

Draft Annual Governance Statement 2023/24

Report by Chief Executive

Report for Decision

1 Recommendations

The Audit Committee is asked to:

- a) Consider the details of the draft Annual Governance Statement 2023/24 at Appendix 1 to ensure it reflects the risk environment and governance in place to achieve objectives, and acknowledge the actions identified by Management to improve internal controls and governance arrangements; and
- b) Approve that it be published in the Council's Statement of Accounts 2023/24, noting the requirement for the final Annual Governance Statement to be signed by the Chief Executive and Leader of the Council at the conclusion of the external audit process.

2 Purpose of Report/Executive Summary

The purpose of this report is to propose that the Audit Committee considers and approves the draft Annual Governance Statement that will be published in the Council's Statement of Accounts 2023/24.

Midlothian Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.

The Council's Local Code of Corporate Governance that was approved by Council on 23 March 2021 was used to assist with the annual assurance process 2023/24.

The draft Annual Governance Statement 2023/24, which is appended to this report as Appendix 1 for consideration, is the output from the annual assurance process and review against the updated Local Code.

Date 4 June 2024

Report Contact:

Duncan Stainbank

duncan.stainbank@midlothian.gov.uk

3 Background

- 3.1** Midlothian Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.
- 3.2** Fundamentally Corporate Governance is about openness, integrity and accountability. It comprises the systems and processes, and cultures and values by which the authority is directed and controlled and through which it accounts to, engages with and, where appropriate, leads its communities.

4 Annual Assurance Process 2023/24

- 4.1** The CIPFA/SOLACE Framework urges local authorities to review the effectiveness of their existing governance arrangements against their Local Code, and prepare a governance statement and report compliance on an annual basis.
- 4.2** The Audit Committee is integral to overseeing independent and objective assurance and monitoring improvements in internal control and governance. Its Terms of Reference includes 'To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances'.
- 4.3** The Internal Audit function undertook an assessment of the Local Code of Corporate Governance and identified areas of further improvement to enhance the effectiveness of internal control and governance arrangements and compliance against the Local Code.
- 4.4** Progress with implementation of actions regarding previously identified improvement areas of governance has also been evaluated.
- 4.5** The draft Annual Governance Statement 2023/24 at Appendix 1, in compliance with the CIPFA/SOLACE Framework, provides details of the Council's Governance Framework, the annual Review of Framework undertaken, Improvement Areas of Governance, and Overall Opinion.
- 4.6** It is the Chief Executive's opinion that reasonable assurance can be placed upon the adequacy and effectiveness of Midlothian Council's systems of internal control and governance. Although areas for further improvement have been identified, the annual review demonstrates sufficient evidence that the Council's Local Code of Corporate Governance is operating effectively and that the Council complies with that Local Code in most respects to meet its principal objectives. Systems are in place to regularly review and improve governance arrangements and the system of internal control.
- 4.7** The draft Annual Governance Statement 2023/24 is informed by the assessment of compliance against the Local Code, written assurance statements from the Executive Directors, Internal Audit annual opinion

and findings and recommendations, and comments and recommendations made by External Auditor and other external scrutiny bodies and inspection agencies.

5 Report Implications (Resource, Digital, Risk and Equalities)

5.1 Resource

The overall aim of the CIPFA/SOLACE Framework 'Delivering Good Governance in Local Government' (2016), on which Midlothian Council's Local Code of Corporate Governance is framed, is to ensure that:

- resources are directed in accordance with agreed policy and according to priorities;
- there is sound and inclusive decision making; and
- there is clear accountability for the use of those resources in order to achieve desired outcomes for service users and communities.

Core principle of good governance "E. Developing the entity's capacity, including the capability of its leadership and the individuals within it" is included within the CIPFA/SOLACE Framework. Workforce and elected member development are a key part of the good governance framework within the Council's Local Code of Corporate Governance.

5.2 Digital

There are no digital implications arising from this report.

5.3 Risk

The review and update of the Local Code of Corporate Governance during 2023/24 ensures that internal controls, risk management and other governance arrangements reflect the arrangements in place on an evidence-basis. The draft Annual Governance Statement 2023/24 details areas where additional work would further enhance the internal control environment, or improve risk management and corporate governance arrangements.

Core principle of good governance "F. Managing risks and performance through robust internal control and strong public financial management" is included within the CIPFA/SOLACE Framework. Midlothian Council's Local Code of Corporate Governance sets out evidence of systems, processes and documentation to demonstrate local compliance with this core principle of good governance.

5.4 Ensuring Equalities

This report does not relate to a new or revised policy, service or budget change, which affects people (the public or staff), so an Integrated Impact Assessment (IIA) is not an applicable consideration.

The application of equalities legislation within practices is set out in Midlothian Council's Local Code of Corporate Governance to demonstrate compliance of core principle of good governance "A.

Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law”.

5.5 Additional Report Implications (See Appendix A)

APPENDIX A – Additional Report Implications

A.1 Key Priorities within the Single Midlothian Plan

Good governance is important to enable Midlothian Council to deliver its key priorities in support of achieving the Council’s objectives as set out in the Single Midlothian Plan (Reducing the gap in economic circumstances; Reducing the gap in learning outcomes; Reducing the gap in health outcomes; and Reducing the impact of climate change).

A.2 Key Drivers for Change

Key drivers addressed in this report:

- Holistic Working
- Hub and Spoke
- Modern
- Sustainable
- Transformational
- Preventative
- Asset-based
- Continuous Improvement
- One size fits one
- None of the above

Midlothian Council is committed to creating a great place to grow supported by the 9 drivers for change. Implementing the 9 drivers for change in practice is embedded in the Council’s Local Code of Corporate Governance to assist the Council in achieving its objectives.

A.3 Key Delivery Streams

Key delivery streams addressed in this report:

- One Council Working with you, for you
- Preventative and Sustainable
- Efficient and Modern
- Innovative and Ambitious

A.4 Delivering Best Value

The overall aim of the CIPFA/SOLACE Framework ‘Delivering Good Governance in Local Government’ (2016), on which Midlothian Council’s Local Code of Corporate Governance is framed, is to ensure that: resources are directed in accordance with agreed policy and according to priorities; there is sound and inclusive decision making;

and there is clear accountability for the use of those resources in order to achieve desired outcomes for service users and communities.

This will enable the Council to fulfil its obligations to provide best value service delivery to its citizens.

A.5 Involving Communities and Other Stakeholders

Core principle of good governance “B. Ensuring openness and comprehensive stakeholder engagement” is included within the CIPFA/SOLACE Framework. Midlothian Council’s evidence of systems, processes and documentation to demonstrate local compliance with this core principle of good governance is set out in its Local Code of Corporate Governance.

The Council’s Corporate Management Team was engaged in the review and finalisation of the updated Local Code of Corporate Governance (approved by Council on 23 March 2021), and the update of the evidence to demonstrate good governance which reflects the current operating environment.

A.6 Impact on Performance and Outcomes

The annual self-assessment and the identification of improvement actions as evidenced through the draft Annual Governance Statement 2023/24 are designed to enhance the internal control environment, and risk management and corporate governance arrangements.

This demonstrates the core principle of good governance “G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability” included within the CIPFA/SOLACE Framework.

A.7 Adopting a Preventative Approach

Core principle of good governance “D. Determining the interventions necessary to optimise the achievement of the intended outcomes” is included within the CIPFA/SOLACE Framework. Prevention governance arrangements are a key part of the good governance framework within the Council’s Local Code of Corporate Governance.

A.8 Supporting Sustainable Development

Core principle of good governance “C. Defining outcomes in terms of sustainable economic, social, and environmental benefits” is included within the CIPFA/SOLACE Framework. Midlothian Council’s evidence of systems, processes and documentation to demonstrate local compliance with this core principle of good governance is set out in its Local Code of Corporate Governance.

Appendix B

Draft Annual Governance Statement 2023/24

Introduction

The Annual Governance Statement explains how the Council has complied with the terms of the CIPFA/SOLACE Framework (2016) for the year ended 31 March 2024, sets out the Council's governance arrangements and systems of internal control, and reports on their effectiveness. The statement also covers relevant governance matters as they affect those entities included as part of the Council's Group Accounts.

Scope of Responsibility

Midlothian Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for. The Council also has a statutory duty of Best Value under the Local Government in Scotland Act 2003 to make arrangements to secure continuous improvement and performance, while maintaining an appropriate balance between quality and cost; and in making these arrangements and securing that balance, to have regard to economy, efficiency and effectiveness.

In discharging this overall responsibility, elected members and senior officers are responsible for putting in place proper arrangements for the governance of Midlothian Council's affairs and facilitating the exercise of its functions in a timely, inclusive, open, honest and accountable manner. This includes setting the strategic direction, vision, culture and values of the Council, effective operation of corporate systems, processes and internal controls, engaging with and, where appropriate, lead communities, monitoring whether strategic objectives have been achieved and services delivered cost effectively, and ensuring that appropriate arrangements are in place for the management of risk.

The system can only provide reasonable and not absolute assurance of effectiveness.

Framework for Good Governance

The overall aim of the CIPFA/SOLACE Framework 'Delivering Good Governance in Local Government' (2016) is to ensure that: resources are directed in accordance with agreed policy and according to priorities; there is sound and inclusive decision making; and there is clear accountability for the use of those resources in order to achieve desired outcomes for service users and communities.

The Framework defines the seven core principles of good governance, namely:

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

The Council's Local Code of Corporate Governance, which is consistent with the principles and recommendations of the CIPFA/SOLACE Framework and the supporting guidance notes for Scottish authorities (November 2016) and was approved by Council in March 2021.

The Council's Governance Framework

The key elements of the Council's governance arrangements, as set out in the Council's Local Code of Corporate Governance, include:

A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting rule of law

The roles and responsibilities of elected members and officers and the processes to govern the conduct of the Council's business are defined in standing orders and scheme of delegation for officers, scheme of administration, and financial regulations.

Codes of conduct are in place for and define the high ethical values and standards of behaviour expected from elected members and officers to make sure that public business is conducted with fairness and integrity.

The Monitoring Officer is responsible for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with. The Standards Committee is responsible for dealing with matters relating to conduct and ethical standards.

The Council seeks feedback from the public through its complaints and comments procedures for Corporate and Social Work (statutory) service areas, responds to the outcomes, as appropriate, and reports the results annually.

Professional advice on the discharge of statutory social work duties was provided during the year to the Council by the Chief Officer Children's Services, Partnerships and Communities (Chief Social Work Officer). The CSWO promotes values and standards of professional practice and acts as the 'agency decision maker' taking final decisions on a range of social work matters including adoption, secure accommodation, guardianship, etc. The CSWO reports annually on the statutory work undertaken, regulation and inspection, workforce issues and significant social policy themes.

B. Ensuring openness and comprehensive stakeholder engagement

Council meetings are held in public unless there are good reasons for not doing so on the grounds of confidentiality. When Council and Committee meetings are held using a virtual platform they are live-streamed to ensure public access, and recordings can be accessed from the Council's website.

Unless confidential, decisions made by Council or other Committees are documented in the public domain. All decisions are explicit about the criteria, rationale and considerations used. The impact and consequences of all decisions are clearly set out.

The Council seeks community views on a wide range of issues and undertakes regular consultation and engagement with citizens and service users.

C. Defining outcomes in terms of sustainable economic, social, and environmental benefits

The Council's vision, strategic objectives and priorities are set out in the Single Midlothian Plan developed through the Community Planning Partnership (of which the Council is a partner). The Council's Medium Term Financial Strategy and Service Plans outline how Midlothian Council will deliver its contribution to the Single Midlothian Plan. In June 2023 the Council also approved a transformation blueprint 2023-2028 to support the Medium Term Financial Strategy and help bridge s projected five-year funding gap.

Capital investment at a strategic level is structured to consider and balance the combined economic, social and environmental impact of policies and plans when taking decisions about service provision. Asset management planning is being developed to support this.

The Council supports community empowerment and recognises the importance of building community capacity and volunteering as a key factor in building stronger, safer, and supportive communities.

Implications are considered during the decision making process within the standard report template covering Resources, Risk, Single Midlothian Plan and Key Priorities, Impact on Performance and Outcomes, Adopting a Preventative Approach, Involving Communities and Other Stakeholders, Ensuring Equalities, Supporting Sustainable Development, and IT issues.

D. Determining the interventions necessary to optimise the achievement of the intended outcomes

Decision makers receive detailed information indicating how intended outcomes would be achieved together with the risks, financial and other implications associated with the proposals, by way of the compulsory sections of the Committee report template.

In determining how services and other courses of action should be planned and delivered the Council is increasingly engaging with internal and external stakeholders. The Council fosters effective relationships, collaborative working and contractual arrangements with other public, private, and voluntary organisations in delivering services that meet the needs of the local community including the achievement of 'social value' (community benefits) through service planning and commissioning.

E. Developing the entity's capacity, including the capability of its leadership and the individuals within it

The roles of officers are defined in agreed job descriptions. Staff performance is reviewed on an annual basis in accordance with the relevant appraisal processes in place during the year.

The Chief Executive is responsible and accountable to the Council for all aspects of management including promoting sound governance, providing quality information/support to inform decision making and scrutiny, supporting other statutory officers, and building relationships with all Councillors.

The Elected Members Induction Programme took place following elections in May 2022 and is periodically supplemented by training events, seminars and briefings. Members appointed to certain committees have also received specific training related to the responsibilities on these committees e.g. licensing, planning, audit.

F. Managing risks and performance through robust internal control & strong public financial management

The Council has overall responsibility for directing and controlling the organisation. The Cabinet is the principal decision-making committee of the Council. The Performance Review and Scrutiny Committee is responsible for reviewing performance against policy objectives and commenting on decisions and policies and their impact.

The Council updated its Risk Management policy and strategy in August 2022 whose main priorities are the robust systems of identification, evaluation and control of risks which threaten the Council's ability to meet its objectives to deliver services to the public. Internal Audit's assessment in March 2024 was that assurance is substantial in relation to the Council's Risk Management Policy and application of the policy at a strategic level.

The Chief Financial Officer (the Section 95 officer) is responsible for the proper administration of all aspects of the Council's financial affairs including ensuring appropriate advice is given to the Council on all financial matters.

The Council's system of internal financial control is based on a framework of financial regulations (updated in June 2022), regular management information, administrative procedures (including segregation of duties), management supervision and a system of delegation and accountability. This remains reliant on the staff within the framework to ensure management supervision and accountability are diligently enforced.

The Council has an approved strategy to tackling fraud, theft, corruption and crime, as an integral part of protecting public finances, safeguarding assets, and delivering services effectively.

A Medium Term Financial Strategy was approved by Council in June 2019. The 2022/23 budget was approved by Council in February 2022. Given the significant fiscal challenges which lie ahead, work is ongoing to agree the Council's Blueprint/Strategic Plan, aligned to the Medium Term Financial Strategy. This will then inform the revised service plans, workforce plans and the long term sustainability of services. Current assessment of a budget gap of approximately £30 million for the Council over the next 5 years will place unprecedented financial pressure on the Council which will require difficult decisions to be made in relation to both Capital and Revenue Budgets.

The previous Chief Officer Corporate Solutions carried out a self-assessment against the CIPFA FM code and reported the findings of this to CMT in September 2021 and this was subsequently reported to Audit Committee in December 2021. The Chief Officer Corporate Solutions identified six areas requiring improvement from his review of the CIPFA FM code. Actions identified included improving the resourcing of the Procurement team (Ongoing), updating the Council's Financial Regulations and Directives (Complete – approved at June 2022 Council), putting in place a multi-year financial plan (Ongoing – action relevant to two sections of the FM Code), improving the Council's approach to lessons learned from completed projects (Ongoing), and improving the Council's risk management arrangements (Ongoing). No further Committee update has been provided within the 2023/24 financial year.

Revenue and Capital Budget Monitoring reports are presented to the Council on a quarterly basis for monitoring and control purposes including the annual outturn. The Management Commentary in the Statement of Accounts provides financial and other performance information regarding the operation of the Council, its wider achievements and areas for development.

G. Implementing good practices in transparency, reporting, & audit to deliver effective accountability

The independent and objective audit opinion of the Chief Internal Auditor (Chief Audit Executive) is stated within the Internal Audit Annual Assurance Report 2023/24. This is based on work carried out by an in-house team, with supplementary support from an outsourced partner, including shared services resources from East Lothian Council, in conformance with the Public Sector Internal Audit Standards to fulfil statutory Internal Audit provision.

The Council responds to the findings and recommendations of Internal Audit, External Audit, Scrutiny and Inspection bodies including associated Action Plans for improvement. The Audit Committee is integral to overseeing independent and objective assurance and monitoring improvements in internal control and governance.

Quarterly Performance Reports were presented to the Performance, Review and Scrutiny Committee for monitoring the achievement of strategic priorities and key performance indicators.

The Annual Accounts and Report sets out the financial position in accordance with relevant accounting regulations.

Review of Adequacy and Effectiveness of the Council's Governance Framework

An annual review of the adequacy and effectiveness of the Council's overall governance framework has been carried out. The output is this Annual Governance Statement which is presented to the Audit Committee.

The review was further informed by assurances from: assessment of compliance against the Local Code; written assurance statements from the Executive Directors; Internal Audit annual opinion, findings and recommendations; External Audit, and comments and recommendations made by External Auditor and other external scrutiny bodies and inspection agencies.

In respect of the implementation of the remaining Best Value Audit Actions (nos. 1-4 improvement areas of governance identified by the Council in 2020/21), a Best Value Assurance Update Report by the Chief Executive was presented to Council in June 2021. This set out further progress to address the recommendations made in order to demonstrate Best Value. These actions are now all materially completed. The Council however recognises improvements are required in the areas presented below.

Improvement Areas of Governance

The collective review activity outlined above has identified the following areas where improvement in governance arrangements can continue to be made to enhance compliance with the Council's Local Code of Corporate Governance and to demonstrate Best Value:

- 1) The previous Chief Officer Corporate Solutions carried out a self-assessment against the CIPFA FM code and reported the findings of this to CMT in September 2021 and this was subsequently reported to Audit Committee in December 2021. One of the actions identified was putting in place a multi-year financial plan. The Council's subsequently approved a 2023-2028 Strategic Blueprint in June 2023, aligned to the Medium Term Financial Strategy. This will then inform the revised service plans, workforce plans and the long term sustainability of services. Current assessment of a budget gap of approximately £20 million for the Council over the next 5 years requires putting in place an approved multi-year financial plan key to developing the Council on a sustainable basis. Dedicated Financial Management CMT meetings have been implemented on a quarterly basis to challenge and scrutinise budgets in order to improve financial discipline.

- 2) Improvements in the Procurement Service staff capacity have been made during the year. With increased team capacity issues of off contract spend and non-contracted spend within the organisation are being progressed, however further purchasing and procurement issues continue to be noted. Expired contracts and off contract spend is being managed through regular review at Budget Boards who work to ensure that the risk is managed and the appropriate remedial action is being taken; with oversight from the Executive Director and Chief Officers. In addition as part of the Council's Blueprint under theme1 follow the money a sprint looking at contract management and a review of transport is being progressed.
- 3) Capital Plan Affordability review continues as the paper that was approved by Council on 27 February 2024, detailed that the Loan Charges arising from capital expenditure within the General Services Capital Plan, including planned Learning Estate Programme projects that are under development is expected to exceed the Loan Charges levels as per the Council's approved Medium Term Financial Strategy over the period 2024/25 to 2028/29. Work Continues to establish an approved affordable and financially sustainable Capital Plan for the Council moving forward. Whilst approval for fully funded learning estates projects has been progressed delays in decision to critical projects may result in breaches of capacity to provide education provision across the council area.
- 4) Workforce planning to address appropriate resource requirements, recruitment, retention, training, leadership development and resilience is taking place. However, it has been noted that there is a lack of resource within the Compliance Team to deliver the Council's statutory responsibilities under the Data Protection Act 2018. CMT approved a paper to identify additional resource on 5 June and these requirements are now being implemented along with support for the Council tax and Procurement teams to meet identified control needs and in both cases, this is a continuing process. It is the responsibility of service managers and Chief Officers to ensure that service risk registers are up to date, this is now being prioritised in order to ensure that all registers are up to date.

Conclusion and Opinion on Assurance

The conclusion from the review activity completed and subject to the successful progression of the areas for improvement highlighted above, our opinion is that reasonable assurance can be placed upon the adequacy and effectiveness of Midlothian Council's systems of governance, risk management and internal control. Although areas for further improvement have been identified, the annual review demonstrates sufficient evidence that the Council's Local Code of Corporate Governance is operating effectively and that the Council complies with that Local Code in most respects to meet its principal objectives. Systems are in place to regularly review and improve governance arrangements and the system of internal control.

Dr Grace Vickers
Chief Executive
** September 2024

Kelly Parry
Leader of the Council
** September 2024