MIDLOTHIAN COUNCIL

CODE OF CORPORATE GOVERNANCE

October 2007

Derek Milligan, Leader of the Council
Trevor Muir, Chief Executive
Index

1. Midlothian’s Policy Statement on Corporate Governance and Annual Strategy

2. Key Parts of Midlothian’s Corporate Governance

3. Major Governance risks

4. Supporting References
   - Chartered Institute of Public Finance and Accountancy/Society of Local Authority Chief Executives (2001)
   - The Independent Commission for Good Governance in Public Services (2005)

5. Corporate Governance supporting Community Planning and Best Value in Midlothian

6. Key Features of Midlothian’s Corporate Governance

7. Findings from the 2006/07 review of Midlothian’s Corporate Governance and the Statement of Corporate Governance

GLOSSARY

‘Corporate’ – the entire entity of Midlothian Council

‘Governance’ – the way the corporate body runs its business affairs in an open, accountable and efficient way

‘Corporate Governance’ – the private and public sector response, started in the 1990s, to weaknesses in managerial control in certain bodies
1. MIDLOTHIAN’S POLICY STATEMENT ON CORPORATE GOVERNANCE AND ANNUAL STRATEGY

POLICY

‘Midlothian Council is responsible for ensuring that its business is conducted in accordance with relevant laws and appropriate standards, and that public money is safeguarded and accounted for, and is used economically, efficiently and effectively.

In discharging this accountability members and senior officials are responsible for installing suitable arrangements for the governance of Midlothian Council’s affairs and the stewardship of the resources at its disposal. Members and senior officers are also responsible for the well-being of the community. This Code focuses on the mechanisms, checks and balances that reduce the risk of poor governance to a minimum.

The Code of Corporate Governance is consistent with the principles, and reflects the requirements of, national best practice guidance which is mentioned in section 4.

The main aims of the Code are to:-

- Give external parties a brief overview of Governance in Midlothian Council and hopefully derive some assurance that the Council’s business is run lawfully, equitably, accountably and openly
- Provide the Council with a focus for self assessment

ANNUAL STRATEGY FOR CORPORATE GOVERNANCE

- Ensure that national, best practice is reviewed on an annual basis and applied within Midlothian
- Review the parts of the Assurance System, so that they are seen to be appropriate, to provide meaningful and accurate assurance to all interested parties, internal and external
- Annual self assessment against the parts of the Assurance System and the overall Code
- Production of an Annual Statement of Corporate Governance, attaching to the Annual Accounts, and Implementation of Improvements regarding compliance with the Code
- Place the updated Code of Corporate Governance on the Council’s website in public view

2. KEY PARTS OF MIDLOTHIAN’S CORPORATE GOVERNANCE

These are the identified strengths:-

- Policies are clear and updated regularly
- Good relations between Elected Members and Officers
- Strategic Leadership
- Council has a history of acting lawfully
- Corporate and Financial Planning integrated
- Council has a history of sound financial management, sometimes in difficult circumstances. This is based on sound systems of financial control and a clear financial strategy
- Standing Orders and Financial Directives are clear and updated regularly
- Anti Fraud and Corruption procedures are in place
- Performance systems are in place
- Risk Management Framework and Strategy is in place
- Planning for the Community is developing
- Codes of Conduct are high profile
- Council meetings and business are generally ‘open’
- Scrutiny and Challenge of Cabinet decisions and Council performance
- Independent Internal Audit
- Annual scrutiny by External Audit
- Regular inspection by Government Agencies
- Assurance system in place
- Partnership Working and Governance
- Business Continuity Management is developing

3. MAJOR GOVERNANCE RISKS

The term ‘corporate governance’ came about as a result of serious failings in the way some organisations were run at the top. Since the early 1990’s there have been some high profile cases, highlighting serious weaknesses, and these have included:-

- The collapse of Barings Bank as a result one key player having unlimited control over an important part of the Far East business
- A few Local authorities having all or most investments in the collapsed BCCI Bank
- Maxwell diverting Pension Funds into his companies
- Custodial sentences given to senior executives in Enron
- Collapse of the Andersen accounting empire
- The damning Best Value report of one Scottish Local Authority

A series of reports, beginning with the Cadbury Report through to reports by Turnbull, Hempel and Smith, were produced to help organisations review and improve their governance arrangements.

This Code, and other supporting Codes, attempts to install quality governance into Midlothian’s affairs and sets out protocols that reduce the risk of major failings.

However, before describing the key elements of corporate governance in Midlothian it is prudent to highlight the possible, major governance risks which require to be managed carefully. These are typical pitfalls that any Local Authority needs to keep an eye on:-

Major issues to be avoided at all times
- Elected Members’ decisions and policy not being challenged or scrutinised
- Council failing to introduce Government Legislation and Regulation
- Failure of Elected Members and Senior Officials in providing effective leadership through good relations
- Senior Officials failing to implement Elected Member Policy
- Not harnessing the main assets and resources of the Council in pursuit of common objectives and priorities
- Serious financial mismanagement that cripples the Council
- Ultra vires ie Council acts illegally
- Major Fraud or Corruption
- Major decisions that cannot be substantiated and that are not transparent, possibly under delegated powers
- Major interruption of services and not having Business Continuity Management
- Failure to monitor and report performance
- Partnership working that becomes confusing and ineffective
- Council habitually risk averse
- Council failing to connect with the public

4. REFERENCES

Chartered Institute of Public Finance and Accountancy/Society of Local Authority Chief Executives ‘Corporate Governance in Local Government: A Keystone for Community Governance (Scottish Authorities) (2001)’

Independent Commission on Corporate Governance in the Public Services. Commissioned by Chartered Institute of Public Finance and Accountancy and the Office for Public Management (2005)

5. CORPORATE GOVERNANCE SUPPORTING COMMUNITY PLANNING AND BEST VALUE IN MIDLOTHIAN

In any terms public expenditure in the UK is significant. How this money is spent and the quality of services it provides is critically important to users of services and taxpayers.

Because of this, good governance of public services needs to be of a high standard. Good governance leads to good management, high standards of performance, sound stewardship of public money, fewer unresolved issues, fewer crises and investigations, public engagement and ultimately good outcomes (‘Best Value’ and ‘Advancing the Well Being of the Area’).

Midlothian’s Code of Corporate Governance:-

1. Explains for the benefit of taxpayers, the general public, partners, key stakeholders, members of staff, Elected Members and External and Internal Auditors how Midlothian’s affairs are governed – focusing mainly on the mechanisms and protocols, how we ensure that business affairs are run
efficiently and ‘above board’ and at all times managing the classic and typical risks mentioned in section 3.

2. Supports the Best Value Strategy which shows how Midlothian relates to, and engages, the community at large in its statutory role as the strategic service planner for the area. This is so that if Midlothian’s business affairs are handled openly and effectively, Best Value and Continuous Improvement have a solid foundation with which to develop.

3. Is used annually in April/May to give Midlothian’s regulatory mechanisms a thorough review (by self examination), to highlight good practice and expose any weaknesses. This then results in a Statement of Corporate Governance signed by the Leader of the Council and the Chief Executive which is attached to the annual published accounts. Before being published the Assurance System and the Statement of Corporate Governance are stringently reviewed by the External Auditor.

4. Gives all interested parties assurance that Midlothian’s affairs are run lawfully, equitably, openly and efficiently, and its key features are regularly examined.

5. Is available as a public document for scrutiny and comment by the general public and other stakeholders. It is also available for members of staff on the intranet.

### 6. KEY FEATURES OF MIDLOTHIAN’S CORPORATE GOVERNANCE

Midlothian is a complex, multi purpose public body that manages each year net revenue budgets of over £170m and Capital Programmes over £40m. Resources are finite and there is a constant challenge of making the best use of limited resources.

Comprehensive systems, procedures, processes, rules and regulations are required to ensure stewardship and control.

The Council complies with many pieces of legislation and government regulation, principally the statutory duty of Best Value, and the advancement of the well-being of the community, through the Local Government in Scotland Act 2003. Midlothian’s approach to Best Value is critical to the Council delivering quality services and it follows a standard approach expected of Audit Scotland and contained in Scottish Government Guidance.

The Council employs around 4,000 members of staff and has Fixed Assets valued at a replacement cost of over £400m. Therefore considerable focus is applied to these key assets through our ‘People Strategy’, Personnel Policies and Procedures and Asset Management Planning.

In seeking to ensure continuing good stewardship, so that Best Value can be achieved, robust checks and balances and sound internal controls are in place as follows.

**PLANNING FOR THE COMMUNITY**

Midlothian Council does not plan for the community on its own; it has nine strategic partners which include the NHS, the Fire and Police services and the voluntary sector and these form the Community Planning Partnership (CPP). ‘Midlothian Moving Forward’, the CPPs main document in Community Planning, can be viewed on the
Council’s website and explains all the consultations that take place indicating that in planning services and improvements various checks and balances are in place, and we listen to the community.

The CPP has agreed a partnership agreement which is an administrative document that regulates the business affairs and governance of the partnership.

Below the CPP there are six key themes, which we call Strategic Groups and which are partnerships in their own right. These cover:-

- Supporting a healthy, caring and diverse Midlothian
- Business opportunities
- Ensuring Midlothian is a safe place to live, work and visit
- Conserving the environment
- Improving opportunities for people
- Raising the profile of Midlothian

Strategic Groups are accountable to the Community Planning Steering Group which is made up of senior representatives from the partners.

All partnerships, whether it is the overarching CPP or other partnerships, are self assessed on a regular basis on their governance and risk management practice.

**CORPORATE PLAN (or ANNUAL PLAN)**

Midlothian’s Corporate Plan arises from internal and external consultation, Community Planning, compliance with the Scottish Government agenda, the elected ruling group’s manifesto and the Council’s Strategic Risk Assessment. Therefore, the Council takes account of several influences and distils all demands into corporate priorities.

This provides the Council with a list of priorities that are focused and owned by various interested parties. Beneath the priorities are various measures which are kept to manageable levels and which are regularly reviewed by Elected Members and Senior Officials. The measures are also risk assessed in relation to any impediments to their progress.

Midlothian reports regularly on the achievement of the Plan – to the public and to Elected Members,

**SERVICE (DIVISIONAL) PLANS**

Once the Corporate Plan is produced each Service within the Council produces annually a Service Plan showing how basic services are maintained, how divisional priorities are developed and how Divisions contribute to Corporate Priorities.

This ensures that front line services follow the Annual Plan

Beneath each Service Plan are Business and Work Plans which connect day to day activity to higher level objectives.
LEADERSHIP AND STRATEGIC DIRECTION

Midlothian has established a leadership model that encompasses segregation of duties and various checks and balances. No one person (Elected Member or Officer) has unlimited control of business affairs.

Midlothian Council of Elected Members is the ultimate leader in public affairs within the Midlothian area and has the authority to alter any decisions made by Council committees, where the matter is referred. As per the Council’s Standing Orders the Provost chairs the Council meetings and is the lead Councillor in civic affairs but is not in the Cabinet. A Depute Provost is also elected and is also not in the Cabinet.

A special meeting of the Council can be called at any given time in accordance with standing orders

Standing orders contains stipulations on motions made by Elected Members

Also in accordance with Standing Orders a Leader and a Depute Leader of the Council are elected and a Cabinet of Elected Members formed to deal with portfolios. The Leader, or in his/her absence the Depute Leader, chairs the Cabinet.

The Cabinet meets regularly and its meetings are open to the public.

The Council’s head of paid service is the Chief Executive who leads the Corporate Management Team (CMT) of Directors and other nominated Senior Managers and is the principal officer in executive matters, accountable to the Elected Members.

Should the Chief Executive be absent one of the five Directors would substitute for him/her.

For expediency the Chief Executive has authority to take decisions where urgent or immediate action is required.

Recognised best practice is followed when key decisions are made, normally involving sufficient time being given and sufficient advice, including risk and financial implications, and options being made available.

Decision-making is transparent.

The Chief Executive, in consultation with the Leader of the Council, the Cabinet and other Directors, reviews the Management structure and resources to deliver services and/or change, and recommends changes where appropriate.

The CMT meets fortnightly, it focuses on key issues and minutes are kept with action points. The Chief Executive chairs the CMT

Elected Members are involved in the selection and recruitment of senior officers.

Standard Recruitment and Selection Procedures are applied.

Normally posts are advertised externally to attract the best possible long leet.
Cabinet chooses the preferred candidate but Council has to approve this decision.

Each Director manages a Division which covers a range of direct or central services. Each Division has a Divisional Management Team (DMT) comprising the Director and Heads of Service which meets at least monthly and focuses on key issues. Minutes are kept with action points.

Directors, as well as being responsible for Divisional matters, take a corporate view

Through the Community Planning Partnership described above the Council takes the lead in planning services for the community and advancing the well-being of the area.

Whenever an election results in new Elected Members, or a change in Administration, procedures are in place to train and engage new Elected Members into the corporate governance of the authority.

**SALARIES OF SENIOR OFFICIALS AND COUNCILLOR’S REMUNERATION, ALLOWANCES AND EXPENSES**

The salaries of Senior Officials are decided in accordance with a national framework and not by the Senior Officials themselves.

The salaries and emoluments of Elected Members are likewise approved by the Scottish Government and not by our Elected Members. Members of the public can, at any time, given details of payments made to Elected Members.

**RELATIONS BETWEEN ELECTED MEMBERS AND SENIOR OFFICERS AND ROLES AND RESPONSIBILITIES**

There are clear relationships, roles and responsibilities and lines of reporting between the Elected Members, the Chief Executive and Directors.

Senior Officers provide the professional input into decisions made by Elected Members and are expected to ensure that information and advice given to Elected Members is accurate and up to date.

Elected Members in the Cabinet make recommendations on major policy, allocate resources within approved budgets, recommend the level of Council Tax, approve the Corporate Governance and Risk Management frameworks, liaise with the Community Planning Partnership, review the recommendations of Best Value reviews and develop relations with the Corporate Management Team.

Elected Members on the PRC deal with the review of performance, promotion of good governance, risk management and internal control, carry out scrutiny and act as the Council’s Audit Committee. The Committee has a ‘call in’ facility to query Cabinet decisions.
TARGETS, PERFORMANCE MANAGEMENT AND PERFORMANCE REPORTING

Under the statutory duty of Best Value the Council operates a Performance Management System which reviews targets, performance and outcomes at all levels in the hierarchy - Section, Unit, Division and Council – wide.

This same process is applied to Partnerships.

Directors regularly report to the Chief Executive, Cabinet and Performance Review Committee on the performance of services under their responsibility. The Chief Executive reports regularly on the overall performance of the Council.

Annually the Council complies with statute and publishes its annual Performance Report which covers a wide range of subject matters including Statutory Performance Indicators.

Each service has service and control objectives which are included in Business Plans and Risk Registers.

The Council has a Policy and Performance section, led by a Principal Officer accountable to a Head of Service. The Head of Service is a Member of the Corporate Management Team and is directly accountable to the Chief Executive. He/she liaises regularly with the Cabinet Member for Council Development and Improvement and the Chair of the Performance Review Committee and is the Council’s lead officer on Best Value, Community and Contingency Planning.

BEST VALUE ACTION PLAN

As at October 2007 Audit Scotland has virtually completed its Best Value audit of Midlothian Council and the final report is expected early in the New Year 2008.

It is expected that all Scottish Councils will be audited again on Best Value on a 3 or 4 yearly cycle.

Right though this process the Council has adopted Best Value Guidance, it has trained Elected Members and Members of Staff, it has set up a Best Value Steering Group of senior officials, it has produced a self assessment and improvement plan for submission to Audit Scotland and as soon as the Audit Scotland report is published the findings will be analysed and reported to Elected Members and posted on the Council’s website.

Audit Scotland reports on Councils’ Best Value can be viewed by the public on the Audit Scotland website.

ELECTED MEMBER BUSINESS, CONDUCT AND ACCOUNTABILITY

The Council has published Standing Orders with a supporting Scheme of Administration which apply to the business of the full Council of Elected Members, Standing Committees, Sub Committees, Other Committees and Community Forums
(unless otherwise regulated). The Standing Orders and Administrative Scheme can be viewed on the Council’s website and are updated regularly.

No meeting of Elected Members can commence unless it is quorate and the minimum number of Elected Members is stipulated in Standing Orders. The Standing Orders outline the arrangements of admission of the media and the public.

Elected Members receive training which covers their role, conduct and their business affairs. They also sign a Declaration of Acceptance of Office.

Elections are prepared for in advance and are led by the Returning Officer, a statutory appointment, normally the Council’s Chief Executive. Council officials, candidates and their agents adhere to procedures that ensure openness and integrity.

Elected Members are governed by ethical standards (Standards Commission for Scotland – Standards in Public Life; Councillor’s Code of Conduct) and Midlothian’s standing orders oblige them to declare any interests.

The Council, apart from its Cabinet, has the following main committees – Performance Review Committee, Environment Protection Committee, Planning Committee, General Purposes Committee, Appeals Committee, Standards Committee and Vogrie Festival Day Committee. Agendas are sent out in sufficient time and minutes are kept for all Elected Member meetings.

The Council’s Monitoring Officer (Head of Law and Administration) advises on elected member conduct and accountability and has a statutory duty, under various parts of legislation, to report to the Council any non compliance.

The Standards Committee promotes the observance of high standards in public service and is chaired by a person independent of Midlothian Council. It meets as and when required.

Elected Members represent the Council on several arms length and related bodies and we maintain a full list on the Council intranet. In representing the Council, Elected Members adhere to the Councillors’ Code of Conduct and the Council’s Code for ‘Following the Public Pound’

**MULTI ELECTED MEMBER WARDS**

The Standards Commission for Scotland in its guidance notes states that in performing their functions as Councillors, elected members should respect other Councillors and Council employees. It is understood that in the political environment of local government there may be, on occasion, tensions between individual Councillors and between party groups. Factors such as minority Administrations, coalitions and multi-member wards may have a bearing on such tensions.

To ensure parity of treatment between Elected Members in multi-member wards, the following applies:-
- When members of the public contact the Council requesting information about their ward Councillors, contact details of all members will be provided in alphabetical order, along with their political affiliation.

- Where someone has not identified a particular Councillor to deal with their concerns, the officer handling the contact should ‘phone or email the constituent to clarify which elected member they would like to deal with their query.

- When it is not possible to get clarification over which member is to be approached, the last resort should be to copy the query to all members.

- All members in a multi-member ward should be kept informed of matters of general Council business which affect their wards.

- Whenever a public meeting is arranged by the Council to consider an issue local to a ward, or one or more wards, all the ward member(s) should be invited to attend the meeting.

- Whenever the Council undertakes a consultative exercise on an issue local to one or more wards, the appropriate officer(s) should notify the ward members of the consultation.

- When officers write to residents regarding matters of general concern in an area, all ward Councillors should be sent copies. Examples would include traffic calming measures, bin collection cycles etc.

- When officers write to or meet with residents regarding issues affecting one household the local members are not informed, except:

  - Where a Councillor has been involved in a private matter affecting that household, then the relevant officer(s) should keep the Councillor informed of developments until the matter is concluded, or

  - Where a Councillor has been involved in a non personal matter affecting more than one household then the relevant officer(s) should keep both the member and all other local members informed of developments until the issue is finalised.

- There is no requirement for officials to automatically invite other ward members to, or notify them about, meetings organised by an individual Councillor with that official.

- Officials, however, should ensure that a Councillor is always given the opportunity to have other ward members and/or relevant Cabinet Spokesperson(s) attend a meeting they are organising with officials on non personal matters.
OFFICER CONDUCT AND ACCOUNTABILITY

Chief Officials are governed by a ‘Scheme for Appointments as Proper Officer etc’ and an ‘Approved Scheme of Delegation’ and reporting lines to Elected Members.

Other matters not detailed in the Approved Scheme can be delegated down the staffing hierarchy but checks and balances are applied by the relevant Director.

All officers are governed by the Council’s ‘Code of Conduct for Midlothian Employees’ and other specific guidance such as that relating to the security of Computer Information and Property. Officers must act in the interests of the Council at all times.

Officers must declare any pecuniary interests in the business of the Council or its Committees.

Team Briefings are used as a standard way of disseminating information and instructions and regulating staff actions and gathering feedback from staff.

A system of managerial supervision exists across the Council allowing proper segregation of duties, internal check and the monitoring of business matters. No one officer is in charge of the whole of a transaction or procedure.

Disciplinary Procedures exist including an Appeals Committee.

The Standards Committee, chaired by an independent person, promotes observance of the highest standards in public service.

FRAUD AND CORRUPTION

The Council takes Fraud and Corruption very seriously and:

- Exhibits its approach on the Council website/intranet
- Provides a Whistle Blowing facility on the website
- Provides a Whistle Blowing facility on the internal intranet for members of staff
- Has a Benefit Fraud hotline and a Benefit Fraud Team
- Has rigorous procedures to deal with fraud and corruption

OPENNESS IN BUSINESS AFFAIRS

Midlothian has a policy of openness through its:

- Freedom of Information Scheme
- Relations with the media
- Communications Team which disseminates information to the media and the community
- Publications
- Early notification of the dates of its meetings
- Holding of meetings in public
- Admission of Elected Members to meetings where they are not on Committees
- Website
- Consultation processes
- Complaints and feedback procedures

**SCRUTINY AND CHALLENGE**

The Council has in place structures that ensure that no individual or group has unlimited powers.

The Council has a Performance Review Committee of Elected Members which:-

- is made of up Members not in the Cabinet
- is the Council’s primary scrutiny function
- reviews the overall performance of the Council and its services and can make recommendations to the Cabinet
- holds to accounts senior officers for their services
- reviews Internal and External Audit reports and applies recommended ‘Audit Committee Principles’
- Promotes sound risk management, governance and internal control
- reviews reports on Risk Management
- Reviews external inspection reports
- Sets the agenda for specific Best Value reviews of services and themes.

The Council’s business affairs and financial management is subjected to detailed scrutiny each year by Audit Scotland and on an ad hoc basis by other agencies.

The Council’s Monitoring Officer (Head of Law and Administration) is responsible to the Authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.

The Council has a Standards Committee, chaired by an independent person, and which scrutinises and reports on standards in public service.

Elected Members, not on certain committees, can normally attend these meetings as observers.

The Council has a formal complaints system which members of the public can access and use. It also has customer feedback surveys eg housing repairs where any adverse trends are spotted and rectified.

The Council has three Appeals Committees (Education, Social Work and Housing) which gives citizens the right of appeal against education authority, social work and housing decisions respectively.

The Council has a Midlothian Joint Consultative Group (JCG) where the representatives of recognised Trade Unions consult Cabinet Members and officials on matters relating to the workforce.
INDEPENDENT INTERNAL AUDIT

The Internal Audit Service is an independent (of systems, management processes and most line management elements) appraisal function which reports in its own name and has unrestricted access to members of staff, systems and records. The service is responsible to the Head of Finance but has access, if required, to the Director, Corporate Services and the Chief Executive.

The Audit Manager has unrestricted access to the Chair of the Performance Review Committee, the forum which approves and reviews the Strategic and Operational Audit Plans, the Audit Charter and receives detailed and summary audit reports at the conclusion of audit assignments. The Audit Manager also has access to the Chair of the Standards Committee.

The Audit Manager regularly liaises with Audit Scotland on the optimum use of the audit resource.

The Audit Manager investigates any allegations of fraudulent behaviour in accordance with the Council’s Anti Fraud Policy, Strategy and Procedures.

The Audit Manager submits annually to the Performance Review Committee an independent opinion on the Council’s Internal Control System. This opinion helps in the overall assurance assessment of corporate governance.

FINANCIAL MANAGEMENT AND USE OF RESOURCES

Midlothian’s major assets are its Finance, Property Asset and Staffing. It harnesses these through its Financial Strategy, its HR Strategy and through its Asset Management Plan.

Midlothian identifies its corporate and service priorities and finances these in revenue and capital programmes according to the availability of resources, affordability (Prudential Code) and prioritisation. The Corporate Planning process drives the matching of resources to objectives.

The Council, through its Efficiencies Plan, is committed to finding efficiencies from existing resources and then reallocating resources to areas of need. The Council makes extensive use of external funding (eg grants) to finance certain parts of the service and has mechanisms to ensure compliance with grant conditions.

The Council has Financial Directives, Financial Regulations and a Standing Order (no. 20) on Contracts which are available to accounting officers on the Council’s intranet and they are regularly reviewed, updated and surveyed for compliance. Regular tests are carried out on compliance, by internal and external auditors, the Finance Unit and service management.

Standing Order 20 is supported by standard Procurement Procedures and authorises officers to secure best value in awarding contracts. Tenders of a material amount are independently opened by Elected Members in the presence of a member of staff of the Council’s Secretariat and not by the member of staff responsible for the specification.
For its Trading Activities (statute based) the Council has specific budgeting and monitoring procedures in place to comply with the law.

The Director, Corporate Services is, under the Local Government Scotland Act 1973, the Council’s designated ‘finance’ officer and has the authority to determine the Council’s financial administration practice and procedure and he/she reports to Elected Members on all financial matters.

Comprehensive, three year (policy led) budgeting systems are in place ensuring that priorities are built into forward plans; guidance is available to members of staff involved in Finance and the Director, Corporate Services reports periodically to the Cabinet on Financial Performance. In so doing Divisional Directors provide information on spending patterns.

A system of internal financial control is in place which includes:

- internal check
- authorisation of transactions
- written procedures covering all major financial systems
- budgetary control over commitments, payments and income
- standard financial reporting
- checks on progress in major spending programmes – at frontline and corporate levels
- compliance with financial codes (eg Treasury Management)
- risk transfer (eg insurance, PFI).
- The internal and external audit services regularly reviewing the financial control system.
- Identification and evaluation of risks in control.
- Full briefing and monitoring attaching to the significant use of consultants

The Risk Management regime covers financial risks and major projects involving significant funding. The Council has appropriate insurance in place where risks are not covered internally.

The Council has Anti Fraud, Corruption and Whistle Blowing policies and a Benefits Fraud team which reports directly to the Head of Revenues and Housing Management

The Late Payments legislation is observed and the Council has reporting procedures in place to ensure that current high performance is maintained.

The annual accounts are completed for external audit inspection by the statutory period.

The published, audited accounts are open to scrutiny, during a statutory period, from members of the public

The Finance Unit will shortly be embedding a standard model supplied by the Chartered Institute of Public Finance and Accountancy which covers ‘Effective Financial Management’
The Council has certain financial strategies and policies including Treasury Management which are regularly reviewed and reported to Elected Members in the Cabinet and on the Performance Review Committee.

All bids for Capital Funds have to be rigorously prepared, providing relevant details against Council priorities and are vetted at two ‘gateways’ by a Capital Projects Evaluation Group.

Progress on all major spending projects and programmes is reported on a monthly basis (internally) and quarterly to the Cabinet.

Where the Council makes grants to the voluntary sector or payments to other arms length bodies it has up to date ‘Following the Public Pound’ procedures ensuring that funding is spent in pursuit of the Council’s objectives and it follow the national guide ‘Code of Guidance on Funding External Bodies and Following the Public Pound’. There is particular emphasis on ‘substantial’ funding.

**RISK MANAGEMENT**

Midlothian has:-

- published its policy statement on Risk Management
- an annual risk management strategy
- implemented Enterprise Risk Management which supports continuous improvement, improves internal control and decision making
- a full time Risk Manager who reports quarterly in the Director, Corporate Service’s name to the Elected Members on the Performance Review Committee.

The Risk Manager liaises regularly with other key ‘risk’ focused disciplines across the Council including Policy and Performance, Internal Audit, Health and Safety, Insurance, HR, Finance, Contingency Planning and Information Security.

The Risk Manager develops this Code of Corporate Governance and Assurance System, engages relevant disciplines and senior officers in its management and ensures that the Code is reviewed annually.

There is a Corporate Risk Management Group, made up of representatives from the Council’s Divisions, which is chaired by the Risk Manager, and it ensures that risk management principles are rolled out consistently across the Council and which deals with specific risk issues. The Group meets every six weeks and minutes are maintained and are presented to Divisional Management Teams.

Strategic Risk is reported monthly to the Corporate Management Team.

The Council’s Risk Management Strategy is regularly reviewed by the Internal and External Audit services to ensure that it is effective.

Elected Members are risk aware having been trained in Risk Management and all policy reports to Elected Members include risk implications. Individual Directors are obliged to regular discuss risk exposure with their Cabinet Spokesperson.
ASSURANCE SYSTEM

The Council operates an Assurance System which is mentioned previously under ‘Risk Management’. It is the means by which the Council annually tests its compliance against this Code and is made up of 21 financial and non financial elements. These elements, for example having up to date Standing Orders, Financial Regulations and Directives and ensure that they are fully complied with, are important to the governance of the Council.

The Assurance System is reviewed every year internally and by Audit Scotland

INDEPENDENT AUDITS, INSPECTIONS AND REVIEWS

Midlothian Council is inspected/audited on a regular basis and has systems in place to prepare for inspections (resources, deadlines, consultations etc) and deal with draft and final reports and any improvement plans. Inspection and Audit reports are submitted to Cabinet and the Performance Review Committee.

Audit Scotland reports on Midlothian Council are presented to the Accounts Commission for Scotland. Should Audit Scotland reports contain serious issues the Commission has the power to intervene and instruct the Council to formulate an Improvement Plan.

STRATEGIES AND PLANS

Midlothian’s major strategies and plans can be viewed on the Council’s website and are regularly reviewed and updated to ensure that they produce desired outcomes.

PARTNERSHIP WORKING

Midlothian has a statutory duty to work in partnership with other parts of the public sector and the private and voluntary sectors where services are best developed jointly and resources shared.

Before entering a partnership Midlothian Council has mechanisms to produce a business case which highlights the benefits and risks in entering each partnership and the ‘Following the Public Pound’ issues. All new Partnerships require the approval of Cabinet.

Each partnership has an up to date agreement which sets out the main governance arrangements

NEW LEGISLATION

When new legislation arises the Council has mechanisms in place to analyse the implications of the legislation, the risks, resource issues and the need for any partnership working.
MAJOR CHANGE MANAGEMENT

The Council follows standard principles whenever major, structural change is required. It analyses the risk, staffing and financial implications and installs a change plan to ensure success of the project.

Divisions follow a standard Project Management methodology for individual projects.

BUSINESS CONTINUITY MANAGEMENT

The Council complies with its statutory duty regarding the Civil Contingencies Act: through its membership of the Lothian and Borders Joint Emergency Planning Group and its Contingency Planning Group.

The Chief Executive chairs the Council’s Business Continuity Group and the minutes of the Group are sent to the Corporate Management Team. Divisional, IT and other Generic Business Continuity Plans ensure that resilience is a major requirement.

By complying with the Civil Contingencies Act the Council has arrangements in place to recover critical and vital services should they be seriously disrupted by an incident(s).

The Council is also developing business continuity advice which will be disseminated to the business community.

7. FINDINGS FROM THE 2006/07 REVIEW OF MIDLOTHIAN’S CORPORATE GOVERNANCE AND THE STATEMENT OF CORPORATE GOVERNANCE

In publishing its audited annual accounts each summer Midlothian normally attaches a Statement of Corporate Governance which includes a statutory statement on Internal Financial Control.

Midlothian’s Local Code of Corporate Governance is used as a working document, where the Council is actively assessing itself, and a review carried out in the early summer of 2007 highlighted the following strengths and areas for improvement

(The entry which can be found in the 2006/07 published accounts is copied below)

‘Statement of Corporate Governance’

Midlothian Council is responsible for ensuring that its business, and that of the group entities Pacific Shelf 826 Limited and SDL Limited, are conducted:

- In accordance with the law and proper standards;
- So that public money is safeguarded and properly accounted for;
- So that public money is used economically, efficiently and effectively;
- So that the statutory duties of best value and community planning are complied with.
In discharging this accountability, Elected Members and Senior Management are responsible for proper arrangements for the governance of Midlothian’s affairs and making the best use of resources at its disposal. Midlothian Council has approved and adopted a local code of corporate governance, which is consistent with the principles and reflects the requirements of the CIPFA/SOLACE Framework ‘Corporate Governance in Local Government: A Keystone for Community Governance’ and the guide of the Independent Commission on Corporate Governance in the Public Services called ‘The Good Governance Standard for Public Services’

A copy of the local code is available on request from the office of the Director, Corporate Services, Midlothian House, Buccleuch Street, Dalkeith, Midlothian, EH22 1DN or can be viewed on the Council’s website www.midlothian.gov.uk

By adopting corporate governance principles Midlothian Council has also approved an assurance system covering financial and non financial matters and which supports this statement and provides assurance internally to Elected Members and the Senior Management but also externally to interested parties and the general public.

In governing its business affairs Midlothian Council is particularly aware of the need for a sound system of internal control. Financial matters are contained within the Local Code of Corporate Governance and should give reasonable, but not absolute, assurances that assets are safeguarded, that transactions are authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period.

The Council has a system of internal financial control which is based on a framework of regular management information, financial regulations, administrative procedures, management supervision, and a scheme of delegation. The system is maintained and developed by Council management and includes:-

- Comprehensive budgeting systems.
- Regular reviews of periodic financial reports
- Preparation of regular financial reports that compare expenditure with plans and forecasts.
- Clearly defined capital expenditure guidelines
- An Internal Audit Section which reports regularly to the Performance Review Committee.
- Formal governance arrangements within Pacific Shelf 826 Ltd and SDL Limited.

The review of the effectiveness of the system of internal financial control is informed by:-

- Assurance statements received from the Chief Executive and Directors
- The governance arrangements in place for both Pacific Shelf 826 Limited and SDL Limited.
- The work of managers within the Council
- The work of Internal and External Audit.

The issues highlighted in last year’s Statement of Corporate Governance have been addressed unless otherwise listed in the areas for improvement identified below.
The self-assessment of the assurance system for 2006/07 highlights the following strengths and areas for improvement in the Council’s Corporate Governance arrangements.

Strengths-

- The Council continues to have robust financial stewardship arrangements in place. The integration of corporate and service planning with financial planning helps ensure that resources are targeted to deliver the Council’s priorities.
- Up to date Standing Orders, a Scheme of Administration and Financial Regulations support strong governance.
- Robust and comprehensive arrangements, meeting I.S.O. principles, are in place covering IT information security.
- The Council’s risk management policies and strategy continues to drive improvement in the management of strategic, partnership, project and service risk.
- The speed of implementation of Planning and Performance Management Framework and willingness to move to a performance culture.
- The scrutiny of performance and Audit Committee roles of the Performance Review Committee.
- The adoption of a Local Code of Corporate Governance and having in place Codes of Conduct for Elected members and Officers.
- A procurement strategy, which is supported by comprehensive procedures, that supports improvements in procurement arrangements and which is delivering efficiencies in the procurement of goods and services.
- The introduction of a new corporate system and procedures to improve our approach to ‘Following the Public Pound’.
- Compliance with the Civil Contingencies Act.
- Robust governance and control over major projects.
- A coordinated approach to modernising the Council, integrating Customer First, the Efficient Government Agenda, Community Planning and Best Value.

Areas for improvement-

- Developing a robust Financial Strategy that addresses the underlying funding gap, addresses the implementation of Single Status and continues to ensure that resources are targeted to deliver the Council’s priorities.
- Processes and Procedures supporting key services need to be improved by rolling out the Process Improvement Framework providing a structured approach to help deliver service improvement, identify efficiencies, and manage risk more effectively.
- Continue to address the specific weaknesses identified in budgetary control and financial monitoring arrangements within the Education and Communities and the Commercial Services Divisions to ensure that the highest standards of financial stewardship are achieved.
- Strengthen specific aspects of the resilience of I.T. systems to ensure full compliance with the Civil Contingencies Act.
- Risk Management has exposed residual risk issues, which are being addressed by the Corporate Management Team.
- Further develop asset management planning to support the development and implementation of a Capital Investment Strategy for all of the Council’s assets.
• Introducing a corporate Project Management methodology that can be applied to most projects.
• Develop arrangements to ensure that all external inspections are full prepared for, improvement plans put in place and the outcomes are reported promptly to Elected Members.
• Further develop Community Planning arrangements.
• Put in place better forward planning arrangements for the assessment and implementation of new legislation.
• Embedding personal development planning and management training.
• Identify resources needed within divisions to ensure a focus on performance management, rather than performance reporting.
• To improve the Audit Managers Annual Report to Performance Review Committee so that it provides an opinion on the adequacy and effectiveness of the system of internal financial control.
• Progress the improvement plan, addressing the issues arising from the HMIE Joint inspection of services to protect children and young people in the Midlothian Council area.

On the basis of the elements of Corporate Governance at our disposal, we are satisfied that overall, Midlothian’s Corporate Governance arrangements are of a satisfactory standard and that we are aware of the areas where improvements are required. We will endeavour in the next year to take steps to address, through appropriate action plans, the above matters to continue to advance our corporate governance arrangements.