

ANNUAL GOVERNANCE STATEMENT 2020/21

1. Introduction

- 1.1 The corporate governance framework comprises the systems, processes, culture and values by which the council is directed and controlled and by which it engages with and is accountable to the West Lothian community. The council's governing bodies (full council and committees), individual councillors and members of staff must try to achieve its objectives while acting in the public interest at all times. That implies primary consideration of the benefits for society, which should result in positive outcomes for stakeholders.
- 1.2 The council, through all of its members, has overall responsibility for good governance arrangements. In practice, the council entrusts the delivery of those tasks to committees and to appropriate council officers but subject to monitoring and scrutiny arrangements, including receiving evidence-based assurance on the governance framework's effectiveness and completeness.
- 1.3 The council's Corporate Plan 2018/19 to 2022/23 cements the place of corporate governance as an "enabler". Along with risk management, financial planning and modernisation/improvement it is an essential back-office corporate service necessary to assist setting goals and priorities, monitoring achievement and reporting corporate priorities and outcomes. The Corporate Plan acknowledges the wide understanding that good governance promotes good decisions.
- 1.4 The statement is presented in these sections: -
1. Introduction
 2. Executive Summary
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 5. Decision-making and scrutiny arrangements
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2. Executive summary and assurance

- 2.1 The conclusion and assurance in this statement is based on: -
- the annual internal audit opinion by the Audit Risk & Counter Fraud Manager on the effectiveness of the framework of governance, risk management and control, the statutory review of the system of internal control (7.3)

- annual compliance statements produced by the Monitoring Officer and stand-alone reports in relation to significant council policies and procedures (8.7)
 - the newly-populated evidence-based Local Code of Corporate Governance (6.6)
 - the progress made in the reporting year on areas of governance concern (15.1)
 - the extent of compliance already achieved with the CIPFA Financial Management Code (2019) (9.4)
 - the additional commentary and assessment relating to COVID called for by CIPFA guidance (17.13)
- 2.2 There are inevitably issues on which future work is required (16) and the full and longer-term impact of the Covid-19 pandemic has not yet been established (17). However, based on the sources listed above, the council and the West Lothian community can be assured that the council's corporate governance standards have been substantially met in 2020/21.

3. Political structure and administration

- 3.1 West Lothian Council has nine electoral wards and 33 councillors. A casual vacancy arising in April 2020 was filled through a by-election held on 11 March 2021. The by-election was postponed to a later date than normal by the Returning Officer under emergency coronavirus legislation. A further vacancy arose on 10 May 2021 due to the death of a councillor. The by election is scheduled to take place on 5 August 2021. The current 32 councillors are made up of 13 SNP members, 11 Labour members, 7 Conservative members and 1 Independent member. The Provost and Leader of the Council were elected in May 2017 and remain in position. A minority Labour administration was established then and remains in place. The council's committee structure was re-established in June 2017 after the quinquennial local government elections. It has remained intact since then, albeit with additions where necessary to meet new legislative requirements (e.g., community asset transfer applications).
- 3.2 The leadership positions comprise the Provost, the Council Leader, eight Executive Councillors (portfolio holders in relation to council services) and chairs and vice-chairs of other committees. Senior councillor payments are agreed each year. The statutory annual report for 2020/21 on elected members' remuneration, allowances, expenses and training was reported to Council Executive on 18 May 2021.

4. Management structure

- 4.1 The council's services are managed through its Executive Management Team (Chief Executive, three Depute Chief Executives and the Head of Finance & Property Services). Those officers and seven Heads of Service form the Corporate Management Team. The Governance Manager attends Corporate Management Team meetings. Each service has a Senior Management Team and other service managers, team leaders and teams within its structure. A new Depute Chief Executive (Alison White) responsible for the Health & Social Care Partnership has been appointed with effect from 5 July 2021 after a successful cooperative appointment process amongst council, health board and the West Lothian Integration Joint Board. One vacant Head of Service post in Education Services has been filled by two senior managers on an interim basis. The post of Head of Housing, Customer & Building Services fell vacant after the end of the reporting year.
- 4.2 The service management structure at 31 March 2021 was as follows.

MANAGEMENT STRUCTURE CHART AS AT 31 MARCH 2021 TO BE INSERTED HERE

- 4.3 The council in February 2018 established a Corporate Transformation Team, made up of senior council officers seconded from across its service areas and managed by a Depute Chief Executive. The team's contribution and structure were reviewed and in 2019/20 it was

embedded in the council's management arrangements, with permanent appointments made, to help take forward the ongoing transformation of council services and delivery of budget reduction measures. It was diverted temporarily in March 2020 to new tasks as the Covid-19 Resilience Team. It has gradually resumed its original remit as the pandemic and lockdown restrictions eased in 2020 and 2021.

- 4.4 Internal cross-service working is enabled by a hierarchy of Executive Boards, Project Boards and Working Groups. They all have defined remits and roles, membership from across the council and appropriate reporting arrangements. They are added to on an ad hoc basis, as required (e.g., the Concurrent Risks Working Group looking at Brexit and COVID-19 risks and impacts, and the Remobilisation Working Group dealing with post-lockdown return of staff to council workplaces).

5. Decision-making and scrutiny arrangements

- 5.1 The council has a well-established framework of committees and working groups set out in its Scheme of Administration. Standing Orders for the Regulation of Meetings and the Scheme of Administration can only be changed at a meeting of full council. The committee structure is supported by a complementary Scheme of Delegations to Officers which sets out the responsibilities and decision-making powers delegated to officers. That too is part of Standing Orders and is updated every three months to reflect changes agreed by council and its committees.
- 5.2 There are two main policy and decision-making committees (Council Executive and Education Executive). Proposed policy changes are considered first at one of nine Policy Development & Scrutiny Panels (PDSPs). There are a number of regulatory and appeals committees. There is one local area committee for each ward to focus ward issues. Scrutiny is carried out through Audit Committee, Governance & Risk Committee, Performance Committee, Education (Quality Assurance) Committee, West Lothian Leisure Advisory Committee and the nine PDSPs. Full council meets every 8 weeks to deal with reserved matters and political debate and scrutiny.

COMMITTEE STRUCTURE CHART TO BE INSERTED HERE

- 5.3 The wide-ranging review of decision-making arrangements instructed by members in February 2018 has been further progressed through some changes to Standing Orders (e.g., to reflect the adoption of a special leave scheme for elected members and the updating and streamlining of procedures for petitions and deputations). A small number of less significant tasks remain and progress has been slowed by the pandemic. It is expected to be completed in 2021/22 with a view to having a settled set of arrangements to take the council into the new administrative term after the local government elections in May 2022. Those remaining matters are not significant and the existing arrangements are fit for purpose and serve the council well.

6. Local Code of Corporate Governance

- 6.1 The council's governance arrangements are monitored and reviewed and reported in accordance with statutory requirements and under a Framework and Guidance for Scotland called "Delivering Good Governance in Local Government", produced by CIPFA/SOLACE in 2016. The current Local Code of Corporate Governance was adopted in April 2018. Its operation is considered each year by officers and members through the process of reporting on corporate governance and is scheduled for a full review in the next administrative term.
- 6.2 The Code adopts the seven over-arching principles from the Framework:-

- Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- Ensuring openness and comprehensive stakeholder engagement
- Defining outcomes in terms of sustainable economic, social, and environmental benefits
- Determining the interventions necessary to optimise the achievement of the intended outcomes
- Developing the entity’s capacity, including the capability of its leadership and the individuals within it
- Managing risks and performance through robust internal control and strong public financial management
- Implementing good practices in transparency, reporting, and audit to deliver effective accountability

6.3 Each of those principles is broken down into sub-principles and then into a hierarchy of separate elements to allow a more focused approach to the evidence-based components of each. The diagram below shows the seven principles and their interaction, and a list for each of them of the most significant sources of evidence used to establish corporate governance compliance each year.

6.4 These sources of evidence and the product of scrutiny arrangements are used to assess compliance and performance over the year to determine whether the council exceeds, meets or fails to meet the required standards. Areas of concern are picked out, actions are identified and allocated, and progress is monitored through officer oversight and the Governance & Risk Committee.

6.5 The Code is used to inform the drafting and approval of the annual governance statement through the Governance & Risk Board, Corporate Management Team and Governance & Risk Committee. It is reported on in detail to Governance & Risk Committee when it approves the annual governance statement in June each year. It is thereafter reported to Council Executive after the summer recess each year as part of an omnibus annual report to members. Deficiencies are identified and reported and are translated into actions which are monitored throughout the following reporting year by Governance & Risk Board and Governance & Risk Committee.

6.6 Compliance in 2020/21 with the standards in the Code remains high. Impacts from the pandemic have been noted and assessed as the Code has been populated. Further information on COVID’s impact on governance arrangements is in section 17 of this statement. Under a red/amber/green assessment system there are no “red” scores. There are 218 standards out of 258 assessed as “green”, representing 81% of the total entries. Comparable figures from previous years for green scores under the same assessment process were 82%, 79%, 81% and 84%.

DIAGRAM OF GOVERNANCE PRINCIPLES TO BE INSERTED HERE

7. Annual internal audit opinion

7.1 A significant part of the council’s governance arrangements is its system of internal control. It is designed and reviewed to identify risks to the achievement of the council’s objectives; to evaluate the likelihood of those risks occurring; to consider the potential impact of the risks; and to manage them effectively. It includes financial regulations and a system of management supervision, delegation and accountability, supported by regular information, administrative procedures and segregation of duties. Its key elements include an internal control framework relating to financial processes, procedures and regulations; a comprehensive budgeting and

monitoring framework; scrutiny of periodic and annual financial and operational performance reports; performance management information; and project management disciplines.

- 7.2 As required under the Public Sector Internal Audit Standards (PSIAS), the Audit Risk & Counter Fraud Manager in his role as chief audit executive provides an annual opinion to members on the adequacy and effectiveness of the framework of governance, risk management and control. That opinion precedes and informs this statutory annual governance statement which in turn requires approval by the council through the Governance & Risk Committee and incorporation into the annual accounts and financial statements.
- 7.3 Following his review for 2020/21, reported to Governance & Risk Committee and Audit Committee in June 2021, his conclusion and assurance to members are that the framework of governance, risk management and control is sound. Based on internal audit investigations and reports throughout the year he identified only one area where control was considered to be unsound. This was in relation to the operation of the PVG Referral Assessment Panel and was reported to Audit Committee on 22 March 2021. He has identified other areas where improvements should be made and confirmed that recommendations will be followed up and reported when required. The conclusions and assurances from his reports were accepted by committee.

8. Annual Compliance Statements

- 8.1 The council's Monitoring Officer arranges the production of annual compliance statements which sit alongside the Code and also inform the drafting and approval of this annual governance statement. They deal with compliance with the law and with the council's most significant corporate policies and procedures. They are prepared after consultation with services and senior officers and consider oversight by external regulatory and inspection bodies. They are signed by the responsible senior officer. They are designed to bring to the attention of elected members any incidents of non-compliance which are significant to the council's operations and which are not reported elsewhere in a systematic way.
- 8.2 Instead of producing annual compliance statements, separate and stand-alone reporting is carried out annually on the Councillors' Code of Conduct, Freedom of Information and Data Protection, and on Covert Surveillance and Accessing Communications Data. From 2020/21 the annual report on the Councillors' Code of Conduct is reported to full council, to all members, rather than to a committee.
- 8.3 They cover the following areas of activity:-
- Best Value Framework - Head of Finance & Property Services
 - Procurement - Head of Corporate Services
 - Fraud and Corruption - Head of Finance & Property Services
 - Employee Whistleblowing - Head of Corporate Services
 - Discipline and Grievances - Head of Corporate Services
 - Occupational Health & Safety - Head of Corporate Services
 - Protection of Vulnerable Groups - Head of Corporate Services
 - Information Security - Head of Corporate Services
 - Public Sector Equality Duty - Head of Corporate Services
 - Breaches of the law - Monitoring Officer
- 8.4 The statements identify issues of concern and issues to be addressed going forward. They refer to adverse finding of internal audit investigations reported to Audit Committee (for example, the statements on Occupational Health & Safety; Protection of Vulnerable Groups). They identify any policies or procedures overdue for review (for example, Best Value

Framework; Anti-Fraud & Corruption Policy). This year, they describe briefly any impact felt by the pandemic on the operation of the policy or procedure and its governance (for example, Information Security; Discipline, Grievance, Bullying & Harassment).

- 8.5 The statement by the Monitoring Officer is particularly important since the Monitoring Officer is one for the four statutory officer posts. The postholder is charged with ensuring the council's compliance with its statutory duties and responsibilities and reporting on any breaches of the law which are significant to the operation of the council. Not all breaches are material to the council's operations or its finances.
- 8.6 The Monitoring Officer consulted with the Heads of Service, the Governance Manager, the Chief Solicitor and the Audit, Risk and Counter Fraud Manager. She identified a number of instances where improvements to the council's compliance with legislation were required. She highlighted the most significant of those and those are summarised as follows: -
- The statutory deadline was missed for the review of the Integration Scheme relating to the delegation of health and care functions to the West Lothian Integration Joint Board. The current Scheme continues to operate effectively and a review timetable will be reported to committee in August 2021
 - There was a breach of procurement regulations and Standing Orders by not opening the development and purchase of new build council houses at a site in Livingston to competition. The cause of the breach has been identified and measures have been put in place to prevent a recurrence. There was no loss sustained by the council
 - The Housing Need Service breached the Unsuitable Accommodation Order 2004, by using bed and breakfast and hotel accommodation on a number of occasions for more than 7 days until suitable temporary dispersed accommodation was provided. The cause was a shortage of temporary accommodation to meet the needs of larger families or those waiting to secure temporary accommodation in particular areas. Remedial measures have been designed and the West Lothian Rapid Rehousing Transition Plan 2019/20 to 2023/24 is being implemented
 - Procedures under the Community Empowerment (Scotland) Act 2015 for the establishment of a new register of common good property have not been followed. Information is provided in the council's annual accounts each year but there are separate and additional procedures to be implemented and those are being addressed, with the starting of those processes in June 2021
 - The Health & Safety Executive issued a contravention notice and improvement notices following their inspection of the cleaning and disinfection arrangements at five schools. Procedures were adjusted and no further actions was taken following their assessment
 - A report by the Mental Welfare Commission identified nationwide breaches in relation to transfers from a care homes, one of which is a West Lothian case. Immediate actions have been taken to ensure that no such move in any circumstances can be made until legal powers are secured. A working group has been established and will develop an action plan which will cover the Commission's recommendations and training, processes and practice
- 8.7 Although they are of concern, none of those breaches was considered to present significant risk to the continuing operation and effective delivery of council services and control. The Monitoring Officer's opinion is that there have been no material or significant breaches of the law by the council in 2020/21 which have or will have a material or significant impact on the

operations or finances of the council. She has certified that the council is complying in all material respects with its legal requirements.

9. Compliance with the CIPFA Financial Management Code (2019)

- 9.1 As part of its legal obligation to comply with accepted accounting standards and Code of Practice, the council requires to adopt the CIPFA Financial Management Code (2019). The year 2020/21 is in effect a shadow year with councils expected to move towards full compliance in 2021/22. The Code is designed to support good practice in financial management and assist in demonstrating financial sustainability. The council is expected to adopt processes and procedures to demonstrate adherence to six principles of good financial management and 17 underlying financial management standards.
- 9.2 CIPFA Guidance for the annual governance statement for 2020/21 advises including an assessment of the extent of current compliance and the identification of areas for improvement, accompanied by an action plan to secure full compliance in 2021/22. In doing so CIPFA's advice is to take a proportionate approach and to use existing reports and documentation.
- 9.3 The council adopted the Code in February 2021. Before adoption the Code was presented for consideration to Partnership & Resources PDSP, Audit Committee and Governance & Risk Committee, all of which have an interest in different aspects of the Code. The report by which its adoption was secured (Council Executive, 9 February 2021) was a lengthy and comprehensive exposition and explanation of the Code – its purpose, the principles and the management standards. It included a description of the available evidence of the council's present compliance, the extent of that compliance and the areas where improvement was indicated. It included a detailed list of actions with associated timescales, all designed to secure compliance in full for the reporting year 2021/22.
- 9.4 The information provided by the Chief Financial Officer to and accepted by committee indicates that the council is already compliant to a significant extent and is well-placed to secure full compliance on time. Completion of the actions identified has been included later in this statement as a governance issue for future monitoring (16.7).

10. Audit Committee

- 10.1 Audit Committee operates in compliance with the Public Sector Internal Audit Standards (PSIAS). It undertakes a corporate overview of the council's control environment, develops an anti-fraud culture to ensure the highest standards of probity and public accountability, and evaluates the arrangements in place for securing the economical, efficient and effective management of resources. It considers an annual review of the overall adequacy and effectiveness of the council's control framework. It monitors the independence and effectiveness of the Audit, Risk & Counter Fraud Unit. The organisational status and independence of internal audit is set out in the Internal Audit Charter. The Chair must be appointed from councillors who are not in the ruling administration political group. The majority of members are from outwith that group. The committee includes one non-councillor member recruited for a three-year tenure to bring a different perspective and expertise to the work of the committee.
- 10.2 The committee meets four times each year. It operates through an annual work plan approved by the committee. It carries out an annual self-assessment exercise to identify improvements in its operation that might be made. The outcome of internal audit and counter-fraud investigations judged to be significant are reported. Reports are presented and considered in public unless there is clear legal justification for excluding the public. They express an opinion as to whether control is effective, satisfactory, requires improvement or unsound. In

accordance with an agreed protocol, significant findings from audit and inspection reports are entered into the council's risk management system as risk actions. Risk actions arising from internal audit and other audit and inspection reports which remain outstanding after their target dates are reported to the Governance & Risk Board during the year and to the Audit Committee twice yearly. By the end of the reporting year one risk action was overdue, and one other risk action was subject to an external deadline which was extended due to the coronavirus pandemic, the rest having been reported to and accepted by committee to be complete. The interim and annual reports for both services summarised the work carried out and the findings, with those also being noted in the review of the system of internal control.

- 10.3 The committee also deals with reports from the council's external auditors. It receives the External Audit Annual Plan which informs the council of the work to be undertaken in the course of the year, the views of the external auditors on the work of Internal Audit and the extent of additional risk-based external scrutiny through the Local Area Network. The external auditor's annual report on the council's accounts and financial statements are referred to the Governance & Risk Committee and Audit Committee by council after it approves the audited accounts for signature in September each year. Any actions identified are noted and are followed up through periodic reporting to committee on progress or completion.
- 10.4 The committee also considers reports issued by the Accounts Commission and/or Audit Scotland in relation to the council or local government as a whole. It can consider those reports from the councillors' perspective and recommend any action which it considers should be taken in response.

11. Governance & Risk Committee

- 11.1 The committee takes a corporate overview of the council's corporate governance and risk management arrangements, develops a culture of good corporate governance and risk awareness, and reviews the council's strategy and systems for the management of risk. It considers regular reports from the Governance Manager and Audit, Risk & Counter Fraud Manager in relation to matters within its remit.
- 11.2 The committee meets at least four times each year. It operates through a work plan presented and updated at every meeting. The Chair of the committee must be drawn from members who are not in the ruling administration political group. The majority of members are from outwith that group. It carries out an annual self-assessment exercise to identify improvement that might be made in its operations. It receives reports from services on their risk management arrangements. It considers a report at every meeting on the council's high risks and on health and safety incident reporting and at every second meeting on strategic risks. It examines ad hoc risk and governance issues, such as cyber-security risks and Brexit. It considers risk reports from the council's external risk advisers. It is charged with approving the annual governance statement after considering the findings of the annual review of the system of internal control. It monitors progress against governance areas of concern.
- 11.3 In March 2020 its membership was formally expanded to include a non-councillor member to bring a different perspective to the work of the committee. An appointment to that position was made at the same time although induction and participation were delayed by the Covid-19 emergency until June 2020. The position fell vacant in March 2021 and steps are being taken to recruit to it again.

12. Other internal scrutiny arrangements

- 12.1 The council deals with the remainder of its scrutiny function by members in four other places – Policy Development & Scrutiny Panels (PDSPs), Performance Committee, Education (Quality Assurance) Committee and West Lothian Leisure Advisory Committee. Except for the

last of those, the majority of members on each of these bodies is from outwith the ruling administration political group.

- 12.2 PDSPs are working groups of members and representatives from external community bodies. Their scrutiny role involves considering quarterly performance reports from the service areas included in their remit. Members and external representatives are able to question officers on service performance and failures and make recommendations to them about improvement actions. Members receive information on both service and financial performance measured against agreed indicators and outcomes.
- 12.3 Performance Committee is established to consider the performance of service units against the council's performance appraisal system, the West Lothian Assessment Model (WLAM). Its Chair is an Independent councillor. It receives written reports presented at public committee meetings by senior service managers and can question them and make recommendations to them about improvement actions. The committee also scrutinises quarterly and annual reports on the council's complaints handling policy and performance. It oversees the Citizen Led Inspection Programme. It considers the results of the local authority benchmarking review carried out annually in conjunction with the Improvement Service.
- 12.4 The Education (Quality Assurance) Committee carries out a scrutiny role solely in relation to internal and external schools assessment and inspection reports. Its Chair is an Independent councillor. The committee includes non-councillor members appointed by the council in relation to its education function. Representatives from the relevant school's Parent Council are invited to attend and take part in the committee's meetings. It provides a dedicated and specialised forum for scrutiny of performance and inspection results for schools and educational establishments.
- 12.5 Leisure and culture services are delivered through an arms' length external organisation called West Lothian Leisure Ltd. The council is its sole shareholder. Taking into account best practice, there is a dedicated advisory committee called the West Lothian Leisure Advisory Committee, attended by senior officers of West Lothian Leisure, where scrutiny of service and financial performance is carried out.

13. Significant officer roles

- 13.1 The council is required to operate a professional and objective internal audit service. The Audit, Risk and Counter Fraud Unit includes internal audit, an independent appraisal function which examines and evaluates systems of financial and non-financial control. Internal audit operates in accordance with the "Public Sector Internal Audit Standards: Applying the IIA International Standards to the UK Public Sector" (PSIAS). The organisational status and independence of internal audit required by PSIAS is also set out in the Internal Audit Charter. An annual audit work plan is prepared based on an assessment of risk and is approved by the Audit Committee. Internal audit reports are issued to the committee in relation to the outcome of significant proactive and reactive reports. Reports are issued in the name of the Audit, Risk and Counter Fraud Manager. Also as required by PSIAS, Financial Regulations state that the internal audit function is free from interference in determining the scope of internal auditing, performing work, and communicating results, and that the Audit, Risk and Counter Fraud Manager has the right of direct access to the Chair of the Audit Committee and to the Chief Executive. An interim report is brought to committee during each year to advise of progress towards completion of the annual plan. An Internal Audit and Counter Fraud Strategy 2018/19 to 2022/23 was approved in June 2018 as one of the corporate strategies supporting delivery of the Corporate Plan. An annual report on progress against agreed outcomes is made to Audit Committee each year.

- 13.2 Legislation requires the council to appoint a Chief Financial Officer. That role is to be performed conform to the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government (2016) and in the CIPFA Financial Management Code (2019). It sets out the requirement for the Chief Financial Officer to be professionally qualified and sets out the criteria for qualification. The council's Head of Finance & Property Services is the council's Chief Financial Officer. He operates in accordance with the council's Financial Regulations and Treasury Management Plan, and reports regularly to members on revenue and capital budgetary performance and compliance. The role is undertaken in accordance with the relevant statutory rules, guidance and standards. From 2021/22, compliance with the CIPFA Financial Management Code will also apply. Treasury Management reports and capital asset management strategy reports are made to full council twice each year.
- 13.3 Risk Management is overseen by the Audit, Risk & Counter Fraud Manager. It is embedded at Executive and Corporate Management Team level as well as in service management teams across the council. Management teams monitor, assess and mitigate service risk as a matter of routine at their meetings. A Risk Management Strategy 2018/19 to 2022/23 was approved in June 2018 as one of the corporate strategies supporting delivery of the Corporate Plan. A revised Risk Management Policy was approved in October 2021, after some delay due to COVID. An annual report on progress against agreed outcomes is made to Governance & Risk Committee each year.
- 13.4 The council's counter fraud activities are managed within the Audit, Risk & Counter Fraud Unit. The service is operated in accordance with the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption (2014). The unit manages the council's whistleblowing hotline. It also administers the council's participation in the National Fraud Initiative. An Internal Audit and Counter Fraud Strategy 2018/19 to 2022/23 was approved in June 2018 as one of the corporate strategies supporting delivery of the Corporate Plan. An annual report on progress against agreed outcomes is made to Audit Committee each year. The review and approval of a revised Anti-Fraud & Corruption Policy was postponed due to the diversion of resources to pandemic-related work, and will now be reported on 22 June 2021. The annual report confirms counter fraud work continued nevertheless and that the work plan was completed.
- 13.5 Governance and risk management are supervised on the officer side of the council by the Governance & Risk Board. It is chaired by a Depute Chief Executive and its members include the Monitoring Officer, the Audit Risk & Counter Fraud Manager, the Governance Manager, the Chief Solicitor and senior managers from across the council's service areas. It receives reports from officer working groups on risk and corporate governance, and monitors corporate and high risks. Its recommendations are referred to the Corporate Management Team or committee as appropriate. In 2019/20 it assumed oversight of the Information Management Working Group after the introduction of the new Information Governance Policy. It considers the annual report on corporate governance and the compliance statements before they are presented to committee. It provides an effective control and conduit for risk and governance issues and matters of concern.
- 13.6 In addition to performance reporting to members, management teams routinely monitor their performance through Pentana, utilising the high-level performance indicators and service standards which are reported publicly as well as lower level management performance indicators. Services are divided into WLAM units which report on an agreed cycle to a panel chaired by the Chief Executive. It considers the evidence presented and allocates a score. The service unit then proceeds to report to the Performance Committee.
- 13.7 As required by statute, the council has appointed a Chief Social Work Officer who has statutory professional responsibility for the oversight of specified social work functions. The Scheme of

Delegations states that in relation to those statutory functions the Chief Social Work Officer's decisions are not subject to change by more senior officers, but are, subject to council or committee decisions, final and binding on the council. An annual report is made to members and to the Scottish Government. Since 2019/20 that report has been made to full council rather than to a committee.

14. External scrutiny

- 14.1 The external auditors' annual report was not delayed by COVID and was considered at council in September 2020. It was referred on to Audit Committee (on the accounting and financial aspects) and Governance & Risk Committee (on its wider-scope audit work) for further scrutiny. The auditors' report made no specific recommendations identified through the course of their work requiring inclusion in their action plan. The report highlighted a concern in relation to financial sustainability based on a national assessment of risk to all councils and the effects of COVID. The report concluded that the council continued to demonstrate good practice in forward financial planning and continued to demonstrate good financial control of the in-year budget, including understanding the impact of Covid19 in early 2020/21.
- 14.2 The key features of good governance were found to be in place and operating effectively. The council was found to have responded quickly to ensure that governance arrangements were appropriate and operating effectively during the lockdown period caused by the global pandemic. The report stated that the council had arrangements in place to appropriately scrutinise activities and that councillors continued to have access to sufficient information as a result of the implementation of virtual meetings, and regular briefings to all members. The council was reported to have a culture of improvement and a commitment to self-assessment of its performance to ensure that services remain focussed on improvement. Council services continued to perform well compared to other councils.
- 14.3 In partnership with other scrutiny bodies the auditors participate in the Local Area Network to identify any risks requiring external scrutiny and agree the council's local scrutiny plan (LSP). The LAN determined that no separate scrutiny plan was necessary since the 2019/20 plan published in September 2019. In March 2020 the auditors advised Audit Committee that the LAN is content that no additional scrutiny requirements are necessary in 2021/22.

15. Past and current governance issues

- 15.1 Issues of concern identified in previous years were aggregated and reported to Governance & Risk Committee in June 2020 and January 2021 for monitoring and scrutiny. Twelve such issues were listed in June 2020, reducing to 7 in January 2021 and, in June 2021, only 1 remained. The four failures in legal compliance in the Monitoring Officer's compliance statement have been or are being addressed to her satisfaction. The one matter outstanding is reviewing the council's relationship with West Lothian Leisure (its leisure services ALEO). This is a requirement of the council's Standing Orders, brought more into focus by West Lothian Leisure's financial position due to COVID closures and fee income reductions. The work was delayed due to COVID, with priority given to the financial pressures caused by lockdown restrictions. There have been regular and frequent reports to West Lothian Leisure Advisory Committee, Council Executive and Governance & Risk Committee to ensure members are aware of the risks and to enable decisions to be taken to help mitigate those risks. The remit and timetable for the review is was discussed at a meeting between council and West Lothian Leisure in May 2021 and a timetable for the review is being prepared.
- 15.2 Annual reports on progress and performance against the Internal Audit and Counter Fraud Strategy and Risk Management Strategy were delayed by the suspension of committee meetings due to COVID but were made in January 2021 to Audit Committee and Governance & Risk Committee respectively. The review and approval of a revised Anti-Fraud & Corruption

Policy was postponed due to the diversion of resources to pandemic-related work and will be completed in June 2021. The annual report confirms counter fraud work continued nevertheless and that the work plan was completed.

- 15.3 Audit Committee considered internal audit and counter fraud reports throughout the year. In several of them, controls were found to require improvement and actions were agreed. The interim and annual reports for both services summarised the work carried out and the findings, with those also being noted in the review of the system of internal control. Control was found to be unsound in only one area, the Referral Assessment Panel for Protection of Vulnerable Groups. The issues were addressed through the agreement of actions at Audit Committee in March 2021 and the approval of a revised policy and procedure at Council Executive in February 2021. Committee returned to two issues which had caused significant concern in 2019/20, the management of pupils with healthcare needs and the procedures for dealing with information security breaches. Committee was satisfied that outstanding issues had been fully addressed.
- 15.4 Governance & Risk Committee continued its scrutiny of risk arrangements through standing reports on high risks, health and safety risks and strategic risks. It returned to the reporting, as standing items, of the concurrent risks of EU withdrawal and the pandemic. It received reports about property compliance, insurance risks and claims, workforce occupational stress, workforce management and information management. It approved the annual governance statement, at the same time reviewing the standards and evidence in the Local Code of Corporate Governance and progress on governance issues. The committee noted the external auditors' opinion that the key features of good governance at the council are in place and operating effectively; the council responded quickly to ensure that governance arrangements were appropriate and operating effectively during the lockdown period caused by the global pandemic; the council has arrangements in place to appropriately scrutinise activities across its Group, in particular where financial support is being provided to entities in financial difficulty (West Lothian Leisure).
- 15.5 The membership of Governance & Risk Committee had been expanded to allow for a non-councillor appointment and an appointment was made in March 2020. The member resigned in March 2021 and arrangements are in hand to try to recruit a replacement.
- 15.6 A variety of changes was made to Standing Orders and the Scheme of Administration as a result of the ongoing review of decision-making arrangements, most notably the procedures for dealing with petitions and deputation requests from members of the public, recording and webcasting meetings of council, committee and PDSPs, and to facilitate the adoption of a scheme for family leave for elected members.
- 15.7 Standing Orders for Contracts were reviewed through an officer working group and a new version with significant changes and improvements was approved.
- 15.8 After a period of suspension of council and committee meetings due to COVID they resumed in May 2020 by remote access. Meetings of PDSPs started in October and a full calendar of meetings took place thereafter, still by remote access. Those arrangements are to continue until 30 September 2021. Arrangements for physical or hybrid meetings are being investigated and members will be asked to decide on arrangements before the end of September.

16. Governance issues ahead

- 16.1 Issues of concern from this and previous annual governance statements will be carried forward and reported to committee when it approves this statement and later as part of the annual report to Council Executive on corporate governance. Progress will continue to be reported on an interim and annual basis to Governance & Risk Committee. The outstanding review of the

council's relationship with West Lothian Leisure (its leisure ALEO) is the most significant, since it is required by Standing Orders and such a periodic review is indicated as best practice. The postponed review of the Best Value Framework will be completed in 2021/22 as will the updating and approval of a revised Anti-Fraud & Corruption Policy.

- 16.2 Significant concerns arising from the annual compliance statements, in particular breaches of the law identified by the Monitoring Officer, will be pursued and remedial action taken (8.4-8.7).
- 16.3 The ongoing review of the council's decision-making arrangements should be concluded and reported before the end of this reporting year, although there are few issues remaining to be addressed.
- 16.4 Procedures will have to be developed to ensure compliance in decision-making with the United Nations Convention on the Rights of the Child, incorporated into Scots law in 2021.
- 16.5 There are likely to be consequences for the council flowing from the long-running Scottish Government/COSLA Review of Local Governance. The details remain to be established when the incoming Scottish Government sets its legislative programme but the pre-election indication was for devolution of decision-making and control in some service areas to a tier sitting below local authorities.
- 16.6 The further development and the implementation of community empowerment measures will be significant (especially Community Choices), although the development and success of the programme will be monitored through Council Executive going forward.
- 16.7 Full implementation of the CIPFA Financial Management Code (2019) will be required following its adoption in February 2021 with the actions identified upon its adoption to be completed as undertaken (9.4).
- 16.8 Actions arising from internal and external audit reports will continue to be monitored through Audit Committee and follow-up reports on previous areas of concern will be made as instructed.
- 16.9 A schedule of significant corporate policies, procedures and controls has been prepared to ensure their review before the end of the administrative term in May 2022. That was reported to Governance & Risk Committee in January and June 2021. Some have been dealt with already in the course of the last four years and the remaining ones will be addressed over the next 9 months.
- 16.10 The Officer Working Group on members' training and support will continue to meet. Its work will be extended this year to prepare for elected member induction after the local government elections in May 2022.
- 16.11 It is likely that there will be further changes to the delivery of health and social care services for adults following the Feeley Report in January 2021. Implementation will depend on the incoming Scottish administration but it is possible that there will be a significant transfer of function, funding and control from councils and health boards to integration joint boards.
- 16.12 The conduct of meetings through some hybrid arrangement, or even the resumption of fully physical meetings, will present administrative and governance challenges.
- 16.13 The updated statutory regime of counter-terrorism duties will require elected member training, new procedures and a new method of ensuring and reporting compliance. Monitoring will be carried out by Governance & Risk Committee and a new corporate risk was added in 2020/21. The management of that risk will be reported to Governance & Risk Committee on 14 June 2021.

- 16.14 A revised and much-changed version of the Councillors' Code of Conduct is expected to be approved in late 2021. Extensive work will be required to reflect the changes, by briefing and training elected members and modifying council policies, procedures and protocols accordingly.

17. COVID-19

- 17.1 The annual governance statement and Management Commentary for 2019/20 included information about the impact of COVID on governance arrangements although most of the effects were felt after the end of the reporting year. The effects of the pandemic continued throughout this reporting year, although the governance framework has proved to be robust and capable of adaptation to the extreme circumstances rather than requiring significant amendment in response.
- 17.2 Council, committee and PDSP meetings were suspended with effect from 25 March 2020 when the first lockdown restrictions were imposed. The suspension was initially to run until 31 July 2020 with officers in the meantime to seek a software platform to allow meetings to take place by remote access. That was achieved earlier than expected and remote access meetings commenced on 26 May 2020. A restricted calendar of meetings was put in place until 31 July, and then until 31 October 2021, designed to find a balance amongst the need to deal with significant business through elected members (e.g., financial risks and pressures and the annual accounts procedures), the continuing and fluctuating dangers of transmission and infection, and the competing call on officer and other resources to tackle the pandemic. The return to normal frequency and regularity of meetings was achieved from November 2020. In March 2021 a full calendar of meetings was approved, covering the period till July 2022. It has been agreed that meetings will continue by remote access until 30 September 2021 but officers have been instructed to explore options for the resumption of physical meetings, and meetings held in a hybrid manner.
- 17.3 During the suspension of meetings, decisions were taken under existing emergency delegated powers vested in the Chief Executive. No amendments were required to Standing Orders, including the Scheme of Delegations to Officers, to enable those decisions to be made. A detailed log of those decisions was kept. Members were informed of decisions made and actions taken by way of daily email briefings and copies of supporting reports were made available to them. The use of these powers was then reported to committee at the earliest opportunity, on 26 May 2020 for non-education business and on 23 June 2020 for education business. Committee members have been kept informed throughout of decisions made in the name of committees. As meetings resumed the need to use these delegated powers diminished substantially, although it did not disappear completely. Even as late as January and February 2021 urgent decisions had to be made about providing free school meals even though the regularity and frequency of meetings had returned to normal. Overall, existing arrangements were able to be used and practices adapted to meet the demands of the pandemic without requiring urgent changes to Standing Orders.
- 17.4 Emergency coronavirus legislation allowed councils to choose to postpone compliance with statutory duties to publish annual and other reports concerning council functions and services. After careful consideration that power was not exercised. All statutory reporting due to take place during the emergency period was and will be carried out to normal timescales. That includes the preparation and approval of the annual accounts and financial statements. Those were completed in accordance with the statutory timescales in both 2019/20 and 2020/21 despite regulations being passed allowing some slippage for this reporting year.
- 17.5 The same legislation allowed the temporary suspension of statutory duties to make hard copies of certain documents available for physical inspection and copying. That power was exercised in relation to eleven such duties where those documents could be readily available

by electronic means. The use of that power was reviewed and extended in September 2020 and February 2021 and is due to end on 30 September 2021.

- 17.6 Working from home arrangements continued throughout the reporting year. Remote meeting platforms were used extensively, latterly MS teams and WebEx. A Remobilisation Working Group chaired by the Head of Finance & Property Services was established and will report to members in autumn 2021. A return to the workplace was implemented for senior managers in April 2021 with a view to a phased return of other officers depending on service needs and health guidance.
- 17.7 Starting immediately after the resumption of council and committee meetings in May 2020, reporting on the financial consequences of the pandemic has taken place on a regular basis. The normal pattern of quarterly budget-monitoring reports to Council Executive continued despite the pandemic, with added information in relation to COVID funding, spending and pressures. Additional ad hoc reports were made to committee when required, for example, in relation to the local government financial settlement. The reports to council when council tax was set and budgets approved included additional information and provision relating to the pandemic. Horizon-scanning reports to PDSP have provided more generalised reviews and forecasts of impacts.
- 17.8 In June 2020 it was agreed that there would be quarterly reports to committee concerning the joint oversight arrangements amongst council health board and integration joint board in relation to care homes and COVID. Those reports have continued, providing elected members with an accurate picture of the impact on care homes and the actions taken under emergency coronavirus legislation and guidance.
- 17.9 Audit Committee and Governance & Risk Committee each considered Audit Scotland's report "Covid-19: Guide for Audit & Risk Committees" in late 2020. Audit Committee also received a briefing on Audit Scotland's "Covid-19 Implications for Public Finances in Scotland".
- 17.10 More general plans for recovery and renewal of council services have been brought to committee in August 2020 and June 2021. In June 2020 Governance & Risk Committee considered an initial report on the risks and governance aspects of the emergency. That reporting continued throughout the reporting year to that committee in concurrent risk reports, dealing with the pandemic and EU withdrawal together. A corporate risk specific to COVID was added to the risk register.
- 17.11 The provision of education during the reporting year was a significant challenge, dealing with learning from home, service provision to key worker and vulnerable children, provision of free school meals, SQA examination changes, social distancing within schools and the complications of frequent Education Continuity Directions and frequently-changing guidance. Every meeting of Education Executive from and including June 2020 to date has considered a lengthy and detailed report on education recovery.
- 17.12 The priorities in the Corporate Plan remain in place, delivery on the supporting corporate strategies continues and progress reports to committee have resumed. The well-established approach to long-term financial planning has continued as well. Delivery of budget-saving measures has been largely maintained with slippage and changes reported to and agreed by council in February 2021.
- 17.13 The Corporate Business Continuity Plan was reviewed to draw on experience from COVID and will be presented to committee after the summer of 2021.
- 17.14 Consideration has been given to the extent of the information available about the impact of the pandemic on the council's governance arrangements with a view to determining if assurances should be qualified. The following sources have been taken into account:-
 - The commentary and assessments in the Local Code of Corporate Governance include information about the impact of COVID on normal arrangements

- The annual compliance statements produced through the Monitoring Officer which include information about significant COVID impacts
- The review of the system of internal control and the Audit Risk & Counter Fraud Manager's annual opinion on the framework of governance, risk management and control, in which there was no qualification or limitation of scope due to COVID
- The schedule of completed and ongoing governance issues that accompanied this statement when it was presented for approval
- The Chief Finance Officer's Management Commentary in the annual accounts for 2019/20 and 2020/21, both including additional COVID information as called for by CIPFA guidance
- The work of the Governance & Risk Committee and Audit Committee throughout, supported by the related work of the Governance & Risk Board at officer level. Delays attributable to COVID in completing risk actions timeously were noted in risk reports
- The Internal Audit Annual Report, the Risk Management Annual Report and the Counter Fraud Annual Report, all of which were progressed to the satisfaction of committee with the impacts of the pandemic being reported where relevant
- The views of the external auditors set out in their annual audit report on the 2019/20 accounts and their annual plan for 2021/22
- The financial reporting carried out by the Chief Financial Officer

17.15 In reliance on all those sources it is judged that sufficient information has been available to inform this statement. Delays in relation to corporate programmes and policies have been identified in this statement, in the annual compliance statements, and in the Local Code of Corporate Governance. It has not been considered that the assurances given in relation to corporate governance for 2020/21 require to be qualified or restricted as a result of Covid-19.

18. Conclusion and assurance

There are inevitably issues on which future work is required and the full and longer-term impact of the Covid-19 pandemic has not yet been established. However, based on the sources listed above, the council and the West Lothian community can be assured that the council's corporate governance standards have been substantially met in 2020/21.

(Governance & Risk Committee, 14 June 2021)