severance payments and Modernisation Fund – authorising such payments, in consultation with the Leader of the Council where required, subject to full monitoring information on numbers and costs being submitted regularly to the Council Executive (under various Regulations affecting both teaching and non-teaching staff)
- Acting Chief Executive – making such appointment on a rotating basis from the Depute Chief Executives
- Heads of Service salary grades – approving these grades, in consultation with the Leader of the Council
- Vetting elected members for child care positions – acting as the responsible officer for such proposed appointments
- Policy and Procedure on the Protection of Children and Protected Adults – consideration and endorsement of decisions of the PVG Referral Panel
- Anti-Fraud and Corruption Policy – determining, in consultation with the relevant Head of Service, Head of Finance and Property Services and Chief Legal Officer, or otherwise as appropriate, whether:-
  - a matter should be referred to the police, Audit Scotland, the Audit and Risk Manager, the Standards Commission for Scotland or other appropriate person, for investigation
  - action should be taken to recover any monies lost
  - recovery action should be taken against a former employee by way of deduction from their pensions benefits

The Chief Executive shall report to the Audit Committee on any consideration or action taken under this policy.

- Officers' pecuniary interests in council contracts – receiving and recording such interests
- Delivering and reviewing the council's Best Value Framework
- Platinum Jubilee Civic Honours Competition – Livingston City Status
- Making interim/temporary appointment of Head of Paid Service, Monitoring Officer, Chief Financial Officer and Chief Social Work Officer

#### 9.2.3 Chief Executive - Statutory Appointments

- Head of the council's Paid Service (Paragraph 8.3 and Appendix 3)
- Returning Officer and Counting Officer – acting in this capacity for council elections, and in turn for elections to the Scottish, Westminster and European Parliaments, and for referendums
- Elections and referendums - where required by relevant legislation, taking delivery of, retaining securely and destroying election or referendum documents associated with the poll and the conduct of the poll
- Elected members' resignations – proper officer for receiving such resignations
- Accessing council meetings and documents – proper officer for acting for various purposes in connection with the signing and issue of, and access to, agendas and papers, minutes and other documents relating to meetings of the council, its committees and sub-committees
- Roll of Admission of Honorary Freemen – maintaining this Roll

### 9.3 HEAD OF FINANCE & PROPERTY SERVICES

#### 9.3.1 Finance - Public Services

- Administration of council tax, Council Tax Reduction Scheme, Housing Benefit, and Council Tax Reduction Verification Scheme
- Discretionary Housing Payment Scheme administration, including making minor changes to the Policy and Scheme for administrative reasons
- Non-Domestic Rates administration
- Scottish Welfare Fund administration (Welfare Fund Community Care Grants and Crisis Grants), including in particular the setting of priority level for the Scottish Welfare Fund and the ability to *vire* between the crisis grant and community care grant budget

- Carrying out financial assessment under the Contributions Policy for Non-Residential Social Care Services
- Administration of Trust Funds
- Awarding rural rates relief - to review the Revenue & Benefits Manager's decisions decision on such awards in accordance with the council's scheme
- Delivering and reviewing the Discretionary Non-Domestic Rates Relief Scheme
- Delivering and reviewing the West Lothian Anti-Poverty Strategy (including the Financial Inclusion Plan, West Lothian Credit Union, period poverty and implementation of the Period Products (Free Provision) (Scotland) Act 2021, food banks, Food Insecurity Funding, Winter Financial Insecurity Funding, Dying to Work Charter)
- Providing education maintenance allowances, free school meals, and school clothing grants in support of the Council's Anti-Poverty Strategy, including uprating qualifying criteria in accordance with benefit uprating
- Provision of an Advice Shop
- Community Development Finance Institution
- Delivering and reviewing the Internal Audit and Counter Fraud Strategy
- Delivering and reviewing the Risk Management Strategy
- Administering the NEC and Young Scot entitlement cards and related benefits

### 9.3.2 **Finance - Corporate Functions**

- Corporate accounting arrangements, including ensuring that adequate systems of accounting control are maintained throughout the council and that service units conform with council policy, legislation and codes of practice, including ensuring compliance with the CIPFA Financial Management Code (2020)
- Maintaining a continuous review of the Financial Regulations and submitting any changes, other than of a minor nature, to the Council Executive for approval
- Preparing and monitoring a General Services Capital Budget and a General Fund Revenue Budget in accordance with the Financial Regulations and procedures for Elected Member Involvement in Financial Planning



- Delivering and reviewing the Audit, Risk and Counter Fraud Strategy
- Delivering and reviewing the Risk Management Policy
- Administration of the sundry debtors system
- Appointing and monitoring debt collection companies other than in respect of the HRA account (where such powers are delegated to the Head of Housing, Customer and Buildings Services)
- Corporate risk management arrangements, in consultation with the Chief Executive and Depute Chief Executives
- Internal audit, including examination of the accounting, financial and other operations of the council
- Recruiting and interviewing for Lay Member of Audit Committee (see Scheme of Administration, appointment and removal decisions to be made by full council)
- In relation to the Anti-Fraud and Corruption Policy, reporting allegations of serious fraud to the Chief Executive and/or the Audit and Risk Manager
- Delivering and reviewing the Anti-Money Laundering Policy, including the non-statutory position of Money Laundering Reporting Officer (MLRO)
- Banking and insurance arrangements
- Authorising legal proceedings for recovery of debt (other than HRA rent arrears)
- Writing off bad debts (other than those specifically delegated to another officer) (under the council's Financial Regulations)
- Signing operating and finance leases
- In consultation with relevant Heads of Service, seeking committee approval for council property to be declared surplus to requirements
- Disposing of council assets and materials, except for land and buildings and computer hardware and software
- Treasury management
- Compliance with the Prudential Code
- Delivering and reviewing the Capital Strategy
- Payment processing and supplier invoice administration

- Authorising prosecutions (under the council's Fraud Policy for Housing and Council Tax Benefit)
- Determining applications for review of a decision by the Revenues and Benefits Manager concerning claims for hardship relief and discretionary relief both in respect of non-domestic rates
- Choosing the successful tender for acceptance where the estimated aggregate cost of any one contract for volatile commodities such as gas or electricity is equal to or more than the relevant EU threshold
- Monitoring and reporting on compliance with the council's Best Value Framework
- Delivering and reviewing the corporate Asset Management Plan, incorporating the Property Asset Management Plan, and other subsidiary plans in liaison with the following officers:-
  - Fleet Asset Management Plan – Head of Operational Services
  - Housing Asset Management Plan – Head of Housing, Customer and Building Services
  - IT Asset Management Plan – Head of Corporate Services
  - Open Space Management Plan – Head of Operational Services
  - Roads Asset Management Plan - Head of Operational Services
  - MUGA Asset Management Plan - Head of Education (Schools) and Head of Operational Services
- Delivering and reviewing the Energy and Water Strategy in accordance with the requirements of the council's carbon management strategy.
- In relation to the council's membership of Hub South East Scotland Limited (Hubco):-
  - approval of the appointment of the B Shareholders' Director on the Board of Hubco
  - representing the council's interests in the Territory Partnering Agreement and Shareholders Agreement
  - representing the council's interests and making decisions on its behalf on the Territory Partnering Board

### 9.3.3 Finance - Statutory Appointments

- Proper officer for the financial affairs of the council (Section 95 of the Local Government (Scotland) Act 1973, and see paragraph 8.3 and Appendix 3)
- Proper officer for signing deeds in connection with treasury management functions (Sections 92, 193 and 194 of the Local Government (Scotland) Act 1973)
- Proper Officer for transferring securities on alteration of name, area etc. of the council (section 92(1)(a) and (b) of Local Government (Scotland) Act 1973)
- Proper Officer for receiving notices of election from councillors wishing to forego any part of an allowance (paragraph 18 of Local Authorities etc. (Allowances) (Scotland) Regulations 1995)

#### 9.3.4 **Property - Public Services**

- Managing the council's portfolio of commercial property
- Community Asset Transfer Policy and Procedure, including in particular the validation of applications
- West Lothian Community Choices

#### 9.3.5 **Property - Corporate Functions**

- The strategic and day-to-day management of the council's operational and non-operational property (including surplus properties, strategic land holding and the Tenanted Non-Residential Property (TNRP) portfolio), all subject to council policy, including the Commercial Property Portfolio Strategy and Management Plan 2021/22 to 2027/28
- COVID-19: determining applications and reviewing decisions in relation to the COVID-19 hardship relief arrangements
- Low income allocation of the COVID-19 Economic Recovery and Low Income Fund (economic recovery allocation by Head of Planning, Regeneration and Regulatory services)
- Management of risk and statutory compliance of council properties under the Asbestos, Fire Safety and Legionella Policies and Management Plans
- The acquisition of property for operational purposes, as follows:-
  - Negotiating the acquisition, licence or lease of land (including land covered by water), buildings and other interests or rights or servitudes in, under or over land, on behalf of the council
  - Instructing the Chief Solicitor to conclude the transaction where the consideration or annual rent or licence fee is less

than £50,000 exclusive of VAT, and where the length of lease or licence is less than five years

- Entering into agreements for the temporary occupancy of land required for the delivery of council services and implementation of its decisions for periods of up to one year
- The management, disposal of, or granting of rights over council property, as follows:-
  - Marketing and/or negotiating terms and conditions for the sale or disposal (including but not limited to disposal by way of lease, sub-lease, missives of let or licence) of land, buildings and other interests or rights or servitudes in, under or over land, on behalf of the council
  - Negotiating the termination and/or Renunciation of leases, sub-leases, missives of let or licences
  - Negotiating rent reviews
  - Granting licences for the short term (up to a maximum of one year) occupation of council property for purposes including but not limited to site investigation works, advertising signs and contractors' compounds
  - Granting way leaves and servitudes to public utility companies for utility services across council land, in consultation with relevant Heads of Service and Legal Services
  - Instructing the Chief Solicitor to conclude the transaction where the annual rent or licence fee or sale or disposal price or premium or consideration is less than £50,000 exclusive of VAT, (except where delegated authority is given to the Head of Finance and Property Services to grant or enter into leases, sub-leases, missives of let, licences or agreements, as noted above), and provided that, where the proposal is to accept an offer other than the best consideration reasonably obtainable, the matter will be referred to the Council Executive
  - In relation to the lease of small areas of land for public utility purposes, and to the sale of property, where the consideration is less than £50,000 exclusive of VAT, the exercise of delegated powers is to be in consultation with the local elected members
  - In consultation with the Chief Solicitor, disposing of land under the joint venture agreement with Land Options West for the Heartlands Business Park
- Advising on construction and maintenance of all council buildings

- Ensuring that the council complies with statutory requirements in relation to disability discrimination, water quality and gas safety
- Appointing consultants in connection with building and engineering works
- Providing building services
- Providing a building maintenance service to schools
- Learning Estate Investment Programme
- Delivering and reviewing the Housing Asset Management Plan as part of the council's corporate Asset Management Plan
- The management of the council's Tenanted Non-Residential Property portfolio in accordance with council policy, including but not limited to:-
  - Entering into leases (including community benefit leases), missives of let, licences of properties and advertising agreements, where the length of lease, missives of let, licence or agreement is less than five years, and the annual rental or licence fee is less than £50,000 exclusive of VAT, but in relation to community benefit leases, for up to ten years in length
  - Entering into service delivery leases and missives of let where the length of lease or missives of let is less than five years, and the annual rental or licence fee is less than £50,000 exclusive of VAT
  - Refusal of offers to requests to enter into leases where the potential tenant has previously been in material breach of lease conditions
  - The termination, extension and renewal of such leases, missives of let, licences and agreements
  - The granting of consent to sub-leases (where the council is the landlord or head landlord of a ground lease) or to applications for the alteration of lease, missives of let, licence or sub-lease terms, including but not limited to changes to the use clause where these are consistent with planning consent and other council policies; instructing the Chief Solicitor to enter into Minutes of Variation of leases, licences, missives of let or sub-leases
  - Charging, recovering and reconciling service charges in relation to common parts, in accordance with guidelines and procedures issued by the Royal Institution of Chartered Surveyors

- Procuring, managing and coordinating common repairs, including payment and subsequent recovery of costs from other owners, in properties in which the council is a part-owner with the majority interest
  - Instructing the Chief Solicitor to grant consent to assignments of leases, sub-leases missives of let or licences provided satisfactory financial information is available
  - Instructing the Chief Solicitor to enter into irritancy protection agreements
  - Instructing the Chief Solicitor to initiate legal proceedings against tenants or licensees to secure or enforce compliance with the terms of their lease or licence, including but not limited to action to terminate a lease or licence and to recover possession of the property
  - Taking and holding rent deposits and instructing the Chief Solicitor to enter into rent deposit agreements where required.
- The variation of agreements, as follows:-
    - Agreeing to alterations to the names of purchasers, licensees, or lessees of council properties in instances where the Council Executive approved the original transaction, provided that the proposed purchaser, licensee, or lessee is associated with the original purchaser, licensee or lessee (including but not limited to associate or subsidiary company, parent company or pension fund) and where there is no change in the principal terms and objectives of the transaction
    - Negotiating and instructing the Chief Solicitor to obtain or grant any waiver, variation or discharge of burdens or conditions where the consideration is less than £50,000 exclusive of VAT

## **9.4 REVENUES AND BENEFITS MANAGER**

### **9.4.1 Revenues & Benefits Manager - Public Services**

- Authorising the award of hardship relief and discretionary relief in respect of non-domestic rates (under the council's approved scheme)

This authority is also exercisable by any Revenues Unit Team Leader

- Authorising administrative sanctions (under the Council's Fraud Policy for Housing Benefit and Council Tax Benefit)

This authority is also exercisable by any Revenues Unit Team Leader (excluding the Benefits Team Leader)

- Awarding rural rates relief

## **9.5 GOVERNANCE MANAGER**

### **9.5.1 Governance Manager - Corporate Functions**

- Council's Code of Corporate Governance – overseeing compliance with this Code
- Maintaining and reviewing the following elements of the council's Standing Orders - Regulation of Meetings, Scheme of Administration, Scheme of Delegations to Officers, and, in consultation with the Head of Corporate Services, Regulation of Contracts
- Counsel's opinion – obtaining such opinion as the council's Governance Manager where appropriate
- Authorising officer under the Regulation of Investigatory Powers legislation, policy and procedure
- Recruiting and interviewing for Lay Member of Governance & Risk Committee (see Scheme of Administration, appointment and removal decisions to be made by full council)

### **9.5.2 Governance Manager - Statutory Appointments**

- Proper Officer for receipt of councillors' Declarations of Acceptance of Office (section 33A of Local Government (Scotland) Act 1973)
- Proper Officer for taking councillors' Declarations of Acceptance of Office (Local Authorities (Councillors) (Declaration of Acceptance of Office (Scotland) Order 1990)
- Proper Officer for receipt and recording of members' interests (Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003)
- Proper Officer for Maintaining the Register of Members' Interests including gifts and hospitality received by members (Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003)
- Proper Officer for maintenance of list of meeting rooms for use of candidates at elections and referendums (Schedule 5 of Representation of the People Act 1983 and other poll-specific legislation)
- Standards Officer for the West Lothian Integration Joint Board (Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003)

- Interim Monitoring Officer from 18 January 2022

## **10 HEALTH & SOCIAL CARE PARTNERSHIP**

### **10.1 Delegated responsibilities and reporting links**

10.1.1 The following officers have the delegated responsibilities as shown below:-

- Depute Chief Executive (Health & Social Care Partnership)
- Head of Social Policy reporting to the Depute Chief Executive (Health & Social Care Partnership)
- In relation to the Inclusion and Support service only, the Head of Education (Learning, Policy & Resources)

10.1.2 In relation to statutory functions falling within the remit of the statutory post of Chief Social Work Officer, the decisions of the Head of Social Policy are not subject to change by more senior officers, but are, subject to council or committee decisions, final and binding on the council.

### **10.2 DEPUTE CHIEF EXECUTIVE (Health & Social Care Partnership)**

#### **10.2.1 Public Services**

- Director (Chief Officer) of the West Lothian Integration Joint Board in relation to adult and older people's delegated health and social care functions
- Non-delegated health and social care functions in relation to children's and criminal justice services
- Inclusion and Support Service - overall responsibility for the direction and delivery of the service, through the Head of Social Policy and the Head of Education (Learning, Policy & Resources)

#### **10.2.2 Corporate Functions**

- Writing off debts in connection with social work charges and client contributions specified and in accordance with the Financial Regulations
- Management of the staff of the council and NHS Lothian engaged in the provision of services under functions delegated to the West Lothian Integration Joint Board
- Delivery of services in compliance with Directions issued by the West Lothian Integration Joint Board
- Ensuring, and reporting on, compliance with the corporate duty to comply with Directions issued by the West Lothian Integration Joint Board



- Management of the staff of the council and NHS Lothian engaged in the provision of services under non-delegated health and social care functions in relation to children's and criminal justice services
- Writing off financial contributions under the Contributions Policy for Non-Residential Social Care Services, in accordance with Financial Regulations
- COVID-19: Participation in and representing the council's interests in the Care Home Clinical and Care Professional Oversight Team

#### 10.2.3 **Statutory Appointments**

- Non-voting member of West Lothian Integration Joint Board

### 10.3 **\*HEAD OF SOCIAL POLICY**

#### 10.3.1 **Chief Social Work Officer**

- The Head of Social Policy is also appointed to be the council's Chief Social Work Officer, a statutory post imposing legal powers and duties on the post-holder in relation to defined social work services. Those responsibilities are legally distinct from the management duties allocated to the post of Head of Service through the contractual employment relationship.
- In relation to statutory functions falling within the remit of the statutory post of Chief Social Work Officer, the decisions of the Head of Social Policy are not subject to change by more senior officers, but are, subject to council or committee decisions, final and binding on the council.

#### 10.3.2 **West Lothian Integration Joint Board**

- The council has delegated functions in relation to adults' and older people's services to the West Lothian Integration Joint Board. Children's services and criminal justice services remain the direct responsibility of the council. The Head of Social Policy is responsible for the delivery and management of all these social care services, and is accountable to the Depute Chief Executive for all those services, but the budgetary and policy-making arrangements are distinct.
- Where a service is referred to below which is part of a function delegated to the Integration Joint Board, the provision of the service is subject to compliance with the Directions issued to the council by the Board.
- The powers and duties of the statutory role of Chief Social Work Officer are not affected by the delegation of functions to the Integration Joint Board.

#### 10.3.3 **Social Policy - Public Services**

- Consulting on, preparing and publishing a plan for providing community care services in West Lothian
- Carrying out the functions of the council as Social Work Authority in terms of council policy, national grant-aided initiatives, and all relevant legislation, including the following functions
- Providing a social care out-of-hours emergency service
- Providing support, care and advice in relation to drugs and alcohol
- Delivering and reviewing a local health development plan
- Co-ordinating and supporting a range of community health initiatives
- Delivering and reviewing a Service Plan for Adults and Older People
- Providing an adult protection service, including supporting and reporting on the work of the Adult Protection Committee
- Delivering and reviewing the Reshaping Care for Older People Programme
- Delivering and reviewing the Policy on Eligibility For Non-Residential Adult Social Care Services
- Delivering and reviewing the Contributions Policy for Non-Residential Social Care Services, including determining reviews of financial assessments and ability to pay following assessments carried out by the Head of Finance & Property Services
- Commissioning in order to provide care services for older people including support at home services, residential care, respite care, meals service, shopping service, free personal nursing care, sheltered housing, housing with care

Such services also to be provided in-house as necessary

- Commissioning in order to provide services for adults with physical or learning disabilities and mental health problems including residential care, day care, respite care and support at Home

Such services also to be provided in-house as necessary

- Delivering and reviewing a Social Policy Service Plan detailing the comprehensive services provision for children
- Commissioning in order to provide care services for children, including residential and secure accommodation, day care, respite care and support at home

Such services also to be provided in-house as necessary

- Providing adoption, fostering and kinship care services, including the payment of allowances
- Providing a child protection service, including supporting and reporting on the work of the Child Protection Committee
- Providing a throughcare and aftercare service for looked after children
- Providing services for children with a disability, including respite services
- Inclusion and Support Service, under the direction of the Depute Chief Executive (Health & Social Care Partnership) and in conjunction with the Head of Education (Learning, Policy and Resources)
- Providing early years services for children
- Providing a range of preventative services including:-
  - youth justice
  - school support
- Providing a Justice Service, including enforcement of community payback orders, compliance monitoring within the terms of the Intensive Support and Monitoring (Scotland) Regulations 2008, and including supporting and reporting on the work of the Offender Management Committee
- Providing a service to prevent and address domestic violence and gender based violence, including supporting and reporting on the work of the Gender Based Violence Committee
- In conjunction with the Head of Housing, Customer & Building Services, delivering and reviewing the Scheme of Assistance under section 72 of the Housing (Scotland) Act 2006
- Providing Occupational Therapy services, including aids and adaptations
- Providing a mental health service, including:-
  - appointment of mental health officers
  - securing of mental health orders
- Senior People's Challenge Fund
- Alcohol Diversionary Programme and Activities
- Community Health Champions

#### 10.3.4 Social Policy - Corporate Functions

- Delivering and reviewing the Children and Families Medication Policy and Operational Framework, and the Policy on the Management of Medication in social care services
- Organisational Duty of Candour and related procedures, including the annual report
- Policy and Procedure on the Protection of Children and Protected Adults - participating as a core member in the PVG Referral Panel
- COVID-19: Participation in and representing the council's interests in the Care Home Clinical and Care Professional Oversight Team
- COVID-19: Acting as Nominated Person for the Scottish Government where appointed through court order to manage a distressed care home
- In compliance with the council's Procurement Policy, Financial Regulations, Standing Orders for the Regulation of Contracts, and relevant legislation, purchasing such other services that are required in order to fulfil the statutory responsibilities of the Chief Social Work Officer

#### 10.3.5 **Social Policy - Statutory Appointments**

- \*Chief Social Work Officer (Social Work (Scotland) Act 1968, section 3, and see paragraph 8.3 and Appendix 3)
- Non-voting member of the West Lothian Integration Joint Board

## 11 **CORPORATE, OPERATIONAL & HOUSING SERVICES**

### 11.1 **Delegated responsibilities and reporting links**

The following officers have the delegated responsibilities as shown below:-

- Depute Chief Executive (Corporate, Operational and Housing Services)
- Head of Corporate Services, reporting to the Depute Chief Executive
- Head of Operational Services, reporting to the Depute Chief Executive
- Chief Solicitor reporting to the Head of Corporate Services
- Area Housing Managers, reporting to the Head of Housing, Customer & Building Services

### 11.2 **DEPUTE CHIEF EXECUTIVE**

#### 11.2.1 **Public Services**

- Delivering and reviewing the Community Safety Strategic Plan, with the Head of Housing, Customer and Building Services in support
- Refugee resettlement
- COVID-19: Shielding, in accordance with Scottish Government guidance
- COVID-19: Agreement with local consortium of voluntary organisations on the use and allocation of the Scottish Government's COVID19 Food Fund

#### 11.2.2 **Corporate Functions**

- Preparing and monitoring the HRA Revenue Budget in accordance with the Financial Regulations
- Writing off HRA rent arrears in accordance with the Financial Regulations
- Preparing and monitoring the HRA Capital Budget in accordance with the Financial Regulations
- Co-ordinating the council's compliance with Investors in People standard
- Workforce planning - carrying out all and any future statutory consultation and notification procedures with the recognised Trades Unions on any proposals for reductions in the council's workforce
- Citizen Led Inspections in council services as part of the Improvement Strategy
- Public performance reporting
- Business improvement services
- Delivering and reviewing the Modernising Government Strategy
- Delivering and reviewing the council's Corporate Plan, including budget engagement and consultation
- Preparing and keeping under review the council's Business Continuity Planning framework
- Exercise of duties and powers in relation to counter-terrorism
- Delivery and review of the Asbestos Policy and Risk Management Plan
- Corporate Procurement Strategy
- Senior Responsible Officer for the Regulation of Investigatory Powers legislation, policy and procedure

- Senior Information Risk Owner (SIRO) in relation to information governance and security related matters

### **11.3 HEAD OF CORPORATE SERVICES**

#### **11.3.1 Corporate Services - Public Services**

- Community councils
- Children's Hearing System – liaison with and appointment of council officer to Area Support Team
- Civic licensing
- West Lothian Licensing Board
- Safeguarders
- Children's Panel
- Delivering and reviewing the Gaelic Language Plan (Plana Gaidhlig Comhairle Lodainn An Lar)

#### **11.3.2 Corporate Services - Corporate Functions**

- Legal Services
- Members' Services
- Committee Services
- Family Leave Scheme for Elected Members
- Delivering and reviewing the Policy and Procedure on the Protection of Children and Protected Adults, including convening and participating as a core member in the PVG Referral Panel and supervising the HR Services manager as Lead Signatory to the PVG Scheme
- HR Services, including delivering and reviewing all HR services, policies and procedures, but in particular:-
  - People Strategy
  - Policies and procedures in relation to paid and unpaid annual and special leave and for family care purposes
  - Grievance and disciplinary codes, policies and procedures, including Bullying and Harassment, Employee Gender-Based Violence
  - Supporting Attendance at Work Policy and Procedure

- Supporting Performance Framework
- Smoke Free Policy
- Living Wage, including applying the annual uplift where necessary due to national pay awards not being timeously implemented
- Reserve Forces Training and Mobilisation
- Business Travel and Subsistence
- Authorising applications under the council's Scheme for Reimbursement of Employees' Removal and Relocation Expenses
- Payroll services including flexi-leave and annual and special leave
- Exercise of discretionary powers under the local government superannuation scheme regulations
- Paying gratuities in terms of the council's Scheme of Gratuities
- Employee screening processes
- Misuse of Alcohol, Drugs and Other Substances
- Menopause Policy
- IT Services, including:-
  - Delivering and reviewing the ICT Strategy
  - Delivering and reviewing the Digital Transformation Strategy
  - Delivering and reviewing the IT Asset Management Plan as part of the council's corporate Asset Management Plan
  - Delivering and reviewing the Information Governance Policy
  - Delivering and reviewing the Internet, Social Media and Email Policy
  - Compliance with Public Records (Scotland) Act 2010
  - Telephone services
  - Disposing of computer hardware and software
- Corporate Procurement Unit and procurement services, including:-
  - Delivering and reviewing the Corporate Procurement Strategy, including the Corporate Procurement Unit, the Corporate

### Procurement Strategy and the Corporate Contract Management System

- In terms of the council's Standing Orders for the Regulation of Contracts, Responsible Officer for all council procurement and contracts
- In terms of the council's Standing Orders for Contracts, reporting to PDSP and Council Executive on procurement activity for all council services
- Reviewing the council's Corporate Procurement Procedures, and making changes identified by the Corporate Procurement Steering Board (such changes to be reported to Council Executive thereafter)
- In consultation with the Chief Solicitor, making minor administrative changes to the council's Contracts Standing Orders, and revising and updating Sections A and C of those Standing Orders
- Construction Charter for West Lothian
- Performance & Improvement Team, including delivering and reviewing the Improvement Strategy
- Civic Centre Administration Team including central corporate mailroom service
- Members' Local Disbursements Scheme
- Corporate Communications, including delivering and reviewing the Corporate Communications Strategy
- Delivering and reviewing the Scheme of Elected Members' Remuneration, Allowances and Reimbursement of Expenses
- Co-ordinating the council's Celebrating Success initiative
- Local Government Spatial Information Hub
- Delivering and reviewing equality policies and framework (including the International Holocaust Remembrance Alliance definition and descriptions of Anti-Semitism and the UK All-Party Parliamentary Group definition of Islamophobia), and compliance with public sector equality duties
- Health & Safety policies and procedures, including:-
  - Delivering and reviewing the Council-Wide Occupational Health and Safety Policy, including monitoring effectiveness of the management of the council's health and safety risks



- Delivering and reviewing the Personal Safety at Work Policy and related procedures and guidance
- Acting as the appointed Company Secretary of WL Ventures Group Limited and Visit West Lothian
- Elected Members Equality and Diversity Working Group (Lead Officer)
- Legacy of Chattel Slavery Working Group (Lead Officer)
- Counsel's opinion – obtaining such opinion as the council's Monitoring Officer where appropriate

#### 11.3.3 **Corporate Services - Statutory Appointments**

- Monitoring Officer (section 5 of Local Government and Housing Act 1989, and see paragraph 8.3 and Appendix 3)
- Proper Officer for maintaining the list of politically restricted posts (section 2 of the Local Government and Housing Act 1989)
- Proper Officer for registration of personal data, on both electronic and manual systems, with the Information Commissioner (Data Protection Act 1998)

### 11.4 **\*CHIEF SOLICITOR**

In relation to statutory functions falling within the remit of the statutory posts listed in 11.4.3, the decisions of the Chief Solicitor are not subject to change by more senior officers, but are, subject to council or committee decisions, final and binding on the council.

#### 11.4.1 **Chief Solicitor - Public Services**

- Exercising all powers and duties of the council and West Lothian Licensing Board including the issue and service of notices as enforcement authority, local authority or appropriate authority under legislation relating to:-
  - the sale and consumption of alcohol and gambling
  - all other licensing enforcement powers on behalf of the council
- Non-liquor licensing and permissions:-
  - Council's Determination in relation to communication in civic licensing by electronic means, including the power to vary it
  - Granting, subject to the council's standard conditions, and issuing all applications for and in relation to registrations, licences, permissions, dispensations and permits dealt with by Legal Services (to include determining if such is required in any particular case), and variations of them, variations and

additions to and deletion of standard conditions, and removal from registers on their expiry, subject to in cases where satisfactory reports are obtained from consultees, except where there is a recommendation or a request for refusal from such a consultee when the matter shall be referred to the Licensing Committee

- COVID-19: During the COVID-19 emergency when committee meetings are suspended, determining all pending or new applications which normally would be determined by committee
- In relation to any application requiring the display of site notices and where there is a defect in compliance, instructing or agreeing to the notice being redisplayed by the applicants to allow the application to continue to be processed
- In relation to any application requiring a vehicle to be presented for testing, refusing the application where the applicant fails to do so in time for the application to be timeously determined
- Issuing a warning as to future conduct or regulatory action in relation to complaints or representations made to the council in respect of the holder of a licence, permission, dispensation or permit dealt with by Legal Services, except where the licence holder concerned has received such a warning from the Chief Solicitor or the Licensing Committee in the previous year, or where there is a request for a suspension or revocation of the licence, permission, dispensation or permit from an appropriate consultee
- Authorising of: the display of advertisements and signs on taxis in consultation with the chair of the Licensing Committee; full livery advertisements on taxis; the display of Company name and Logos on private hire cars; installation of CCTV systems in taxis, private hire cars provided they meet the council's specification
- In relation to late hours catering licences for petrol stations, supermarkets and retail shops, in the absence of any objections, representations or adverse comments from either the public or the Council's advisors, applications for licences between the hours of 11pm and 5am will be granted under delegated authority by the Chief Solicitor. All other applications will be referred to the Licensing Committee for a decision to be taken.
- In consultation with the Chair, re-arranging and re-scheduling adjourned or continued Licensing Committee cases where required in the interests of justice, having regard to the interests of all parties involved
- In relation to late hours catering licences for takeaway or restaurant premises, in the absence of any objections,

representations or adverse comments from either the public or the Council's advisors, applications will be granted with a terminal hour of 1am for sales at the premises and 2am for deliveries. All other applications will be referred to the Licensing Committee for a decision to be taken

- In relation to late applications for renewal of licences under the Civic Government (Scotland) Act 1982, deciding if on good cause shown a renewal application made within 28 days after the expiry of the licence should be treated as an application made before its expiry
- In relation to applications for temporary public entertainment licences, in consultation with the Chair, deciding if on good cause shown a late application should be accepted and in practice can be processed on time despite it having been lodged after the deadline of 35 days before the date of the event concerned
- Amending annually the council's list of vehicles approved for use as taxis in accordance with the views of the council's Hire Car Consultative Group
- Refusing applications for taxi driver licences where the applicants have failed the topographical test on two occasions, or have failed to attend for examination without reasonable excuse
- Refusing applications for taxi and private hire car driver's licences where a medical examination has been required and the applicant has not been certified as fit to drive a public service vehicle for a period of at least 12 months or where the applicant has failed without reasonable excuse to attend for examination
- Issuing exemption certificates to taxi or private hire car drivers who have demonstrated a medical condition preventing them from assisting wheelchair users or from carrying assistance dogs in their vehicles
- Approving the payment by the council of all fees for all medical examinations, follow-up reports and additional tests which may be required in order to assess a driver's fitness to drive a private hire car or taxi
- Setting the application fee for applications for knife dealer licences within the range of £100 to £200
- Parades and processions:-
  - Authorising street processions and parades except in cases of difficulty or where adverse observations have been received from a relevant consultee

- In relation to applications for parades or processions, in consultation with the Chair, deciding if on good cause shown that an order should be made dispensing with the requirement to give 28 days' notice of the event concerned
- Children's Panels and Children's hearings:-
  - exercising the functions of the council in respect of the establishment of Children's Panels, including arrangements for the training of panel members
  - exercising the functions of the council in respect of the Children's Panel Advisory Committee and the Panel or Panels appointed in association therewith, including arrangements for the training of members of the Committee and Panel or Panels
  - exercising the function of the Council in respect of the arrangements for the appointment of legal representatives and Safeguarders to children in connection with Children's Hearings
- Community Councils - exercising the functions of the Council in relation to Community Councils
- Selling council houses to sitting tenants
- West Lothian Local Licensing Forum, including the removal and appointment of members of the Forum in accordance with the constitution of the Forum and its decisions
- Imposing a temporary ban or restriction on traffic on roads for public safety or convenience (Roads (Scotland) Act 1984 s 62)
- Determining requests for the internal review of the handling of freedom of information requests
- Education (Appeals) Committee – administration of the statutory committee for hearing appeals against decisions on pupil placement applications and exclusions from schools, including authority to identify and fix such dates as may be necessary for the conduct of appeals

#### 11.4.2 **Chief Solicitor - Corporate Functions**

- Signing missives and other conveyancing documents and subsequent preparation of deeds
- Signing notices including compulsory purchase and planning orders where not delegated to another officer and notices and orders on road traffic matters
- Starting and defending legal proceedings
- Settling legal actions and claims

- Engaging private legal firms, Sheriff Officers, patent agents, and parliamentary agents and any other appropriate professional or specialist service when required
- Engaging counsel and obtain counsel's opinion
- Referring reports to the Procurator Fiscal requesting criminal proceedings be raised in connection with matters arising from statutory enforcement or regulatory powers of the council
- Authorising Officer for the Regulation of Investigatory Powers legislation, policy and procedure
- Policy and Procedure on the Protection of Children and Protected Adults - participating as a core member in the PVG Referral Panel
- Signing company documents such as resolutions, minutes and other documents on behalf of the council as sole member of WL Ventures Group Limited and Business Gateway West Lothian Limited and other incorporated bodies where the council is sole member, as appropriate
- Planning:-
  - Procedures at West Lothian Council Planning Committee - subject always to the provisions of the council's Standing Orders, determining the procedures to be followed at any meeting of the West Lothian Council Planning Committee, in consultation with the Chair of the West Lothian Council Planning Committee
  - Procedures at West Lothian Council Local Review Body - subject always to the provisions of the council's Standing Orders, determining the procedures to be followed at any meeting of the West Lothian Council Local Review Body, in consultation with the Chair of the West Lothian Council Local Review Body.
  - In relation to appeals to the Scottish Ministers against decisions of the council as planning authority which were taken against officers' recommendation and where it has been determined by the Head of Planning and Economic Development that it is not appropriate for Planning Services to prepare the appeal submission and to conduct the appeal:-
    - (a) preparation of the appeal submission, after consultation with the Chair of Development Management Committee, or the Chair of Planning Committee, as appropriate, with ward members, and with members of an adjoining ward (where there is a significant impact on that adjoining ward)
    - (b) determination of the appropriate method for conducting the appeal, after consultation with ward members (not subject to paragraph 2.2.2 of this Scheme)

(c) After authorisation from Development Management Committee in accordance with Standing Orders, submitting the appeal documents and conducting the appeal

- In relation to all appeals to the Scottish Ministers against decisions of the council as planning authority, determining, in consultation with the Head of Planning and Economic Development, whether external advice or representation is required

#### 11.4.3 Chief Solicitor - Statutory Appointments

- Clerk to the Licensing Board (Licensing (Scotland) Act 1976 and Licensing (Scotland) Act 2005)
- Proper Officer for carrying out procedures for making byelaws (Local Government (Scotland) Act 1973 sections 202, and 202 B)
- Proper Officer for certifying as a true copy an entry in the Register of Byelaws (Local Government (Scotland) Act 1973 section 202B(5))
- Proper Officer for producing a certificate of evidence of Byelaws (Local Government (Scotland) Act 1973 section 204)
- Proper Officer for certifying as evidence of copies of Management Rules (Civic Government (Scotland) Act 1982 section 113)
- Proper Officer to accept service on council of legal proceedings, notices etc. (Local Government (Scotland) Act 1973 section 190)
- Proper Officer for the lodging of claims in sequestration and liquidations (Local Government (Scotland) Act 1973 section 191)
- Proper Officer for the service of notices etc. by the council except where specifically delegated elsewhere in this scheme (Local Government (Scotland) Act 1973 section 192)
- Proper Officer for the authentication of notices, orders and documents except where specifically delegated elsewhere in this scheme (Local Government (Scotland) Act 1973 section 193)
- Proper Officer for the execution of deeds and use of the council's seal (Local Government (Scotland) Act 1973 section 194, Requirements of Writing (Scotland) Act 1995 Schedule 2, paragraph 4). This authority is also exercisable by the Managing Solicitors in Legal Services
- Proper Officer for inspecting, retaining and depositing documents (section 197 of Local Government (Scotland) Act 1973)
- Proper Officer for transfer of educational endowments (section 128 of Local Government (Scotland) Act 1973)

## **11.5 HEAD OF HOUSING, CUSTOMER & BUILDING SERVICES**

### **11.5.1 Housing, Customer & Building Services - Public Services**

- Exercising the functions of the council as housing authority in terms of all relevant legislation, including the following functions
- Delivering and reviewing the 5 year Strategic Housing Investment Plan
- Delivering and reviewing a Local Housing Strategy for West Lothian
- Managing and allocating council houses (Housing Allocation Policy and Suspension Policy)
- Maintaining a register of properties and granted tenancies
- Controlling the conduct and standard of tenancies
- Enforcing housing repair contracts and service level agreements
- Creating and controlling of temporary tenancies and other interim accommodation arrangements, including charging
- Operating schemes to maximise participation and consultation with tenants
- Delivering and reviewing the Tenants' Cash Incentive Scheme
- Recovering rent arrears and possession
- Authorising eviction for rent arrears
- Preparing and issuing notices of proceedings for recovery of property and debts on grounds contained in the Housing (Scotland) Acts
- Authorising legal proceedings for recovery of possession
- Delivering and reviewing the council's Rapid Rehousing Transition Plan
- Determining applications for homeless accommodation
- Delivery of affordable housing and the Homes for West Lothian Partnership
- Energy Company Obligation (ECO) Scheme and Statement of Intent
- Considering and providing accommodation for registered sex offenders in partnership with the police and the Head of Social Policy
- Assessing and awarding home loss payments

- Delivering and reviewing the council's Anti-Social Behaviour Strategy
- Promoting community safety and deploying the council's Neighbourhood Response Team
- Delivering and reviewing the Community Safety Strategic Plan
- Managing the Safer Neighbourhood Unit comprising police officers, neighbourhood response officers and youth workers
- Authorising legal proceedings in terms of the Antisocial Behaviour etc. (Scotland) Act 2004 and the Crime and Disorder Act 1998
- Providing travelling people's services where there is a duty to do so
- Delivering and reviewing the council's Open Market Acquisition Scheme
- The operation of the council's participation in the National Mortgage to Rent Scheme and instructing Legal Services accordingly
- All powers in connection with works and demolition notices, carrying out works in cases of default, evacuating properties, instructing court proceedings for ejection, and securing recovery of costs (Part 1 of Housing (Scotland) Act 2006)
- All powers in connection with maintenance plans and securing recovery of costs (Part 1 of Housing (Scotland) Act 2006)
- All powers and duties in connection with the provision of assistance for housing purposes (Part 2 of Housing (Scotland) Act 2006) including grants and loans
- In conjunction with the Head of Social Policy, delivering and reviewing the Scheme of Assistance under section 72 of the Housing (Scotland) Act 2006
- Delivering and reviewing the management of investment in mixed tenure housing estates, including the recovery of costs from homeowners
- Delivering and reviewing the council's Private Landlord Registration Scheme and related policy and procedures, including in particular:-
  - Maintaining the Register of Private Landlords
  - Granting applications for entry on the Register of Private Landlords, except in cases of difficulty or where adverse observations have been received
  - Making such enquiries and undertaking such consultations as are determined by the Head of Housing, Customer & Building Services to be relevant and appropriate in relation to removals



from the Register of Private Landlords with a view to referring such cases to the Licensing Committee for determination

- Issuing notices that no rent shall be payable to a private landlord (rent penalty notices), and revoking, or granting applications to revoke, such notices, after such enquiries and consultation as are determined by the Head of Housing, Customer & Building Services to be relevant and appropriate, except where there is a recommendation or a request for refusal from such a consultee or the Head of Housing, Customer & Building Services otherwise considers that revocation may not be appropriate when the matter shall be referred to the Licensing Committee
- Undertaking enforcement and other regulatory activity in connection with the Scheme
- Entering into service delivery leases and missives of let for or in association with a residential purpose in relation to properties held on the Housing Revenue Account where the length of lease or missives of let is less than five years, and the annual rental or licence fee is less than £50,000 exclusive of VAT
- Delivering and reviewing the Customer Service Strategy
- Customer Contact Centre and Council Information Services
- Tenant Grant Fund – administration, updating procedures and determination of applications
- Registration Services:-
  - Registering births, deaths and marriages
  - Conducting civil marriages
  - Registering civil partnerships
  - Conducting citizenship ceremonies
  - Conducting Naming Ceremonies for children
  - Conducting Renewal of Vows Ceremonies
- Providing library and heritage services, museums, and local history service
- Delivering and reviewing the Museums Strategy and the Museums Service Acquisition and Disposal Policy, and making acquisitions and disposals in terms of that policy

#### 11.5.2 **Housing, Customer & Building Services - Corporate Functions**

- Appointing and monitoring debt collection companies in respect of the HRA account
- Managing, monitoring and reporting on the council's relationship with Police Scotland
- Managing, monitoring and reporting on the council's relationship with the Scottish Fire & Rescue Service
- Signing off Partnership Agreements with Community Education Centres, subject to reporting such agreements to the relevant Local Area Committee and Culture and Leisure PDSP
- Ensuring compliance with the Legionella Policy and Management Plan in relation to council housing and other housing accommodation

## **11.6 AREA HOUSING MANAGERS**

### **11.6.1 Area Housing Managers - Statutory Appointments**

- Signing tenancy agreements under the Housing (Scotland) Act 2001 (Local Government (Scotland) Act 1973, section 193)

## **11.7 HEAD OF OPERATIONAL SERVICES**

### **11.7.1 Facilities Management - Corporate Functions**

- Providing a catering service to schools and other council services
- Providing a building cleaning service to schools and other council services
- Providing a facilities management service to schools
- Catering for meetings
- Catering for civic events
- Providing a special cleaning service following building or renovation work

### **11.7.2 Fleet and Community Transport - Public Services**

- Operating an MOT station
- Transporting clients to various locations throughout West Lothian
- Delivering lunch club and meals from production centres to local units

### **11.7.3 Fleet and Community Transport - Corporate Functions**

- Providing a vehicle maintenance service for the council's fleet
- Managing the council's fleet portfolio

- Administering the hire pool
- Delivering and reviewing the Driving at Work Policy
- Delivering and reviewing the Green Transport Policy
- Collecting and delivering internal mail
- Delivering and reviewing the Fleet Asset Management Plan as part of the council's corporate Asset Management Plan

11.7.4 **Neighbourhood Environmental Teams (NETs), Land and Countryside - Public Services**

- Managing, developing and maintaining the council's three Country Parks in West Lothian
- Managing, developing and maintaining the countryside in West Lothian
- Managing, developing and maintaining the woodland and forestry in West Lothian
- Central Scotland Green Network Trust (shared with the Head of Planning and Economic Development))
- Managing, developing and maintaining the Caravan and Camping Site at Beecraigs Country Park
- Managing, developing and maintaining the golf course and driving range at Polkemmet Country Park
- Managing, developing and maintaining the sawmill and fishery at Beecraigs Country Park
- Managing, developing and maintaining parks and open spaces, play areas, woodlands and street trees, and cemeteries, including the delivery and review of the West Lothian Council Endorsed Respectful Funeral and provision of bereavement services
- Delivering the council's responsibilities under land reform legislation
- Managing multi use games areas (MUGAs) in terms of the council's MUGA Asset Management Plan
- Delivering and reviewing the council's Food Growing Strategy 2020/2025
- Managing and maintaining war memorials and other public sites for commemoration of those who died in the service of their country
- Managing and delivering the council's garden maintenance scheme for the elderly and disabled

- Managing and delivering the council's street cleansing service applied to all adopted roads, footpaths, civic centres, hard surfaces and rural roadside verges
- Environmental Wardens Service
- Issuing fixed penalty notices in terms of the Environmental Protection Act 1990 and the Dog Fouling (Scotland) Act 2003
- Providing support and grants for public events including the provision of bunting for gala days and public events

11.7.5 **Neighbourhood Environmental Teams (NETs), Land and Countryside - Corporate Functions**

- Provide educational and awareness sessions on the countryside and woodland to schools
- Delivering and reviewing the Forestry Management Plan in partnership with the Forestry Commission
- Delivering and reviewing the Open Space Strategy
- Delivering and reviewing the Open Space Asset Management Plan as part of the council's Corporate Asset Management Plan
- Delivering and reviewing the Tree Management and Safety Policy
- Delivering and reviewing the Litter Policy
- Delivering and reviewing the Release of Chinese/Sky Lanterns & Balloons Policy
- Delivering and reviewing the West Lothian Food Growing Strategy 2020-2025

11.7.6 **Roads and Transportation Services - Public Services**

- Carrying out the transport functions of the council in terms of council policy, nationally published policy guidance and best practice advice and the legislative framework set by the relevant acts and including the following functions
- Delivering and reviewing the Smarter Choices, Smarter Places Programme
- Delivering and reviewing the Public Transport Strategy and related transportation policies, including a rail concessionary travel scheme
- Promoting road safety and delivering and reviewing the council's Road Safety Plan

- Delivering and reviewing the council's Residential On-Street Disabled Persons' Parking Policy, including the provision of disabled person's parking bays and determining appeals against refusals of applications for provision of residential on-street disabled persons' parking places
- Delivering and reviewing the Active Travel Plan
- COVID-19: funding available through Sustrans (Scotland) to implement temporary measures to make essential travel and exercise safer during the emergency period
- Delivering and reviewing traffic management policies
- Delivering and reviewing the council's Accident Investigation and Prevention (AIP) Casualty Reduction Programme
- Authorising orders and experimental orders to be prepared and made to give effect to Council Executive decisions on regulating traffic, and setting up traffic management schemes and other powers, other than those where objections are made and not resolved
- Granting all road construction applications except where there are unresolved objections, where the application is recommended for refusal, and when an applicant wishes to be heard by the Council Executive in connection with a conditional consent or refusal that has been recommended
- Making comments and representations to other authorities on their proposed traffic orders
- Designing new roads projects
- Managing, maintaining and constructing highways structures
- Delivering the Passive Safety and Vehicle Restraint Systems Assessment Procedure
- Submitting technical comments to other authorities on matters referred to the council for observations
- The council's functions in relation to flood risk management, flood prevention, watercourses and reservoirs, including flood risk management plans and local flood risk management plans, surface water management, National Flood Risk Assessment, assessing bodies of water and compliance with the European Floods Directive and the European Water Framework Directive, and cooperation with Scottish Water in the maintenance of sustainable drainage systems. Including the Bathgate Water Regeneration Project
- Delivering and reviewing the council's Winter Service Policy, including managing and maintaining the winter maintenance service on public roads and footpaths, and all grit bins

- Maintaining street and traffic lighting and illuminated signs and bollards
- Controlling the messages displayed on variable message signs on road traffic routes
- Managing and controlling signage at entrances to the council's area of West Lothian, individual communities and on lampposts within built-up areas in West Lothian
- Granting consents for the placement of A-Boards in the vicinity of polling places in accordance with the council's policy on the Display of Election Material on Council Property
- Naming roads and streets in accordance with the views of the majority of ward members, and in the case of no such majority, in accordance with the views expressed by the Executive Councillor for the Environment
- Installing and maintaining nameplates in West Lothian
- Providing a street crossing patrol service for all locations which meet guidelines
- Co-ordinating road works with statutory undertakers and contractors in West Lothian
- Issuing road permits for the occupation and opening up of roads
- Issuing fixed penalty notices under sections 113, 114, 116 and 129 of the New Roads and Streets Works Act 1991 and sections 56, 58 and 85 of the Roads (Scotland) Act 1984 regarding work and other activities on a road, and cancelling such notices where appropriate
- Determining appeals against such fixed penalty notices on the recommendation of a Hearings Group of senior roads officers set up under the Transport (Scotland) Act 2005
- Removing unauthorised signs on property owned or maintained by the council and on roads adopted for maintenance by the council
- Issuing notices under section 187 of the Town and Country Planning (Scotland) Act 1997 and subsequently removing illegal placard signs on land not owned or maintained by the council

Note - This power is also held by the Head of Planning and Economic Development

- Issuing permits for the erection on public roads of temporary directional signs for new housing developments, and removing unauthorised signs on a charge basis including failure by the developer to do so on completion of the development
- Tables & Chairs Permits

- Providing Christmas and festive lighting and trees
- Providing bunting for gala days and public events
- Managing and maintaining the public roads network and the public footpath network, and applying the National Roads Development Guide and Roads Safety Inspection Manual
- Maintaining the council's list of public roads and delivering and reviewing the Policy of Adoption of Private Roads
- Providing the principal contact for the planning, management and co-ordination of public events in West Lothian including but not restricted to gala days, cultural events, markets, parades, walks, road races and public entertainment

#### 11.7.7 **Roads and Transportation Services - Corporate Functions**

- Representing the council's interest in SESTRAN
- ELBFF Shadow Joint Committee for roads collaboration
- Representing the council's interest in the regional transport strategy process
- Membership of the Forth Estuary Transport Authority (FETA)
- Delivering and reviewing the Roads and other Infrastructures Asset Management Plan as part of the council's corporate Asset Management Plan

#### 11.7.8 **Waste Management Services - Public Services**

- Collecting refuse from all domestic and commercial properties on request
- Recycling, from households, bring sites, Community Recycling Centres, internal council services and commercial premises to achieve national and local recycling targets
- Recycling waste material from council offices
- Providing community uplifts
- Providing a waste disposal service
- Providing clean and accessible public toilets

#### 11.7.9 **Waste Management Services - Corporate Functions**

- Chairing the Waste Treatment Plant Project Board (towards zero tolerance)

- Organising Waste Forums to raise awareness of recycling within council buildings
- Providing education and awareness sessions on waste management and recycling for council employees, schools, and community groups

#### 11.7.10 **Passenger Transport - Public Services**

- Carrying out the public transport functions of the council in terms of council policy, nationally published policy guidance and best practice advice and the legislative framework set by the relevant acts and regulations including the following functions
- Making arrangements for supported bus services and demand responsive transport services, including the DRT Development Fund, the Bus Partnership Fund and the West Lothian Bus Alliance
- Delivering and reviewing the council's Bus Information Strategy
- Administering the Bus Route Development Challenge Fund
- Delivering and reviewing the council's Taxicard and Rail Concessionary Travel Schemes
- Providing transport for pupils and students (including those with additional learning needs) in accordance with the council's agreed scheme
- Erecting bus stops, shelters and information panels
- Representing the council's interests in Transport for Edinburgh Limited and its associated and subsidiary companies, including membership of the Lothian Buses Limited Regional Subcommittee
- COVID-19: Representing the council's interests in developing a Regional Transport Transition Plan through the Edinburgh and Southeast Scotland City Regions Deal Regional Transport Transition Group

#### 11.7.11 **Inprint - Corporate Functions**

- Providing a full printing and reprographics service from design to delivery

## **12 EDUCATION AND PLANNING SERVICES**

### **12.1 Delegated responsibilities and reporting links**

The following officers have the delegated responsibilities as shown below:-

- Depute Chief Executive (Education and Planning Services)



- Head of Education (Resources), Head of Education (Schools), and Head of Planning, Economic Development & Regeneration), and Head Teachers, all reporting to the Depute Chief Executive (Education & Planning Services)
- Development Management Manager reporting to the Head of Planning, Economic Development & Regeneration
- Environmental Health and Trading Standards Manager reporting to the Head of Planning, Economic Development & Regeneration
- Principal Trading Standards Officer reporting to the Environmental Health and Trading Standards Manager
- Building Standards Manager reporting to the reporting to the Head of Planning, Economic Development & Regeneration

## **12.2 DEPUTE CHIEF EXECUTIVE**

### **12.2.1 Public Services**

- Ensuring the provision of planning, education and regeneration services in accordance with the council's statutory duties and policies
- Delivering and reviewing the council's Education Policy
- Designing and implementing the Summer of Play and related summer programme and activity
- Supporting the implementation of the national Cultural Strategy, preparing and implementing a local Cultural Strategy, and ensuring that cultural entitlements are delivered within West Lothian
- Developing the council's community planning process with the council's community planning partners
- West Lothian Citizens' Panel
- Delivering and reviewing the West Lothian Community Plan
- Facilitating the delivery of the Single Outcome Agreement across all service areas and community planning partners
- Discretionary charging for early learning and child care provision by the council
- COVID-19: Delivering and reviewing the Local Phasing Delivery Plan, including amending and updating it as required to reflect changes in circumstances, legislation and guidance

### **12.2.2 Corporate Functions**

- Determining the appointment to and involvement in the Education PDSP and the Employee Appeals Committee of the appointed members of the Education Executive, after consultation with those appointed members
- Arranging for attendance of non-councillors at meetings of the Education (Quality Assurance) Committee (in consultation with the Chair of that committee)
- Appointing Head Teachers in accordance with the decision of each Appointment Panel
- Negotiating on behalf of the council at the Local Negotiating Committee for Teaching Staff, determining any matters arising within the scope of delegated powers, and implementing agreements reached
- Managing, reviewing, monitoring, developing and reporting on the council's relationship with, membership and transfer of functions to West Lothian Leisure Limited
- Representing the council's interests in and delivering and reporting on the Edinburgh and South East Scotland City/Region Deal, including the Edinburgh and South East Scotland City/Region Deal Joint Committee
- The council's Schemes of Devolved School Management

### **12.3 HEAD OF EDUCATION (LEARNING, POLICY & RESOURCES)**

(All the following is subject to the council's Schemes of Devolved School Management - <https://intranet.westlothian.gov.uk/article/12822/Devolved-School-Management-Finance-Manual>)

#### **12.3.1 Public Services**

- Providing an additional support needs and educational psychology service to ensure the inclusion and well-being of early learning, primary and secondary pupils
- Planning, delivering and reviewing the 3-18 Curriculum in additional support needs early learning, primary and secondary provision
- Community learning and development service for adults and young people, including delivery and review of the Community Learning and Development Partnership Plan 2021-24
- Planning, delivering and reviewing services to implement Getting it Right for Every Child (GIRFEC) in partnership with the Head of Social Policy
- Planning and providing early learning and childcare, including wraparound care and out-of-school care

- Delivering and reviewing the council's responsibilities for Developing the Young Workforce
- Admitting pupils to schools and pre-school establishments and transferring pupils between primary and secondary schools
- Delivering and reviewing the Attendance and Engagement at School Policy and Procedure
- Delivering and reviewing the Medication in Schools Policy
- Delivering and reviewing the policy on “Promoting Positive Relationships in West Lothian Educational Establishments”
- Delivering and reviewing the policy on Looked After Children and Young People
- Inclusion and Support Service, under the direction of the Depute Chief Executive (Health & Social Care Partnership) and in conjunction with the Head of Social Policy)
- Consulting on and setting school term dates
- Providing a school instrumental music service
- Providing community sporting activities including managing and co-ordinating funding support for such facilities
- Providing school sporting activities, including the Active Schools Programme
- Providing a community arts service including managing and co-ordinating funding support for community arts
- International Twinning Links
- West Lothian Leisure Ltd.

#### 12.3.2 **Corporate Functions**

- Providing an ICT Service to support learning and teaching
- Providing a strategic resources service for education, including planning, instructing and monitoring the improvement of school and pre-school infrastructure and environment
- Providing a business management service to schools
- Providing financial planning and management for schools and other educational services and establishments, including setting schools devolved budgets

- Providing policy advice for schools and other educational services and establishments
- Education Governance - Regional Improvement Collaboratives
- Delivering and reviewing the Policy on Managing Critical Incidents in Schools

## **12.4 HEAD OF EDUCATION (CURRICULUM, QUALITY IMPROVEMENT AND PERFORMANCE)**

(All the following is subject to the council's Schemes of Devolved School Management - <https://intranet.westlothian.gov.uk/article/12822/Devolved-School-Management-Finance-Manual>)

### **12.4.1 Public Services**

- Planning, delivering and reviewing the 3-18 Curriculum in mainstream early learning, primary and secondary schools
- Ensuring the quality of early learning, primary and secondary schools, including educational attainment, positive destinations, testing and National Improvement Plan
- Maintaining teacher numbers
- Delivering and reviewing the Learning, Teaching and Assessment Policy
- Delivering and reviewing the Quality Improvement Framework
- Delivering and reviewing the Parental Involvement and Engagement Framework
- Supporting the election, operation and training of school representative bodies
- Delivering and reviewing the Home Education Policy
- Delivering and reviewing the School Excursion Policy (including in particular the power to make minor administrative changes to the policy)
- Delivering and reviewing the Substance Misuse in Schools Policy
- COVID-19: Coordinating provision in schools for vulnerable children and children of key workers

### **12.4.2 Corporate Functions**

- Providing continuous personal development for school staff
- Delivering and reviewing the councils responsibilities in relation to the provision of Gaelic medium education

- Pupil Equity Funding
- Education Quality Assurance Committee (Lead Officer)
- Supporting early learning, primary and secondary schools to improve their performance
- Providing a child protection service for schools and other educational services and establishments
- Policy and Procedure on the Protection of Children and Protected Adults - participating as a core member in the PVG Referral Panel

## **12.5 HEAD TEACHERS (including ACTING HEAD TEACHERS)**

(All the following is subject to the council's Schemes of Devolved School Management - <https://intranet.westlothian.gov.uk/article/12822/Devolved-School-Management-Finance-Manual>)

### **12.5.1 Public Services**

- Providing school education
- Pupil Equity Funding
- Carrying out the functions of the council as Education Authority in terms of council policy, the National Improvement Framework, and all relevant legislation, guidance and council policy

### **12.5.2 Corporate Functions**

- Implementation in schools of all relevant corporate and education policies and procedures
- Operational implementation of the Council-Wide Occupational Health and Safety Policy
- procurement functions delegated by the Responsible Officer and the depute Chief Executive in accordance with Standing Orders for the Regulation of Contracts and Corporate Procurement Procedures
- Appointing Depute Head Teachers in accordance with the decision of each Appointment Panel

## **12.6 HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION**

### **12.6.1 Planning (planning policy, including strategic and local planning and development management) - Public Services**

- (a) LOCAL DEVELOPMENTS (Part A Scheme)  
Status

Prepared in accordance with Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 and approved by the Scottish Ministers on 27 April 2021.

#### Appointed Person

The Appointed Person is the Head of Planning, Economic Development & Regeneration or any other officer authorised on their behalf.

#### Delegated Powers

In respect of local developments, as defined by Section 26A of the Town and Country Planning (Scotland) Act 1997 (as amended) and the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, subject to the exceptions listed below, the Appointed Person is authorised to determine:-

- (a) applications for planning permission
- (b) applications for consent, agreement or approval required by a condition imposed on a grant of planning permission.

#### Exceptions

The Appointed Person shall not determine an application in respect of a local development:-

- (a) where the application is made by an elected member of West Lothian Council; or
- (b) where an elected member of the ward the application site is in, or the Chair of Development Management Committee, has requested that it be referred to the Development Management Committee; or
- (c) where the intention is to grant and more than fifteen material objections (i.e. objections submitted in time and based on competent planning grounds the competency having been assessed by the Appointed Person) have been received within the timescale for making representations; or
- (d) where the intention is to grant and a material objection or objections (i.e. objections based on competent planning grounds the competency having been assessed by the Appointed Person) has been received from a community council in West Lothian. Any objections must be submitted within the timescale for making representations, or any reasonable extension to this timescale requested within the timescale for making representations, the reasonableness to be assessed by the Appointed Person

#### Other provisions

Applications which are exempt from the Part A Scheme shall be determined by the Development Management Committee.

The Appointed Person can refer any application to Development Management Committee.

The Appointed Person is authorised to decline to determine applications in terms of the provisions of the Town and Country Planning (Scotland) Act 1997 (as amended).

(b) NON-LOCAL DEVELOPMENTS & OTHER CONSENTS (Part B Scheme)  
Status

Prepared in accordance with Section 56 of the Local Government (Scotland) Act 1973 (as amended).

Delegated Person (The Appointed Person)

The Head of Planning, Economic Development & Regeneration or any other officer authorised on his/her behalf.

Delegated Powers

Subject to the exceptions listed below and Part A Scheme applications, the Appointed Person is authorised to determine all statutory planning and other regulatory applications.

Subject to the exceptions listed below, the Appointed Person is authorised to carry out the statutory planning enforcement functions of the council in terms of:-

(a) The Town and Country Planning (Scotland) Act 1997 (as amended)

(b) The Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended)

(c) The Town and Country Planning (Control of Advertisement) (Scotland) Regulations 1984 (as amended)

(d) The Planning (Hazardous Substances) (Scotland) Act 1997 (as amended)

Exceptions

The Appointed Person shall not determine an application:-

(a) where the applications made by a member of West Lothian Council

(b) where an elected member of the ward the application site is in, or the Chair of Development Management Committee, has requested that it be referred to the Development Management Committee; or

(c) where the intention is to grant and more than fifteen material objections (i.e. objections submitted in time and based on competent planning grounds the competency having been assessed by the Appointed Person) have been received within the timescale for making representations; or

(d) where the intention is to grant and a material objection or objections (i.e. objections based on competent planning grounds the competency having been assessed by the Appointed Person) has been received from a community council within whose area the application site lies. Any objections must be submitted within the timescale for making representations, or any reasonable extension to this timescale requested and granted within the timescale for making representations, the reasonableness to be assessed by the Appointed Person; or

(e) which is for planning permission for a major development and is considered to be significantly contrary to the development plan by the Appointed Person.

Other provisions

Applications which are exempt from this scheme by virtue of paragraph 5(a) to (c) above shall be determined by Development Management Committee.

Applications which are exempt from this scheme by virtue of paragraph 5(d) above shall be determined by Full Council.

The Head of Planning, Economic Development & Regeneration or any other officer authorised on his/her behalf is authorised to decline to determine applications in terms of the provisions of the Town and Country Planning (Scotland) Act 1997 (as amended).

(c) Other Public Services:-

- Determining the necessity for planning permission in terms of Part III of the Town and Country Planning (Scotland) Act 1997
- Determining whether an objection to a planning application is a material objection in terms of planning grounds and timescales (as defined by case law and statute) and the determination of whether a planning application accords with the development plan or other Committee approved development management policy
- Deciding whether an environmental impact assessment is necessary
- Deciding the scope of an environmental impact assessment
- Varying or otherwise of any planning permission, where the variation sought is not material
- Determining non-local applications, or applications other than those which legislation requires are determined by committee, made by the council (notices of intention to develop) or applications in which the council has a financial interest, and which have attracted no objections
- Subject to the terms of the other powers delegated to the Development Management Manager in this Scheme, issuing a notice of refusal of all applications for planning permission where a planning agreement or planning obligation is required by and is in accordance with the Development Plan or council policy and where the Development Management Manager considers that the agreement or obligation is not substantially complete within 6 months of the draft agreement or obligation being issued to the developer (not subject to Paragraph 2.2.2 of this Scheme)



- Subject to the terms of the other powers delegated to the Development Management Manager in this Scheme, the grant of planning permission where a planning agreement or obligation is required by the Development Plan or council policy but where the Development Management Manager considers that the agreement or obligation should be concluded otherwise than in accordance with the Development Plan or council policy, except where the application is called to committee by the Chair of Development Management Committee, by a ward member, or by a member of an adjoining ward (where there is a significant impact on that adjoining ward)
- 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
- In relation to applications to vary or discharge a planning obligation:-
  - Grant of the application where it relates to an obligation attached to a grant of planning permission determined by officers under delegated powers, or by committee in accordance with officers' recommendation, and where the Head of Planning and Economic Development considers that the outcome would be in accordance with the Development Plan or council policy at the date of the application (not subject to paragraph 2.2.2 of this Scheme)
  - Refusal of the application where it relates to an obligation attached to a grant of planning permission determined by officers under delegated powers, or by committee in accordance with officers' recommendation, and where the Head of Planning and Economic Development considers that the outcome would not be in accordance with the Development Plan or council policy at the date of the application (not subject to paragraph 2.2.2 of this Scheme)

- Refusal of an application where it relates to an obligation attached to a grant of planning permission determined by officers under delegated powers, or by committee in accordance with officers' recommendation, and where the Head of Planning and Economic Development considers that the application should be refused despite that granting the application would be in accordance with the Development Plan or council policy at the date of the application, except where the application is called to committee by the Chair of Development Management Committee, by a ward member, or by a member of an adjoining ward (where there is a significant impact on that adjoining ward)

#### **12.6.2 Planning (planning policy, including strategic and local planning and development management) - Corporate Functions**

- Determining whether an application for planning permission is of wider public interest resulting in the application requiring to be submitted to the Development Management Committee for decision
- Deciding whether an application for planning permission for a major development is significantly contrary to the development plan (not subject to paragraph 2.2.2 of this Scheme)
- Submitting technical comments to adjoining planning authorities on matters referred to the council for observations
- Submitting technical comments and authorisations to statutory undertakers in approving development on operational land
- Advertising and notification of applications for planning permission
- Under the Town & Country Planning (Local Place Plans) (Scotland) Regulations 2021:-
  - Whether a submitted Local Place Plan is valid and if so valid, registering the Local Place Plan and informing the Community Body that it has been registered
  - Whether a submitted Local Place Plan is invalid and if so give reasons for reaching that view
- Negotiating agreements under sections 69 and 75 of the Town and Country Planning (Scotland) Act 1997 where such agreements are necessary to address issues resulting from development proposals and where such issues cannot reasonably be dealt with by way of a condition on the planning permission
- Delivering and reviewing the Enforcement Charter

- In relation to appeals to the Scottish Ministers against decisions of the council as planning authority which were taken in accordance with officers' advice, or against non-determination:-
  - Preparation of the appeal submission, after consultation with the Chair of Development Management Committee, or Planning Committee, as appropriate, with ward members, and with members of an adjoining ward (where there is a significant impact on that adjoining ward)
  - Determination of the appropriate method for conducting the appeal, after consultation with ward members (not subject to paragraph 2.2.2 of this Scheme)
  - Submitting the appeal documents and conducting the appeal
  
- In relation to appeals to the Scottish Ministers against decisions of the council as planning authority which were taken against officers' recommendation, determination as to whether it is appropriate for Planning Services to prepare the appeal submission and to conduct the appeal, and where that is determined to be appropriate:-
  - Preparation of the appeal submission, after consultation with the Chair of Development Management Committee, or Planning Committee, as appropriate, with ward members, and with members of an adjoining ward (where there is a significant impact on that adjoining ward)
  - Determination of the appropriate method for conducting the appeal, after consultation with ward members (not subject to paragraph 2.2.2 of this Scheme)
  - After authorisation from Development Management Committee in accordance with Standing Orders, submitting the appeal documents and conducting the appeal
  
- In relation to appeals to the Scottish Ministers against decisions of the council as planning authority which were taken against officers' recommendation, determination as to whether it is appropriate for Planning Services to prepare the appeal submission and to conduct the appeal, and where that is determined to be inappropriate the appeal shall be prepared and conducted by the Chief Solicitor
  
- In relation to all appeals to the Scottish Ministers against decisions of the council as planning authority, determining, in consultation with the Chief Solicitor, whether external advice or representation is required
  
- Representing the council's interest in the Edinburgh & Southeast Scotland regional spatial strategy to inform the National Planning Framework

- Representing the council's interest in the regional spatial strategy to inform the National Planning Framework (when it replaces strategic development plan processes)
- Local Infrastructure Fund, including in particular the use of funds from the dangerous and defective buildings allocation (in consultation with the Leader and Depute leaders of the Council and the Chair of the relevant Local Area Committee)
- Planning the capacity of schools in consultation with the Head of Education (Resources) and the Head of Education (Schools)
- Exercising the council's functions as roads authority in relation to new developments
- Issuing certificates for planning and building standards in connection with applications to West Lothian Licensing Board
- Lodging objections with West Lothian Licensing Board on behalf of the council on development management and building standards matters
- Exercising rights of entry to land for the purposes of general planning control and enforcement under Parts VI and XIV of the Town and Country Planning (Scotland) Act 1997
- Delivering and securing compliance with the Scottish Biodiversity Duty
- Central Scotland Green Network Trust (shared with the Head of Operational Services)
- Delivering and reviewing the Core Paths Plan
- Providing mapping services
- Providing information and statistics particularly, but not exclusively, on demographics, including providing such information for school education planning purposes
- Co-ordinating Strategic Environmental Assessment procedures within the council

12.6.3 **Planning (planning policy, including strategic and local planning and development management) - Statutory Appointments**

- Proper Officer for authenticating documents in respect of all delegated decisions relating to development management (Local Government (Scotland) Act 1973, section 193)
- Appointed person for determining local planning applications under the mandatory scheme of delegation (with the Development Management Manager authorised to act in all such cases)

#### 12.6.4 Environmental Health and Trading Standards - Public Services

- Exercising all powers and duties of the council including the issue and service of notices as environmental health authority, trading standards authority, food authority, enforcement authority, local authority or appropriate authority under legislation relating to:-
  - environmental health (including food safety)
  - trading standards matters (including weights and measures, consumer protection, consumer credit, trade descriptions, and animal health)
  - other licensing enforcement powers on behalf of the council

all within the legislative framework set by the relevant Acts and Regulations including the following functions

- Granting conditionally or otherwise, refusing or suspending where legally appropriate, and designating officers to grant conditionally or otherwise, refuse or suspend where legally appropriate, licenses, registrations, recognitions or approvals in terms of the legislation referred to above
- Issuing Improvement and Prohibition Notices under the Health & Safety at Work Act 1974
- Issuing fixed penalty notices under the Dog Fouling (Scotland) Act 2003
- Issuing fixed penalty notices under the Smoking, Health and Social Care (Scotland) Act 2005
- Issuing fixed penalty notices under section 80 of the Environmental Protection Act 1990 (breach of an abatement notice requiring removal of a statutory nuisance)
- Issuing and reviewing penalty charge notices under section 23A of the Estate Agents Act 1979 (failure to belong to an approved redress scheme)
- Issuing and reviewing penalty charge notices under Part 3 of the Housing (Scotland) Act 2006 (failure of estate agents to provide home reports (including energy performance certificates in relation to sale of domestic dwellings)
- Issuing, and waiving where appropriate, fixed penalty notices under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003
- Issuing and withdrawing fixed penalty notices, putting in place procedures to consider representations in respect of the issuing of fixed penalty notices, and authorising officers to enforce the

relevant provisions of, the Tobacco and Primary Medical Services (Scotland) Act 2010

- Determining applications for exemptions from prescribed capacity limits on live events (COVID-19) and the review, amendment and revocation of permissions granted
- Delivering and reviewing the Trusted Trader Scheme
- Inspecting houses in multiple occupation
- Delivering and reviewing the Product Safety Incident Management Plan, including making minor administrative changes to keep it up to date and fit for purpose

#### 12.6.5 **Environmental Health and Trading Standards - Corporate Functions**

- Delivering and reviewing the Lothian Joint Health Protection Plan
- Appointing a Public Analyst and a Food Examiner in terms of the Food Safety Act 1990, section 27
- Appointing an Agriculture Analyst in terms of the Agriculture Act 1970, section 67
- Appointing and granting, through the Environmental Health and Trading Standards Manager, the necessary statutory authority to qualified officers (employed by the council or otherwise, in partnership with the Scottish Government and partner authorities) to carry out investigative, compliance and enforcement activities in relation to environmental health and trading standards functions (see 12.8, below)
- Providing advice to the West Lothian Licensing Board

#### 12.6.6 **Environmental Health and Trading Standards - Statutory Appointment**

- Proper Officer for authenticating documents in respect of all delegated decisions relating to environmental health (Local Government (Scotland) Act 1973, section 193)

#### 12.6.7 **Economic Development - Public Services**

- Developing tourism
- Managing town centres, including in particular the approval of projects for inclusion in consultation with the relevant town centre management group (if any), the relevant BID company (if any) or, failing both of those, the relevant Local Area Committee
- Scottish Government Town Centre Fund Capital Grant
- Villages Improvement Fund

- Town & Villages Improvement Fund for Fauldhouse and Whitburn
- UK Community Renewal Fund
- UK Levelling Up Fund
- UK Shared Prosperity Funding
- Economic recovery allocation of the COVID-19 Economic Recovery and Low Income Fund (low income element by Head of Finance & Property Services)
- Delivering and reviewing the Place Based Investment Programme and Community Wealth Building
- Managing and co-ordinating the council's funding support for business including small businesses grants and loans
- West Lothian Gift Card (Scotland Loves Local)
- Platinum Jubilee Civic Honours Competition, Livingston City Status Bid
- Maintaining a West Lothian Business Directory
- Providing business advisory and support services
- Business Improvement Districts (BIDs)
- Supporting and countersigning bids to the Scottish Government's Towns and Business Improvement Districts (BIDs) Resilience & Recovery Fund (TBRRF), provided that any such bids meet the terms of the fund and are aligned with the council's objectives
- Supporting and countersigning bids to the Scottish Government's "Scotland Loves Local Fund", provided that any such bids meet the terms of the fund and are aligned with the council's objectives
- West Lothian Jobs Task Force and related budget (formerly the Economic Growth Plan), including approval of expenditure in its implementation
- Kick Start Programme
- European Regional Development Fund, European Social Fund and Skills Pipeline
- Delivering and reviewing the Communities Regeneration Strategy, the Regeneration Framework and the Regeneration Capital Grant Fund
- Delivering and reviewing the Third Sector Investment Strategy and the Enterprising Third Sector Framework – managing, co-

ordinating, monitoring and reviewing all the council's activities in the funding and support of the voluntary sector in West Lothian, including the determination of funding allocations from the PED&R revenue grants budget and coordinating volunteering during the COVID-19 emergency period

- West Lothian Social Enterprise Network
- Fairtrade, including West Lothian Fairtrade Day
- War Memorial Support Grant Scheme (incorporating the War Memorial Small Grant Scheme)
- Community Empowerment - Participation Requests
- Leading the council's work on the delivery of employment initiatives for those who have left school and the Young Person's Guarantee
- Graduate Work Experience Programme
- Veterans' Wage Subsidy Programme
- Managing and co-ordinating all the council's activities in securing external funding through accessing appropriate Community Benefit Trust Funds and Lottery funding
- Making payments to pensioners' organisations for Christmas meals in accordance with council policy and recommendations from Local Area Committees

#### 12.6.8 **Economic Development - Corporate Functions**

- Delivering and reviewing the West Lothian Economic Partnership Economic Strategy and the various plans and strategies which align to it
- Pursuing and promoting Enterprise Area status for West Lothian sites, in consultation with the Leader of the Council
- Representing the council's interests in the East of Scotland Investment Fund Limited (ESIF), including as a Director until its dissolution
- Representing the council's interests in Business Loans Scotland Limited (BLS), including membership of the Regional Management Group of that company
- Managing the council's interests in international links and maximising these for the benefit of the West Lothian community including community planning partners
- External Funding:-



- Managing and co-ordinating all the council's activities in securing external funding through accessing European funds
- Managing and co-ordinating all the council's activities in securing external funding through appropriate Community Benefit Trust Funds
- Managing and co-ordinating all the council's activities in securing external funding through Scottish Government Regeneration Capital Grant Fund
- CCTV systems in traditional town centres as part of the council's community safety arrangements

Note - Each council service is responsible for the installation, use and review of the operation of CCTV in or on premises or land controlled by them

#### 12.6.9 **Climate Change, Carbon Management, etc. - Corporate Functions**

- Delivering and reviewing the council's Climate Change Strategy 2021–2028
- Compliance with the council's duties under the Climate Change Declaration
- Delivering and reviewing the council's Carbon Management Strategy
- Delivering and reviewing the council's Carbon Management Programme and Plan
- Delivering and reviewing the Renewable Energy Strategy
- Delivering and reviewing the Geodiversity Charter and Action Plan
- Queen's Green Canopy – Plant a Tree for the Jubilee
- Supporting and administering the Cross-Party Climate Emergency Working Group

### 12.7 **\*ENVIRONMENTAL HEALTH & TRADING STANDARDS MANAGER**

#### 12.7.1 **Environmental Health - Public Services**

- Instructing direct action and recovery of costs in the case of a Defective Building Notice for all properties except council owned ones

Note - Building Services are responsible for defective building notices in relation to council owned properties

#### 12.7.2 **Environmental Health - Statutory Appointment**

- Competent person for purposes of exercising the council's functions relating to the application of Environmental Health and Trading Standards enforced legislation aimed at protecting the public and businesses in West Lothian, designating and authorising suitably qualified individuals to assist in this function as required, and specifically designating competent persons under the Public Health (Scotland) Act 2008, section 5

## **12.8 \*PRINCIPAL TRADING STANDARDS OFFICER**

### **12.8.1 Trading Standards - Statutory Appointment**

- Chief Inspector of Weights and Measures (Weights and Measures Act 1985, section 72)

## **12.9 \*BUILDING STANDARDS MANAGER**

### **12.9.1 Building Standards - Public Services**

- Carrying out the functions of the council as building standards verifying and enforcing authority in terms of council policy, nationally published policy guidance and within the legislative framework set by the relevant acts and regulations, including the following functions
- Providing pre application advice on building warrant applications
- Processing of applications for letters of comfort for unauthorised works
- Inspecting and licensing of houses in multiple occupation
- Inspecting and licensing of public entertainment and general licensing
- Instructing direct action and recovery of costs in the case of all Dangerous Building Notices
- Submitting technical comments to other authorities on matters referred to the council for observations
- Consulting on, preparing and publishing appropriate performance information including statutory performance indicators
- Enforcing the production and display of energy performance certificates in relevant buildings (other than in connection with the sale of domestic dwellings)

### **12.9.2 Building Standards - Corporate Functions**

- Advising the West Lothian Licensing Board
- Issuing notices under the Housing (Scotland) Act 2006

- Instructing direct action in the case of a Defective Building Notice for all council owned properties

Note - The Environmental Health and Trading Standards Manager is responsible for defective building notices in relation to all properties which are not owned by the council

#### 12.9.3 **Building Standards - Statutory Appointment**

- Proper Officer for authenticating documents in relation to building standards (Local Government (Scotland) Act 1973, section 193).

## APPENDIX 1

### AMENDING THE SCHEME OF DELEGATION TO OFFICERS (Paragraphs 1.6 and 7.3)

#### 1 Updating and publication

##### 1.1 The Governance Manager shall:-

- review and update the Scheme to reflect changes flowing from decisions of full council or committee
- update the Scheme in January, April, July and October in each year in relation to management restructures, service reorganisations, replacement or re-enactment of existing legislation and changes authorised at council or committee meetings
- arrange for the updated versions of the Scheme to be published on the intranet, the internet and notified to elected members and members of the Corporate Management Team

##### 1.2 The Governance Manager shall chair the Delegations Working Group and is responsible for its work

#### 2 Review and reporting

##### 2.1 With the assistance of the Working Group on the Scheme of Delegations, the Governance Manager shall:-

- review and recommend updates the Scheme to reflect changes made through management restructures or service reorganisations and other processes which are not reported through full council or committee
- review and ensure the continuing and overall accuracy of the Scheme on a regular basis through its scheduled meetings and shall report to the Governance & Risk Board in relation to it work and any recommendations for change

##### 2.2 With the assistance of the Working Group on the Scheme of Delegations, the Governance Manager shall carry out a full review of the Scheme at least once in every administrative term to comply with the council's Code of Corporate Governance and to ensure its fitness for purpose, in particular:-

- compliance with section 50G(2) of the Local Government (Scotland) Act 1973 requiring a public list to be produced of the council's powers exercisable from time to time by officers, except for periods of less than six months
- clarity, for the purposes of good governance and corporate communication, in identifying which officers were responsible and accountable for decisions taken in the name of the council, with the emphasis on identifying all the council's major functions
- clarity for good governance in distinguishing between the roles and accountabilities of elected members in committee and of officers

- minimising the risk of successful legal challenges based on lack of the necessary authority of officers to take decisions

## APPENDIX 2

<b>STATUTORY AND PROPER OFFICER APPOINTMENTS (Paragraph 8.3)</b>	
Chief Executive	Head of Paid Service
Chief Executive	Returning Officer for council, UK and Scottish Parliamentary elections, and European elections
Chief Executive	Counting Officer for referendums
Chief Executive	Proper Officer for receiving elected members' resignations
Chief Executive	Proper Officer for accessing council meetings and agendas, minutes and other documents relating to meetings
Chief Executive	Proper Officer for maintaining the Roll of Admission of Honorary Freemen of West Lothian
Head of Finance and Property Services	Proper officer for the financial affairs of the council
Head of Finance and Property Services	Proper officer for signing deeds in connection with treasury management functions
Head of Finance and Property Services	Proper Officer for transferring securities on alteration of name, area etc. of the council
Head of Finance and Property Services	Proper Officer for receiving notices of election from councillors wishing to forego any part of an allowance
Governance Manager	Proper Officer for receipt of councillors' Declarations of Acceptance of Office
Governance Manager	Proper Officer for taking councillors' Declarations of Acceptance of Office
Governance Manager	Proper Officer for receipt and recording of members' interests
Governance Manager	Maintaining the Register of Members' Interests including Gifts and Hospitality received by members
Governance Manager	Proper Officer for maintenance of list of meeting rooms for use of candidates at elections and referendums (Schedule 5 of

	Representation of the People Act 1983 and other poll-specific legislation)
Governance Manager	Interim Monitoring Officer, per Council Executive on 18 January 2022
Head of Social Policy	Chief Social Work Officer
Head of Corporate Services	Monitoring Officer (role transferred <i>ad interim</i> to Governance Manager by Council Executive on 18 January 2022)
Head of Corporate Services	Proper Officer for maintaining the list of politically restricted posts
Head of Corporate Services	Proper Officer for registration of personal data, on both electronic and manual systems, with the Information Commissioner
Chief Solicitor	Clerk to the Licensing Board
Chief Solicitor	Proper Officer for carrying out procedures for making byelaws
Chief Solicitor	Proper Officer for certifying as a true copy an entry in the Register of Byelaws
Chief Solicitor	Proper Officer for producing a certificate of evidence of Byelaws
Chief Solicitor	Proper Officer for certifying as evidence of copies of Management Rules
Chief Solicitor	Proper Officer to accept service on council of legal proceedings, notices etc
Chief Solicitor	Proper Officer for the lodging of claims in sequestration and liquidations
Chief Solicitor	Proper Officer for the service of notices etc by the council except where specifically delegated elsewhere in this scheme
Chief Solicitor	Proper Officer for the authentication of notices, orders and documents except where specifically delegated elsewhere in this scheme
Chief Solicitor	Proper Officer for the execution of deeds and use of the council's seal
Chief Solicitor	Proper Officer for inspecting, retaining and depositing documents

Chief Solicitor	Proper Officer for transfer of educational endowments
Area Housing Managers	Proper Officer for signing tenancy agreements under the Housing (Scotland) Act 2001
Head of Planning and Economic Development	Appointed person for determining local planning applications under the mandatory scheme of delegation
Head of Planning and Economic Development	Proper Officer for authenticating documents in respect of all delegated decisions relating to environmental health and development management
Environmental Health and Trading Standards Manager	Competent person for purposes of exercising the council's functions relating to protection of public health, and designating suitably qualified officers of the council as additional such competent persons
Principal Trading Standards Officer	Chief Inspector of Weights and Measures
Building Standards Manager	Proper Officer for authenticating documents in relation to building standards



### **APPENDIX 3**

(Paragraph 8.3)

**(Council Executive, 18 September 2012)**

#### **STATUTORY OFFICERS – ROLE DESCRIPTIONS (Paragraph 8.3; Council Executive, 18 September 2012)**

- 1 The council is required by law to appoint four statutory officers who carry personal responsibility for significant parts of the council's governance arrangements.
- 2 Those four statutory officers are:-
  - A. Head of Paid Service
  - B. Chief Financial Officer (Section 95 Officer)
  - C. Monitoring Officer
  - D. Chief Social Work Officer
- 3 Role descriptions, as approved at committee, are as follows.

#### **A. HEAD OF PAID SERVICE**

- A1 Statutory context:-
  - The Head of Paid Service is a statutory appointment by virtue of Section 4 of the Local Government and Housing Act 1989 [the 1989 Act]. The council has resolved that the Head of Paid Service is the Chief Executive
  - Although a statutory appointment, the law does not require the Head of Paid Service to hold any specific qualifications. However, the post holder is expected to have appropriate leadership, communication and interpersonal skills and qualities of integrity and impartiality in order to deliver the statutory objectives of the post
  - By virtue of section 2(1)(a) of the 1989 Act, the post of Head of Paid Service is designated as a politically restricted post, and accordingly is included in the list of such posts required to be maintained by the council
- A2 Overall Objectives of the Post:-
  - to ensure the effective co-ordination of the discharge by the authority of its different functions
  - to assess the number and grades of staff required by the authority for the discharge of its functions
  - to ensure the effective organisation of the authority's staff

- to ensure that proper arrangements are in place for the appointment and proper management of the authority's staff
- to make a statutory report to the full council where considered appropriate to do so in respect of the matters in (a) to (d) above

A3 Corporate Responsibilities:-

- to report to the council annually on the council's compliance with its Code of Corporate Governance
- to submit, in conjunction with the Leader of the Council, an Annual Governance Statement as part of the audit of the council's annual accounts
- to report to the council, from time to time, on the corporate approach of the council in the delivery of its services and any necessary or desirable changes following consultation, in particular, with the proper officer for the council's financial arrangements (Chief Financial Officer) and Monitoring Officer
- to report to the council as necessary on the staff, accommodation and resources required to discharge the council's statutory functions
- to ensure elected members receive good quality information and support to inform them in their decision-making and scrutiny roles
- to remain impartial and accessible to all councillors in carrying out his/her role as the most senior officer of the council
- to develop an effective working relationship with elected members, including the Leader of the Council, Executive Councillors and Chairs of Committees of the council with a view to ensuring the effective and efficient discharge of council business
- to develop an effective working relationship with the council's community planning and other partners as appropriate
- to develop an effective working relationship with the council's external auditor
- to ensure the Chief Financial Officer and the Monitoring Officer are kept up-to-date with relevant information regarding the manner in which the council discharges its various functions, the corporate approach of the council, the staffing needs of the council, the organisation of the staff and the appointment and proper management of the staff
- to meet regularly with the Chief Financial Officer, Monitoring Officer and Chief Social Work Officer to promote and enforce good governance, to facilitate the council's compliance with legislation and to consider and recommend to the council improvements in the corporate governance of the council where necessary
- to ensure that the Chief Financial Officer, Monitoring Officer and Chief Social Work Officer have appropriate access to elected members and senior and other officers to enable them to carry out their statutory roles effectively

**B. PROPER OFFICER for FINANCIAL ARRANGEMENTS  
(Chief Financial Officer)**

**B1 Statutory Context:-**

- The Proper Officer for Finance Arrangements is a statutory appointment by virtue of section 95 of the Local Government (Scotland) Act 1973 which requires local authorities to make arrangements for the proper administration of their financial affairs and appoint a Chief Financial Officer (CFO) to have responsibility for those arrangements. The council has resolved that the proper officer is the Head of Finance and Property Services
- By virtue of section 2(1)(b) and (6)(d) of the Local Government and Housing Act 1989, the post of CFO is designated as a politically restricted post, and accordingly is included in the list of such posts required to be maintained by the council
- In Scotland, there is no statutory requirement for the CFO to be a member of a specified accountancy body. However, in West Lothian it is a requirement of the Head of Finance and Property Services post

**B2 Overall Objectives of the Post:-**

- to lead the promotion and delivery by the whole authority of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively
- to lead and direct a finance function that is resourced and fit for purpose
- to manage the council's financial resources to ensure the delivery of strategic objectives
- to be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, so that there is alignment with the authority's overall financial strategy

**B3 Corporate Responsibilities:-**

- Corporate Accounting Arrangements – ensuring adequate systems of accounting control are maintained throughout the council and that services conform with council policy, legislation & codes of practice
- Financial Regulations – maintaining a continuous review and submitting any changes, other than of a minor nature, to the Council Executive for approval
- General Service Capital Budget & General Fund Revenue Budget – preparing & monitoring in accordance with Financial Regulations
- Administration of the Sundry Debtors System

- Internal Audit - examination of the accounting, financial and other operations of the council
- Banking & Insurance Arrangements
- Signing Operating & Finance Leases
- Treasury Management - ensure that the council's annual Treasury Management Plan complies with the Treasury Management Code, The CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code) and the Local Government Investments (Scotland) Regulations 2010
- Payment Processing & Supplier Invoice Administration – In accordance with the Late payments & Commercial Debts Act 1998

### **C. MONITORING OFFICER**

#### **C1 Statutory Context:-**

- The Monitoring Officer is a statutory appointment by the council by virtue of section 5 of the Local Government and Housing Act 1989 [the 1989 Act]. The Monitoring Officer is appointed for the purposes set out in section 5 of the 1989 Act. The council has resolved that the Monitoring Officer is the Head of Corporate Services
- By virtue of section 5(7) of the 1989 Act, the duties of the Monitoring Officer must be carried out personally by them or, where they are unable to act owing to absence or illness, personally by such member of their staff nominated by them as their deputy
- By virtue of section 2(1)(e) of the 1989 Act, the post of Monitoring Officer is designated as a politically restricted post, and accordingly is included in the list of such posts required to be maintained by the council
- Although a statutory appointment, the law does not require the Monitoring Officer to hold any specific qualification, and in particular, they do not require to be a solicitor or advocate. However, the recommendation of Audit Scotland is that the post holder should be in a position of sufficient seniority within the council to enable them to carry out their statutory responsibilities effectively. This means that, irrespective of the substantive post which the Monitoring Officer holds in the council, they will either be a member of the council's Corporate Management Team, or have direct access to the council's Chief Executive, Depute Chief Executives, Heads of Service and Legal Services Manager as they see fit

#### **C2 Overall Objectives of the Post:-**

- to ensure that the council complies with the requirements of the law and any statutory Codes of Practice relevant to the carrying out of the council's duties and the delivery of the council's services

- to ensure that, where any contravention of the law, Code of Practice or corporate governance system has arisen, or is likely to, appropriate advice is given to the Chief Executive and relevant senior officers of the council regarding the mitigation, rectification or prevention of such contraventions
- to make a statutory report to the full council regarding any breach or potential breach of the law or statutory code of practice by the council where it proves impossible to rectify or prevent such breach

C3 Corporate Responsibilities:-

- to submit a report to the full council under section 5(2) of the 1989 Act where it appears to the Monitoring Officer that any proposal, decision or omission by the council, its committees or any officer or joint committee on which the council is represented, has given rise to, or is likely to give rise to, a contravention of any legislation or rule of law or of any code of practice made or approved under any legislation
- to consult the Chief Executive as the council's Head of Paid Service and the Head of Finance & Property Services as the council's proper officer for the council's financial affairs before submitting any report under section 5(2) of the 1989 Act, as required by section 5(3)(a) of that Act
- to submit to the Council Executive, as required by the council's Code of Corporate Governance, an annual statement as to breaches of the law by the council which have, or will have, a material or significant impact on the operations or finances of the council
- to maintain awareness of the operation of the council's services across all Heads of Service so as to be able to provide appropriate advice proactively to them regarding potential breaches of the law or codes of practice
- to maintain effective channels of communication with the Chief Executive, Governance Manager and Chief Solicitor to facilitate such awareness
- to attend, at their discretion, any meeting of the council, its committees, PDSPs or Working Groups to give advice appropriate to the role of the Monitoring Officer
- to appoint such number of deputies as is necessary to act in their absence as Monitoring Officer
- to act as the council's point of contact by the Public Standards Commissioner for Scotland and the Standards Commission for Scotland regarding complaints concerning alleged breaches of the Councillors' Code of Conduct
- to develop good liaison and working relations with outside bodies relevant to the role of the Monitoring Officer, including the Public Standards Commissioner for Scotland, the Standards Commission for Scotland, the council's external auditor, the Accounts Commission and the Scottish Public Services Ombudsman
- to carry out such investigations as the Chief Executive may determine as relevant to the Monitoring Officer's role

- to obtain, at their discretion, Counsel's opinion on any matter relevant to the Monitoring Officer's role
- to provide appropriate advice to elected members and council officers regarding the promotion of high standards of conduct, and ensure that suitable training is given regarding compliance with the codes of conduct for councillors and officers
- To carry out such other duties compatible with the role of the Monitoring Officer as the council may delegate, or as the Chief Executive may request, such as the investigation of a complaint to the council alleging breach of the Councillors' Code of Conduct

C4 Corporate rights:-

- to have unqualified access to any information held by the council and to any officer of the council who can assist in the discharge of their statutory role
- to have access to all reports to the council, its committees, joint boards, joint committees, PDSPs and Working Groups, as they see fit

#### **D. CHIEF SOCIAL WORK OFFICER**

D1 Statutory Context:-

- The Chief Social Work Officer is a statutory appointment by virtue of section 3 of the Social Work (Scotland) Act 1968. The council has resolved that the Head of Social Policy is the Chief Social Work Officer
- The Chief Social Work Officer is appointed for the purposes of the council's functions under the 1968 Act and under those other enactments listed in Section 5(1B) of that Act. In broad terms, those functions cover all social work and social care services whether provided directly by the council, in partnership with other agencies, or procured by the council and provided by others on its behalf. Those functions are referred to in this document as "social work services"
- The qualifications required for the post are set out in the Qualifications of Chief Social Work Officers (Scotland) Regulations 1996 (SSI 1996/515 (1996/49))
- The Chief Social Work Officer is required by section 5(1) of the 1968 Act to carry out the duties of the post under the general guidance of the Scottish Ministers. The Scottish Ministers issued revised and finalised guidance in July 2016 - <http://www.gov.scot/Publications/2016/07/3269>
- The Chief Social Work Officer is a "proper officer" of the council in relation to its social work functions. By virtue of section 2(1)(b) and (6)(c) of the Local Government and Housing Act 1989, the post is designated

D2 Overall Objectives of the Post:-

- To confidently manage the discharge of the council's statutory social work duties
- To ensure the provision of effective professional and objective advice to elected members and officers of the council in the council's provision of social work services
- To secure the effective provision of social work services

D3 Service provision:-

- To establish and develop social work services focussed on the needs of service users, to promote the continuous improvement of those services, and to monitor and raise standards of their delivery
- To ensure the effective governance of the balance of need, risk and civil liberties in the provision of social work services in accordance with professional practice
- To provide advice on all aspects of workforce planning including safe recruitment practice, supervision, monitoring and assessment of social work students, securing of professional qualifications and continuous learning and development for staff, and supporting and advising managers in all aspects of staff supervision
- To ensure the existence of systems to both promote good practice and identify and address poor practice in the provision of social work services
- To ensure that significant case reviews are undertaken of all critical incidents either resulting in, or which may have resulted in, serious harm or death
- To take final decisions binding on the council in relation to a range of social work services where provided by statute and by the council's Scheme of Delegations to Officers

D4 Corporate Responsibilities:-

- To ensure compliance with the council's statutory duties to prepare, publish and review plans for the provision of social work services
- To promote, communicate, support and review values and standards of professional practice, and to ensure that they are adhered to
- To establish, in conjunction with the council's Senior Management Team, appropriate experience and qualified cover for the post of Chief Social Work Officer during the post-holder's absence or incapacity
- To report to the Chief Executive any failure in the council's corporate policy or governance arrangements designed to reflect the proper balance amongst need, risk and civil liberties in the provision and management of social work services

- To report to the Chief Executive any weaknesses and failures in the systems in place to promote good practice and identify and address poor practice in the provision of social work services
- To support overall performance improvement and the management of corporate risk
- To advise on the specification, quality and standards of commissioned services and support
- To provide professional advice and guidance to the West Lothian Integration Joint Board
- To contribute to decision-making in the Integration Joint Board and provide a link with clinical and care governance arrangements in the council and NHS Lothian
- To report and provide independent comment where necessary to the Chief Executive and elected members on the findings of significant case reviews and relevant performance reports and on any other social work related issues
- To provide an annual report to the council on all of the statutory, governance and leadership functions of the role of the Chief Social Work Officer