



REPORT

To: **Services Committee
Shetland Islands Council**

**3 September 2009
16 September 2009**

From: **Chief Executive**

REPORT NO CE-39-F

New Anderson High School Capital Project: Independent Review, Options & Proposals

1 Introduction and Key Decisions

- 1.1 This report contains the results of the Anderson High School Independent Review as presented by the Review Co-ordinator (Appendix A).
- 1.2 In this report, the Chief Executive presents what he considers to be the two most appropriate options for consideration by the elected members.
- 1.3 The Chief Executive outlines key measures he will take to ensure project delivery to the highest standards, should the elected members choose to progress with either option.

2 Links to Council Priorities

- 2.1 The Council's Corporate Plan includes a commitment to, "improve our teaching facilities by completing the new Anderson High School....".

3 Background

- 3.1 On 18 June 2009, Services Committee (minute reference 62/09) resolved to defer consideration of this item of business for one committee cycle, during which the council would:
 - appoint an independent external expert to assess which of the two sites for the new AHS, Knab Road or Lower Staney Hill ('Clickimin'), offers best value in terms of its Whole Life Costs;
 - ask Architecture+Design Scotland (A+DS) to give a detailed opinion on the current proposal;
 - convene a local Architectural Review Panel to comment on the proposed design;

- instruct Council staff to carry out a full risk analysis of the current proposal, using the criteria of the Shetland Islands Council's new Risk Management Strategy endorsed by the Audit and Scrutiny Committee on 17 June 2009.
- 3.2 A Special Meeting of Shetland Islands Council on 18 June 2009 endorsed the decision of Services Committee as the way ahead for the project (minute reference 77/09).
- 3.3 On 1 July 2009, the council approved the Chief Executive's recommendations that the Council:
- (a) agree that the project management arrangements for the Independent Review continue to be facilitated by the Chief Executive, on behalf of the Chair of Services Committee, with external expert consultants appointed in line with the brief set out at Appendix 1; and
 - (b) note the steps taken to put on hold the current programme of work; and
 - (c) agree the scale, scope and method of delivery for each of the tasks set out in Appendix 1 and Appendix 2;
 - (d) under Standing Orders H2(e), exempt all contracts to be awarded in fulfilment of this exercise from Standing Orders insofar as not already exempt by virtue of Standing Order H2(b); and
 - (e) agree the programme of work, at Appendix 3.

4 Progress Report

- 4.1 The Independent Review process is now complete, and the report from the Review Co-ordinator and all associated papers are included as Appendix A.
- 4.2 The review was successfully completed to timescale, with final costs of approximately £60,000.

5 Options & Proposals

5.1 Should the elected members wish to progress with the provision of a new Anderson High School, in light of the independent review process, the Chief Executive recommends that the following two options are considered for decision:

a. Knab Site

Review existing design taking into consideration expert architectural and educational reviews.

Revise current design where feasible within existing planning consent.

Progress with current time and cost plans.

Costs & Timeframe

Estimated cost:	£49 million
Estimated practical completion:	July 2010 - July 2013, phased

Pros, Cons and Risks

This option offers the opportunity to immediately commence progress for the provision of a high quality educational facility, within known cost and time parameters.

There is the potential for some disruption to pupils during construction, and the facility will have limited potential for future development.

b. Lower Staney Hill Site

Progress to purchase the Lower Staney hill site, and build a new educational facility.

Whilst surveys and technical reports for this site have been carried out, additional feasibility, design and planning phases will be required, which must be built into an extended delivery timeframe.

The costs will be a minimum of £6 million higher than option a, although these could be substantially higher, dependent on land cost, design and final timeframe.

Costs & Timeframe

Estimated cost:	£55 million – £60 million minimum
Estimated practical completion:	July 2013 (Subject to council approval, land purchase and planning approval)

Pros, Cons and Risks

This option offers the potential to provide a state of the art educational facility.

There is no guarantee that this option is feasible, as the land is currently in private ownership and no planning consent currently exists.

Whilst this option minimises pupil disruption during the construction phase, the impact of delay must be considered should this option ultimately prove undeliverable.

Legal advice is that this option would require procurement through the OJEU process. These combined factors could severely impact on the estimated programme and costs.

This site is currently the only other site with a planning status of education zone.

5.2 Should the elected members wish to progress with the provision of a new Anderson High School, the Chief Executive will ensure the highest standards of capital project delivery of whichever option is chosen by them through:

- i. Appointing a full time Project Manager to run the project.

The Project Manager will report directly to the Chief Executive for the delivery of the project.

The Project Manager will be based in Shetland and be required to be in Shetland two weeks out of four as a minimum during planning stages, and full time during key construction phases.

- ii. Formation of a restructured Project Team.

This team will report to the Project Manager and in addition to the Main Contractor include:

Qualified Cost Consultant
Educationalist Advisor
Architect Advisor
Structural Engineer
Services Engineer
Transport & Roads Advisor
Procurement Manager
Communications & Consultation Manager

- iii. Preparation of an inclusive Consultation Programme

This will include formation of a Project Consultative Team, led by the Project Manager, include all key stakeholders, and will meet monthly.

- iv. The Chief Executive will report progress to the Services Committee on a monthly basis.

6 Financial Implications

6.1 The independent review has been completed on time for approximately £60,000, substantially lower than the £150,000 approved for the process.

6.2 Option b will cost £6 million more than option a, as an absolute minimum. A more realistic estimate is £10 million to account for improved facilities and potential delays and on-costs associated with option b.

7 Summary and Conclusions

- 7.1 This Report contains the results of the Independent Review as presented by the Review Co-ordinator.
- 7.2 On the basis of the review, the Chief Executive presents the two most appropriate options for consideration by the elected members.
- 7.3 Should the elected members choose to progress with either option, the Chief Executive outlines key measures to ensure project delivery to the highest standards.

8 Policy and Delegated Authority

- 8.1 Section 13 of the Council's Scheme of Delegations enables Services Committee to approve capital expenditure within any allocation delegated to the Committee by the Council.
- 8.2 Shetland Islands Council Standing Orders H2 (b) states: There shall be exempted from the provisions of these Standing Orders all contracts for the supply of goods or materials on a periodic basis or for the execution of works or for the provision of services where the estimated price is below a five times factor of the de minimis sum referred to in Standing Order H2.(1). (For the sake of completeness it should be noted that the de minimis sum is £10,000).
- 8.3 Shetland Islands Council Standing Orders H2 (e) states: The Council may exempt from the provisions of these Standing Orders or any part of them, any contract when they are satisfied that the exemption is justified by special circumstances.
- 8.4 Shetland Islands Council, at its meeting in June 2008 [Minute Reference 94/08], made a specific recommendation to remit the detailed development of the Anderson High School project to Services Committee.

9 Recommendations

9.1 The Chief Executive recommends that the Council:

- i. Considers the information contained in the Independent Review, Appendix A
- ii. Selects their preferred option for the new Anderson High School,
 - a (Knab site) or b (Lower Staney Hill site) as contained in 5.1 above.
- iii. Gives full authority to the Chief Executive to deliver the preferred option broadly in accordance with 5.2 above.
- iv. Under Standing Orders H2(e), exempt from the Council's Standing Orders all contracts, if any, required to be awarded in fulfillment of the Council's decision in recommendation 2) above.

Our Ref: DAC/IS

Report No: CE-39-F

Anderson High School Independent Review Report

From: Mr A. S. Laidler - Independent Review Co-ordinator

To: Mr D. A. Clark – SIC Chief Executive

1, Terms of Reference:

1.1

**Special Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Thursday 18 June 2009 at 12.10 p.m.**

77/09 New Anderson High School Capital Project: Approval to Proceed to Construction

The Council considered a recommendation from the Services Committee, held earlier that morning.

The Council noted that the decision was to defer a decision for one cycle in order to undertake an independent review and report to “determine what is the best site [between the Knab Road and Clickimin (Lower Staney Hill)] in terms of whole life costs, and to defer whilst Architecture and Design Scotland and a local architectural review panel consider the design proposed and also to conduct a risk analysis of this project in terms of the Risk Management Strategy”, as well as ensuring legal advice is provided.

1.2 An Independent Co-ordinator (Mr Laidler) was appointed to co-ordinate a review of the proposed New High School Development. The review was to be independent of Elected Members and SIC Officers drawing from existing information and the services of external experts to establish a balanced perspective for the Chief Executive and Elected Members consideration. The timescale for completion of the process was August 2009 with a report issued 26th August 2009

This report will detail the methodology for selection, appointment and findings of external experts and additional information from stakeholders that developed throughout the review.

2, Project Brief

2.1 The Brief (*appendix 1*) to conduct an independent review was established and issued following a SIC decision 18th June 2009 to review the proposed site of a new High School building in Lerwick Shetland. The key elements identified for consideration are:

- **Whole of Life Cycle Costing Review** – Life Cycle Cost exercise for proposed development to be applied to both site (*appendix 2*)
- **Architect + Design Scotland** – Detailed opinion of current proposal (*appendix 3*)
- **Shetland Architectural Society** – Detailed opinion of current proposal (*appendix 4*)
- **Full Risk Analysis** – SIC Risk Management Strategy 17th June 2009 to be utilised (*appendix 5*)
- **Public Meeting** – Public opportunity to the public to voice items for SIC consideration (*appendix 6*)
- **Professor Stephen Heppell** – Detailed opinion of current proposal

Addendum to the brief, a request for an Educational Impact Review of the current proposal was instructed by SIC.

- **Educational Impact** - Review of potential intrusion to the education of children within the current proposal (*appendix 7*)

2.2 Addition Stakeholder Information

- **Parent Council Poll** – Parent poll of current proposal (*appendix 8*)
- **Letters of Representation to SIC from the general public** – Letters from the public expressing opinion on current proposal (*appendix 9*)
- **AHS Teacher & Staff Poll** – Opportunity for AHS Teachers and Staff to comment on current proposal (*appendix 10*)

3, Remit

3.1 “The purpose of this commission is to assess which of the two sites for the new AHS, Knab Road or Lower Staney Hill ('Clickimin'), offers best value in terms of its Whole Life Costs. No other sites are to be reviewed.

The report must explore both negative and positive aspects under the topics set out in the scope below”

3.2 Timescale

The report must be completed, and submitted to SIC by 26th August 2009.

3.3 Scope of Report

The report should consider, but need not be restricted to, the following issues:

- Land Use
- Geology, Hydrology and Soils
- Landscape and Visual Effects
- Environmental Factors
- Archaeology and Cultural Heritage
- Policy and Planning Implications
- Land Ownership
- Links with Other Properties
- Effects on Other Properties
- Traffic/ Roads
- Accessibility
- Construction Issues
- Availability of Services
- Financial aspects
- Conclusions

(appendix 1 for full details)

4, Methodology & Appointment

4.1 Whole of Life Cycle Costing

In accordance with the Review Brief a shortlist of suitable national and regional Cost Consultant Practices was produced and circulated to Elected Members for consideration. The shortlist was amended with one of the consultancies removed as they had previously worked for SIC and may not be fully independent in approaching the review.

There followed a competitive pricing exercise between four consultants. At completion of the quotation period a Quotation Report (appendix 11) was prepared by the Review Co-ordinator and issued to the Chief Executive. Subsequently approval to appoint was granted and CRGP Limited were appointed.

Mr John Hill MRICS – Director of Quantity Surveying with CRGP carried out the Life Cycle Cost Review over a period of two weeks based in Lerwick and operating from the Town Hall. Mr Hill conducted the review professionally and with diligence

working when appropriate with Elected Members and SIC Officers to obtain the information required.

The CRGP report was completed and returned with the timescale and is attached as *(appendix 2)*

4.2 Architecture + Design Scotland (A+DS)

The Review Co-ordinator contacted A+DS establishing their interest, availability and potential cost of a review. A+DS confirmed that their involvement in design reviews is generally pre-planning however on this occasion they would be willing to undertake a review in accordance with the brief. The review would be carried out by a panel drawn together by A+DS and lead by Angela Williams A+DS Director of Architecture.

A+DS are a Government funded body and were able to undertake the review at a cost of expenses only.

A+DS reviewed historic and planning documentation followed by a visit to Lerwick for a period for two days. Day one allowed the panel to visit the sites and discuss the proposal with Elected Members and SIC Officers. Day two allowed a more detailed site inspection preceding a presentation by the Constructor and the Lead Designers supported by SIC Delivery Team. A question and answer session followed the presentation.

A+DS completed their review and reported within the time scale, their report is attached *(appendix 3)*

4.3 Shetland Architectural Society (SAS)

The Review Co-ordinator contacted (SAS) representatives from all of the participating member practices. It was established that SAS practices were very keen to participate and accepted that a nominal fee of £500.00 per practice would be available from SIC should the need arise.

The Review Co-ordinator met with SAS representatives to discuss the remit and present available information for consideration. Additional information was forward to all representatives the following week.

SAS conducted their review and reported within the time scale, their report is attached *(appendix 4)*

4.4 Full Risk Analysis

In accordance with the SIC Review Brief the Review Co-ordinator met with SIC Officers to initiate a full risk analysis of the proposed development implementing the SIC Risk Management Strategy 17th June 2009.

The SIC Officers carried out an internal risk assessment and supplemented this by utilising the professional Risk Analysis services of Zurich Municipal. The exercise was completed over a period of three days it was completed within the time scale.

The SIC / ZM report is attached (*appendix 5*)

4.5 Public Meeting

In accordance with the brief the Review Co-ordinator facilitated a Public Meeting to be held at the SIC Town Hall. The meeting was advertised over a period of three weeks utilising local media (press & radio)

The meeting was an opportunity for members of the public to attend and voice their thoughts, concerns and support for the proposed development. Councillor Angus chaired the meeting and in attendance were The Chief Executive, Executive Director of Infrastructure Services and the Review Co-ordinator.

The meeting was well attended and conducted in a cordial manor with approximately 170 members of the public. Various individuals raised items for further consideration and the meeting was concluded by a show of hands to assess the feeling toward the proposal.

A full transcript of the meeting is attached (*appendix 6*)

4.6 Professor Stephen Heppell

The Review Co-ordinator contacted the office of Professor Heppell to establish interest, availability and potential cost of a review. Unfortunately due to professional and holiday commitments Professor Heppell was unable to participate within the review, this was reported to the Chief Executive at the time.

4.7 Educational Impact Review

As an addendum to the brief, SIC requested that an Educationalist be appointed to undertake an Education Impact Review. The review was to consider the proposed development and any potential detrimental intrusion to the education of children resulting from the current proposal.

The Review Co-ordinator contacted Solace Enterprises as a supplier of suitably qualified and experienced Educationalist candidates. A number of CV's were

received and vetted by Elected Members. A recommendation to appoint Mr Michael O’Neill OBE was approved. Mr O’Neill visited Lerwick for a period of three days during which time he met with the AHS Head Teacher; Elected Members; The Chief Executive and a representative of the Parent Council.

Mr O’Neill completed The Education Impact Review within the time scale, his report is attached (*appendix 7*)

4.8 Progress Monitoring & Communication

The Review Co-ordinator meet formally on a weekly basis with the Chief Executive to review and monitor progress. The Chief Executive met with Elected Members to disseminate the weekly progress.

5, Additional Stakeholder Information

5.1 Parent Council Poll (PCP)

An independent exercise was carried out by the AHS Parent Council. The Parent Council wrote to parents inviting responses to the current proposal.

The PCP information collated and presented to SIC is attached (*appendix 8*)

5.2 Letters of Representation to SIC from the General Public

Several letters from members of the public have been received. The letters are unsolicited and express the authors’ opinion on the current proposal.

The letters are attached (*appendix9*)

5.2 AHS Teacher & Staff Poll

To alleviate any perception held by current AHS Staff that they were not to make public comment on the current proposal Councillor Angus invited all Staff to write detailing their position.

This opportunity was accepted by many staff and the letters are attached (*appendix 10*)

6, Conclusion

The Independent Review has been successfully completed, the brief has been addressed and the additional SIC requests incorporated to the process without detriment to the Review Programme.

The participating experts all carried out the individual reviews diligently and professionally all concluding and reporting within the Shetland Island Councils' timeframe.

The Independent Review Co-ordinator wishes to express his gratitude and thanks to all Expert Consultants, Elected Members and SIC Officers who have assisted in the timely completion of the review. Specific thanks to the officers within the Chief Executives' Team for day to day support.

Andrew Laidler
Independent Review Co-ordinator

26th August 2009

Anderson High School Independent Review Schedule of Appendices

Appendix 1 – SIC Brief

Appendix 2 – CRGP Life Cycle Cost

Appendix 3 – A+DS

Appendix 4 – SAS

Appendix 5 – Risk Analysis

Appendix 6 – Public Meeting Transcript

Appendix 7 – Educational Impact Review

Appendix 8 – AHS Parent Council Poll

Appendix 9 – Public Letters of Representation to SIC

Appendix 10 – AHS Teachers and Staff Poll

Appendix 11 – Quotation Report

Appendix 1

New Anderson High School Brief for Site Selection Review

June 2009

1. Background

Plans for a new secondary school in Lerwick have been under review by Shetland Islands Council since at least the early 1990s.

The two main sites that have been considered during that time are the site of the current Anderson High School at the Knab and an area on the lower part of Staney Hill, north of the Clickimin Leisure Centre.

The Council decided in 2003 that future design and feasibility work should be restricted only to the Knab site, unless it proved impracticable on technical, financial or educational grounds.

A design brief has been agreed and plans for a school that meets the requirements of Schools Service, and can be accommodated on the Knab site, have now been prepared. Final, detailed design is ongoing.

Planning Permission, with conditions, was granted for this project at a Special meeting of the Planning Board on 15 June 2009. Subject to Council approval, work can now begin on site.

However, some Councillors, and members of the public, have concerns that the Knab proposals do not represent the best solution and they continue to campaign for a review of the scheme, to draw comparisons with the Lower Staney Hill.

2. Introduction

On 18 June 2009, the Council decided to:

- appoint an independent external expert to assess which of the two sites for the new AHS, Knab Road or Lower Staney Hill ('Clickimin'), offers best value in terms of its Whole Life Costs;
- ask Architecture+Design Scotland (A+DS) to give a detailed opinion on the current proposal;
- convene a local Architectural Review Panel to comment on the proposed design;
- instruct Council staff to carry out a full risk analysis of the current proposal, using the criteria of the Shetland Islands Council's new

Risk Management Strategy endorsed by the Audit and Scrutiny Committee on 17 June 2009.

3. Remit

The purpose of this commission is to assess which of the two sites for the new AHS, Knab Road or Lower Staney Hill ('Clickimin'), offers best value in terms of its Whole Life Costs. No other sites are to be reviewed.

The report must explore both negative and positive aspects under the topics set out in the scope below.

4. Timescale

The report must be completed, and submitted to SIC by ??? August 2009.

5. Scope of Report

The report should consider, but need not be restricted to, the following issues:

- 5.1. Land Use
 - 5.1.1. Historical
 - 5.1.2. Current
- 5.2. Geology, Hydrology and Soils
 - 5.2.1. Construction implications
- 5.3. Landscape and Visual Effects
 - 5.3.1. Effect of site on building
 - 5.3.2. Aspect/ outlook
- 5.4. Environmental Factors
 - 5.4.1. Designation
 - 5.4.2. Species of Interest
 - 5.4.3. Local Biodiversity Action Plan
 - 5.4.4. Sustainable Urban Drainage
- 5.5. Archaeology and Cultural Heritage
- 5.6. Policy and Planning Implications
 - 5.6.1. Zoning
 - 5.6.2. Alternative site uses
 - 5.6.3. Likely demographic changes
- 5.7. Land Ownership
- 5.8. Links with Other Properties
 - 5.8.1. Sharing of facilities
- 5.9. Effects on Other Properties
 - 5.9.1. Wind
 - 5.9.2. Daylight
 - 5.9.3. Noise
- 5.10. Traffic/ Roads
 - 5.10.1. During construction

- 5.10.1.1. Likely traffic movements
- 5.10.1.2. Likely traffic routes
- 5.10.2. Permanent measures required
 - 5.10.2.1. Road realignment
 - 5.10.2.2. New infrastructure required
 - 5.10.2.3. Speed restrictions
- 5.10.3. Pedestrian safety
 - 5.10.3.1. Likely pedestrian habits
 - 5.10.3.2. Requirement for pavement realignment
 - 5.10.3.3. Requirement for additional pedestrian crossing points
- 5.11. Accessibility
 - 5.11.1. Transit distances
 - 5.11.2. Predicted changes to traffic patterns
- 5.12. Construction Issues
 - 5.12.1. Site restrictions
 - 5.12.2. Volumes of excavation
 - 5.12.3. Potential for re-use of materials on site
 - 5.12.4. Implications of disposal off site
- 5.13. Availability of Services
- 5.14. Financial aspects
 - 5.14.1. Site purchase cost
 - 5.14.2. Site development cost, including SuDS
 - 5.14.3. Reinstatement of displaced community facilities
 - 5.14.4. Earthworks costs
 - 5.14.5. Build costs (based on current design brief)
 - 5.14.6. Services costs
 - 5.14.7. Cost of roadworks including pedestrian protection
 - 5.14.8. Revenue implications
- 5.15. Conclusions
- 5.16. Recommendation

6. Sources of Information

It is accepted that the timetable for this review is limited and that it may not be possible to collate written feedback from the many individuals and organisations likely to be consulted. Notes of verbal consultation are acceptable, however the source of the information must be stated.



Shetland Islands Council



**PROPOSED NEW HIGH SCHOOL, LERWICK
FOR
SHETLAND ISLANDS COUNCIL**

**Construction Cost Report
For The Independent Project Review**

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11th August 2009

TABLE OF CONTENTS

1.00	Introduction	3
2.00	Methodology	3
3.00	Brief for independent cost consultant	3
4.00	Life cycle costing	4
5.00	Site purchase	6
6.00	Site development costs	7
7.00	Reinstatement of displaced community facilities	8
8.00	Earthwork costs	8
9.00	Build costs	9
10.00	Services costs	11
11.00	Cost of road works	12
12.00	Revenue implications	12
13.00	“Other” costs	13
14.00	Summary	14

Construction Cost Report (for Independent Project Review)

1.00 INTRODUCTION

1.01 On 22nd July 2009, CRGP Limited were commissioned by Shetland Islands Council (SIC) to assess various costing aspects related to the construction of a new secondary school in Lerwick.

1.02 The commission required that the assessment should be limited to the following two sites:

- Knab Road (existing site of Anderson High School)
- Lower Staney Hill (Clickimin)

1.03 Various options and proposals have been considered and examined since the process of constructing a new school was first agreed in April 1991. The project that has Planning approval and a Contractor appointed is for the redevelopment of the Knab Road site.

1.04 It should be noted that the level of information available for assessment is considerable more for the Knab Road site given the stage at which the site has been progressed. The site at Lower Staney Hill on the other hand, was previously discounted therefore does not benefit from a building design, Planning approval or investigative information as described further in our report.

2.00 METHODOLOGY

2.01 Since our appointment, we have collated various items of information and held meetings with various SIC personnel who have been involved in the project, in order to respond to the brief.

3.00 BRIEF FOR INDEPENDENT COST CONSULTANT

3.01 The brief prepared and issued by SIC required that an independent assessment was carried out to confirm which of the two sites offered best value in terms of its whole life costs.

3.02 Within the Brief, there is reference to life cycle costing and whole life cycle being required however it should be noted that our assessment is limited to providing a commentary on this element (see section 4). An explanation of the reasons for this limitation is explained therein.

3.03 The Brief (dated June 2009) required the following issues to be explored/considered:

- Site purchase
- Site development cost including SUDS
- Reinstatement of displaced community facilities
- Earthworks costs
- Build costs (based on current design brief)
- Services costs
- Cost of road works including pedestrian protection
- Revenue implications

3.04 This report will respond to each of these items, with the addition of life cycle costing and "other costs".

Construction Cost Report (for Independent Project Review)

4.00 LIFE CYCLE COSTING

4.01 Given that there is no design for the site at Lower Staney Hill (LSH), it is impossible to calculate an actual whole life cost of the building over its designed life span. Notwithstanding this, it is reasonable to assume that any design for LSH is likely to be very similar to that of the Knab Road site, based on the following:

- The accommodation schedule (floor area) for the project has been set.
- Redevelopment of the Knab site is essentially new build therefore there are no existing areas within existing buildings that would require the floor area to be greater for one site and not the other.
- The proposed construction method/detailing would be very similar on the basis that the design requires robust and good quality materials to be used to suit the environment and purpose of the project.

4.02 Whilst there are numerous similarities between the two sites, there are variances and positive/negative aspects of each in terms of whole life costing. The variances are:

Knab Road – Negative Aspects of this site

- **Building height** – some parts of the proposed design extend to 5 storeys and given the more exposed location of this site (compared to LSH), certain elements will be difficult to maintain and possibly require the use of expensive access equipment to carry out the works safely e.g. any roof/rainwater repairs. This would be especially the case in winter months and for any works required to the elevations overlooking the sea. LSH on the other hand, is likely to be a lower rise building.
- **Exposed Location** – whilst the design team recognise this issue and have attempted to design the building appropriately, there is no doubt that certain elements of the building's fabric will be subject to greater weather extremities than LSH due to Knab Road's more exposed location therefore the life expectancy of certain materials could be shorter. It is acknowledged that LSH is a more sheltered location.
- **Site accessibility** – the surrounding road layout makes this a more difficult site to get to and for transportation of plant or material deliveries. LSH on the other hand, is less congested and easier to access.
- **Underground Services** – existing services are already present on site and the proposals will require these be extended. It is likely that areas of the existing site (not being developed) will still contain underground services and it is our understanding that the exact locations are not known due to the absence of historical information/records. Should future works be required to maintain or repair these services within the boundaries of the school, then the cost may be higher. LSH on the other hand, is a "green field" site with no services at present therefore all routes will be known and recorded for future maintenance purposes.

Construction Cost Report (for Independent Project Review)

Lower Staney Hill (LSH) – Negative Aspects of this site

- **Increased roof area** – although there is no design available for a building on this site, the ground investigation reports indicates that a 3 storey construction would be the maximum height permissible. Given this restriction, it is likely therefore that any proposed building will require to have a larger roof area than the Knab Road site where there is a similar floor area but spread over 3 - 5 storeys in height. The increased roof area of LSH will consequently result in a higher maintenance cost.
 - **Roof Wind Uplift** – as a result of having an increased roof area, this could have an effect on the design of the roof where there may be an increased potential for wind uplift. Whilst this is not an ongoing maintenance issue, it is an aspect that would require to be considered during any maintenance or replacement solutions so that the design was not compromised.
- 4.03 With regard to the points highlighted in section 4.02, it is likely that any additional costs resulting from the negative aspects of the site and design will in actual fact be similar for both sites in the long term.
- 4.04 Having reviewed the design information available, there are two elements that cause some concern in terms of potential increased maintenance costs :
- **External render** – it would appear that a painted render system has been specified for the project and we would question the suitability of such. Based on our earlier comments relating to building height and exposed location of the Knab Road site, this could incur increased maintenance costs over that of alternative render specifications.
 - **Windows** – as far as we understand, the specification has not yet been agreed however it has been suggested that aluminium windows are used. We have consulted with SIC Building Services Unit who have questioned the suitability of aluminium for use in Shetland based on previous experience. Using aluminium could mean that increased maintenance costs are incurred over that of alternative specifications. Whilst not as aesthetically pleasing, it has been suggested that UPVC sheerframe windows may be more appropriate for this environment.
- 4.05 Whilst the above points have been raised in terms of causing some concern, it should be noted that both of these elements would be common to both sites therefore the overall capital costs would be similar.
- 4.06 The Project Design Brief prepared by SIC states in paragraph 2.10 that “the building should be designed so as to minimise wherever possible, the need for regular cleaning and maintenance” and “these aspects of the design should be developed in consultation with the Council’s Building Services Unit”. In addition to this, paragraph 2.7 sets out the Council’s objectives for Affordability/Value for Money in terms of strategic long term investment and “whole life cycle costing methods will be expected to be applied to key elements of the design.....”

Construction Cost Report (for Independent Project Review)

- 4.07 As far as we understand, SIC Building Services have had little involvement during the design process in terms of specification for external fabric elements although some consultation has been carried out in relation to M&E Services.
- 4.08 Similarly, we understand there has been no whole life costing comparisons carried out to demonstrate that the products/materials selected are in fact, the most economical over the life of the building
- 4.09 Whilst the points highlighted above do not directly provide an advantage to either site, it should be noted that compliance with the Project Design Brief has not been fully adhered to and this could possibly affect the project no matter which site is selected.
- 4.10 In summary, we are of the opinion that the whole life costs for both site would be comparable although it should be noted that our opinion is based on the assumption that any design for LSH is similar to that of Knab Road. There are certain matters that we would suggest require further consideration, namely:
- The final render specification.
 - The final window specification.
 - Demonstration of confirmation that the products selected, comply with the Design Brief's requirements in terms of whole life costing and low maintenance.

5.00 SITE PURCHASE COST

- 5.01 Knab Road site – this site is currently owned by SIC therefore there is no further cost to the project should .
- 5.02 Lower Stoney Hill site – the report prepared in June 2009 by SIC (Whole Life Cost Analysis to Date), indicated an estimated cost of circa £200,000 to purchase the land at this site (an approximate area of 6.3 HA).
- 5.03 We have discussed the potential cost of purchasing the proposed site at LSH with SIC's Assets and Property Department and are satisfied that £200,000 is a reasonable sum based on recent land purchases around Lerwick and considering the abnormal costs associated with developing this site. As far as we understand, the area identified at LSH has been zoned for education use therefore there would be no requirement for a change of use in Planning.

Construction Cost Report (for Independent Project Review)

6.00 SITE DEVELOPMENT COSTS

- 6.01 Given that Knab Road is an existing site, then the associated development costs will be less than LSH on the basis that the existing drainage infrastructure is close by and in place. Notwithstanding this, we understand that Scottish Water have required significant works be carried out at Knab Road to comply with SUDS (Sustainable Urban Drainage System) including installing a new 450mm diameter pipe to discharge surface water into the sea. The cost of this work is approximately £100,000.
- 6.02 In terms of LSH, we would consider that the drainage within the site would be of a similar scale as Knab Road given that the building floor area, car parking, sports facilities etc are likely to be comparable. The total cost of drainage included within the target cost dated 9th June 2009 is £1,706,105.
- 6.03 Depending on the proposed footprint of the building at LSH and the amount of rock subsequently removed, it may be the case that rock is also required to be excavated for installation of drainage however the extent and therefore the quantity/cost cannot be determined at this stage. It is likely that the cost of drainage at LSH will be more than Knab Road therefore for the purposes of allowing a full site comparison to be carried out, we have allowed an addition of £100,000 (approx 5%).
- 6.04 As previously stated, the development of any design for LSH has not yet commenced however it is also worth considering the requirements and restrictions that Scottish Water may place on the LSH site. We have not discussed the project with Scottish Water however we would suggest that an early contact is made with Scottish Water to establish whether there is sufficient capacity within the existing sewer system to cope with the additional demands of a new school and associated facilities. It may be the case that Scottish Water require a similar solution to Knab Road to satisfy SUDS ie. construction of an outfall or detention system. It should also be noted that liaison with SEPA may be required in addition to Scottish Water.
- 6.05 Whilst not necessarily a site development cost, it should be noted that redevelopment of Knab Road requires significant demolition and asbestos removal works to be carried out. The value of these works is circa £520,000. In the event that LSH was selected as the preferred option, these costs would not be incurred albeit reflected in any potential revenue income from selling the site (see section 12.00).
- 6.06 In summary, we would suggest that the two sites should be comparable in terms of site development costs on the basis of the information currently available however Knab Road has already been designed, approved and priced whereas LSH has not. For the purposes of allowing a comparison to be carried out, we have allowed an addition of £100,000 for additional rock excavations associated with drainage works although the actual extent is unknown at this stage. This addition however, could be offset against a saving of £520,000 in demolition and asbestos removal not being required.

Construction Cost Report (for Independent Project Review)

7.00 REPALCEMENT OF DISPLACED COMMUNITY FACILITIES

- 7.01 We have been requested to consider the effects and associated costs arising from the displacement of any existing community facilities. In terms of Knab Road, redevelopment of this site would not displace any community facilities as these are existing and will remain as such on completion of the project.
- 7.02 With regard to Lower Staney Hill (LSH), the displacement of any existing facilities is dependent on the location of any new access road and the proximity this may have in relation to the existing rugby field and running track.
- 7.03 We understand from discussions with SIC staff, that development of other areas of Staney Hill are being considered for new housing therefore in the event this was to proceed, there will be a significant increase in the volume of traffic. In our opinion, the most suitable location for a new access road would be the undeveloped area of land to the west side of the rugby field. Providing access from this location would therefore avoid any need to relocate the existing sports facilities as well as allowing access from a relatively low point in terms of site levels. This comment is obviously dependent on the assumption the Planning and Roads approval would be granted for this possible access point.
- 7.04 In summary, we are of the opinion that there is no cost for displacement of community facilities to either site however this would be on the basis of the assumed site access point stated above in relation to LSH.

8.00 EARTHWORKS COST

- 8.01 The existing levels at both sites are fairly significant therefore the proposed foundation/substructure solution requires to be carefully designed to provide the most economic solution whilst meeting the requirements of the architectural design and any planning restrictions.
- 8.02 At Knab Road, the designers have located the proposed building more or less in the centre of the site and avoided constructing on the steeply sloping ground to the front of the site. In addition, the designers have “stepped” the building so that there are areas being constructed appropriate to the existing site levels e.g. the main entrance is positioned at a higher level (0) with two floors below this and two floors above. Lower floors are effectively being built into the slope.
- 8.03 Although the building has been located as described above, there is a significant cost in achieving this as a result of removal of rock and construction of retaining walls to form the lower floors. From the information provided, the foundation/substructure cost included within the target cost plan is circa £2.1M (or £128/m² of GFA) and reflects the difficulties associated with the existing site levels.
- 8.04 The development of LSH will require extensive areas of rock to be removed to form a suitable level base consequently incurring significant costs. In addition to this, previous ground investigations have indicated that the maximum number of storeys likely to be constructed given the existing ground conditions, is three. The restriction on the number of storeys means that the building footprint will likely be greater at LSH than at Knab Road as the same overall floor area has to be accommodated. This however is our assumption at this stage in the absence of any design information.

Construction Cost Report (for Independent Project Review)

- 8.05 Similarly to Knab Road, LSH will likely require that the building is designed to suit the existing slopes meaning that “stepped” areas may be introduced between lower/upper levels.
- 8.06 As stated, there is no design information available for LSH and no actual location has been determined within the available site boundaries therefore it is very difficult to establish an estimated cost for rock removal. Previously, SIC had indicated that blasting may be in the region of £3M however we are of the opinion that this amount may be low and suggest at this stage that £3.5M is a more realistic value to be included, subject to further investigation. In the event that the building could be located lower down the hill (closer to the existing flat area) then it may be possible to reduce the extent of rock removal and hence the budget of £3.5M.
- 8.07 Our estimate of £3.5M is based on an assumed building footprint and building location in order to calculate an approximate volume of “cut”. We have discussed the cost of blasting with a local contractor and it should be noted that our estimate is based on the assumption that any rock removed, can be crushed and reused onsite.
- 8.08 In summary, we consider that the substructure/foundation costs are high for both sites however, this is a reflection of the difficult site levels. In terms of the two sites, we consider that the substructure costs would be greater at LSH due to the increased building footprint and rock removal but possibly offset by reduction in other elements e.g. the upper floor area will be less at LSH due to lesser upper areas being required.

9.00 BUILD COSTS

- 9.01 From the information provided, we understand that a target cost of £40,808,085.96 (excluding VAT) has been agreed with the appointed Contractor (O’Hare and McGovern Ltd) for the construction works at the Knab Road site. The latest version of the cost plan we are aware of is 9th June 2009.
- 9.02 The amount noted above also excludes any costs incurred by SIC in terms of previous professional fees, site investigation reports etc.
- 9.03 Based on gross floor area of 16,400m² the cost per m² equates to £2,488.30 (excl VAT).
- 9.04 For a project of this nature and this location, we would have expected the construction cost to be around £2,000.00 per m² (excl. VAT) therefore the current target cost is higher than expected. We are of opinion that one of the primary factors for this increase is lack of competition. We have noted that competitive tenders were sought around Spring 2007 albeit that the basis of these tenders was not to provide a fixed price for the Contract therefore the competitive element was limited in terms of price and balanced against a quality assessment.
- 9.05 Given the market conditions at the time of Tender, it would be reasonable to suggest that more competitive tenders may be received at present due to the significant decrease in workload within the construction industry. Whilst the location is still a factor and the perceived difficulties this brings, we would also suggest that there may be more interest expressed from Contractors outwith Shetland in the current climate, than had been the case in 2007.

Construction Cost Report (for Independent Project Review)

- 9.06 We have been advised by SIC that the Contractor's tenders were assessed on the basis of quality/price weighting system with this being split 80% quality and 20% price. The price element was then split further on the basis of the Contractor's percentage mark-up for the project and their fee for the pre-contract involvement i.e. until works commenced onsite. Whilst previous experience, presentation and programming are important factors to consider as part of the quality submission, we would suggest that 70/30 split may have been more appropriate and thus place a greater emphasis on cost/value for money.
- 9.07 Should the project be relocated to LSH, then it is reasonable to assume that the design would be similar to that of Knab Road insofar as material/specification choices for the building fabric. Construction methods would likely to be similar also i.e. steel frame with masonry external walls and hollow/insitu concrete upper floors. The main variance between the two sites is likely to be the building layout and footprint whereby the height is limited to 3 storeys due to ground conditions, as described earlier (see section 8.0).
- 9.08 In addition to this, LSH offers the opportunity to construct on a green field site therefore there is no requirement for phased handover or demolition that is required at Knab Road. Constructing in phases and around a working environment obviously brings its own challenges to the construction team and there is a cost to the Client in meeting this requirement.
- 9.09 Items that may be affected by phased construction include alteration to scaffolding, construction of temporary roads, reduced opportunity for continual working and the cost efficiencies this brings e.g. on/off charges for craneage for steelwork in phases in lieu of erecting in one continuous operation. We also note from the proposed construction programme that the Contractor's site compound will be relocated between phases 2 and 3 to allow the new car park to be constructed.
- 9.10 Carrying out the works in a phased manner around a working environment is obviously more expensive than a "vacant" site. Given the level of cost information available, it is not possible to identify an exact amount that this has added to the construction cost. In our opinion however, the amount could be in the region of £750,000 to £1M.
- 9.11 The demolition and asbestos removal work required for Knab Road amount to approximately £520,000 and this sum is included in the target cost plan. Relocating the project to LSH would not require any of this expenditure.
- 9.12 A Contract has already been placed with the Contractor for the Knab Road scheme however this is for advance works only (Phase 2A). The acceptance letter dated 15th June 2009 issued by SIC states that the value of this element is £526,050.51 excluding VAT. We understand that works were halted not long after commencing onsite therefore only some demolition work has been carried out however the main element of the advance works is for construction of temporary accommodation (£280,000.00) and we have been advised that these units are complete. For the purposes of allowing a site comparison, we have assumed that the full value of Phase 2A will require to be paid on the basis that there may be a claim for loss of profit from the Contractor however this is still to be determined.

Construction Cost Report (for Independent Project Review)

9.13 In summary, we consider the following:-

- The target cost plan equating to £2,488.30 per m² is higher than we would have expected (circa £2,000.00 per m²).
- Current market conditions may provide more competition and thus more competitive bids.
- The building design and specification would be similar for both sites although actual floor layouts would be different.
- Relocating to LSH would allow the opportunity to benefit from the efficiencies of constructing on a new build site and this could be in the region of £750,000 to £1M.
- Relocating to LSH would not involve expenditure of £520,000 demolition and asbestos removal works that are required at Knab Road.
- Relocating to LSH would require some or all of the £526,050 to be paid to the Contractor for the advance works order at Knab Road that has already been placed.

10.00 SERVICES COST

- 10.01 The latest target cost (dated 9th June 2009) includes a sum of £200,000 for works required to services/utilities at Knab Road. We understand that this sum has been calculated based on outline discussions with the various services provider however there are no quotations available as yet. We consider this allowance is reasonable given that existing supplies are local.
- 10.02 We also understand that an existing Hydro electric mains cable crosses part of the Knab Road site and it has been instructed to be relocated. The cost of this work is approximately £30,000.
- 10.03 In terms of LSH, we have had no discussions with services providers and understand that neither have the project team. On the basis that existing supplies are feeding the Leisure Centre and surrounding properties, then we would assume that providing supplies to a new site at LSH would not be problematic and that major upgrading is not required.
- 10.04 In the absence of these discussions, service providers have therefore not confirmed that there is sufficient capacity in the existing network for a new high school. At this stage, we would suggest a slight increase in the cost of providing services to LSH however any significant divergence from this allowance could be established at a reasonably early date. For comparison purposes, we would suggest a sum of £250,000 is allowed.
- 10.05 In summary, services costs for both sites could be comparable given that existing supplies are in existence locally and the proposed buildings would be equal size. We would suggest a slight increase in the LSH site only on the basis that no discussions have taken place at this stage.

Construction Cost Report (for Independent Project Review)

11.00 COST OF ROAD WORKS

- 11.01 We understand that there is no provision within the target cost for making good the existing surrounding roads to the Knab Road site that is likely to be disturbed by construction traffic and there are no significant alterations are being planned. SIC have confirmed however that a sum of £200,000 has been allowed within the project budget for road alterations and a further £50,000 for drainage alterations.
- 11.02 We also understand from SIC Road Services that they were not entirely satisfied that the car parking provision being planned is sufficient at Knab Road however this is potentially an issue for both sites albeit the LSH has more available site area that could accommodate additional parking, if required.
- 11.03 The “Whole Life Cost Analysis to Date” report prepared on 9th June 2009 by SIC, made an allowance of £300,000 for road improvements at LSH and this related to the construction of a new roundabout. Having discussed the potential requirements with SIC Road Services, we are of the opinion that this allowance is low and that a sum of £500,000 is more reasonable. This sum is based on recent costs of constructing a new roundabout elsewhere in Lerwick.
- 11.04 As stated previously, we understand that other areas of Staney Hill are being considered for development and this will obviously require new access roads to be provided. The location and extent of these roads is unknown at this time however it may be the case that SIC Road Services contribute to the cost of new access roads therefore there would be no cost to the project in providing. It should be noted this is an assumption at this stage. Estimated construction costs of £1M per kilometre of road have been advised by SIC Road Services.
- 11.05 In summary, we consider that there is a £500,000 addition required to develop LSH over and above that of Knab Road for the provision of new roads.

12.00 REVENUE IMPLICATIONS

- 12.01 Should the proposed scheme proceed as planned, then there would be no significant revenue implications although we understand that SIC currently spend approximately £100,000.00 per annum to transport pupils (who live outwith the 1.5km catchment area) to and from school. This part of SIC’s obligation to provide free transport to pupils outwith reasonable travelling distances. The school also to transport pupils to Clickimin Leisure Centre for swimming and this cost is included within the £100,000 noted above.
- 12.02 In terms of LSH, there would be two main revenue implications, the first being a reduction in the transport costs noted above. As far as we understand, there would still be a requirement to transport a certain number of pupils to school including those that stay within the existing dormitories whom would also still require to be transported. The actual reduction is unknown at present however it is likely to be significant portion of the current £100,000 expenditure. For the purposes of allowing a complete site comparison, we have allowed a 50% reduction ie. £50,000.,
- 12.03 Reduction in the amount of transport costs would also have the benefit of assisting in encouraging SIC’s Green Travel plans by reducing the amount of traffic. We understand that Knab Road is fairly remote from the existing school population therefore relocating to LSH may allow more pupils to walk to school and reduce the need for parents to transport children.

Construction Cost Report (for Independent Project Review)

- 12.04 The other revenue implication that could be achieved as a result of developing LSH is the income generated from selling the Knab Road site for development. We have discussed the potential income values with SIC's Assets and Property Department and based on certain plot sizes and recent sales values, we consider that income in the region of £750,000.00 to £1M could be achieved after allowance has been made for providing site infrastructure (roads, drainage etc) and adjustment for demolition and asbestos removal that would also be required.
- 12.05 We would point out however that this income is assumed on the basis that planning approval would be granted for 30-40 plots. The most notable hurdle to overcome is the fact that a change of use in Planning would be required as the area is currently zoned for education.
- 12.06 It should also be noted that 30-40 plots is a large number of plots within Lerwick therefore any income generated may take a period of time before being received by SIC.
- 12.07 In summary, relocation to LSH would provide an opportunity to:-
- Reduce current transportation costs
 - Encourage green travel plan i.e. reduce amount of parents transporting pupils to school
 - Receive income from the sale of Knab Road site.

13.00 OTHER COSTS

- 13.01 Within the "Whole Life Cost Analysis to Date" report dated 9th June 2009, further cost headings have been identified that would have an impact on the overall development costs, namely:
- Fees – on the basis that the LSH site was progressed, SIC have advised that the additional professional and other fees incurred as a result of redesigning the project for a new site would be in the region of £2M. We have not requested a breakdown of this amount however given the overall value of the project, we consider this is a reasonable sum.
 - Additional Support Needs (ASN) building – the current scheme for Knab Road includes linking to the existing ASN building therefore the area of the ASN is not included in the agreed 16,400m² accommodation schedule. On the basis that LSH site was progressed, SIC have advised that an area equivalent to that currently occupied would be required and the cost for providing this would be £2.5M. We consider this cost is slightly higher than expected and are of the opinion that a sum of £2M would be achievable given that is possibly a more simple building.
- 13.02 In addition to the above, the maintenance report prepared by SIC Building Services Unit (dated 29th June 2009) outlines various implications on the existing maintenance programme in the event of a delay in providing a new facility. Whether or not the new school is constructed at Knab Road or LSH, the existing school will still require to be maintained and the cost of this will be comparable in that certain replacement works eg. high risk asbestos removal, roof repairs and copper pipe works, will be carried out no matter what site is selected due to the emergency nature of these works. On the basis that a new facility at LSH is able to be constructed within 12 months of the proposed scheme at Knab Road, we do not consider there would be any variance in cost between the sites.

Construction Cost Report (for Independent Project Review)

14.00 SUMMARY

14.01 Within our report, there are a number of points, therefore we summarise these as follows:

- Life cycle costing – on the basis that the two sites were of similar design and size, then the maintenance costs would be comparable albeit that there would be variances in certain elements. We have some concerns regarding the specification of the render and windows however this would be common to both sites.
- Site purchase cost – we are satisfied that the costs established by SIC for the purchase of LSH is reasonable.
- Site development costs – the two sites should be comparable however it is likely that LSH may be more expensive depending on the requirements of Scottish Water and the extent of any rock excavation, both of which are unknown at present. An addition of £100,000 has been allowed for LSH to meet any additional costs associated with the above. Adjustment could be made to LSH for demolition works not being required.
- Replacement of displaced community facilities – the two sites would incur no additional costs however this is dependent on the location of the access route to LSH.
- Earthworks costs – the costs for both sites are high however this is due to the existing site levels. LSH would require extensive rock removal and we estimate this as an addition of £3.5M
- Build costs – we are of the opinion that the build costs are high however this applies to both sites and is possibly a reflection of the market at time of Tender as well as the perceived difficulties in constructing in Shetland. It may be possible to receive more competitive tenders given the current market, however this is not guaranteed. Relocating to LSH would allow the opportunity of developing a new build site and avoid the need to construct in phases around an existing facility. The cost benefit of this could be in the region of £750,000 to £1M. For the purposes of a comparison, we have allowed the average amount.
- Services cost – the two sites should be comparable however LSH could be more expensive depending on what the service providers require and as such, no discussions have taken place regarding this.
- Road works cost – again the two sites should be comparable except that LSH will likely require the construction of a new roundabout. We estimate the addition of this would be £0.5M.
- Revenue implications – there are no revenue implications for progressing with the current scheme however relocating to LSH allows the existing transportation costs to be reduced as well as receiving income for the possible sale of Knab Road for development. For the purposes of a comparison, we have allowed the average sales value amount.
- Other costs – further costs have been identified outwith of the brief and these would be incurred as a result of relocating to LSH. The additions are fees in the region of £2M and the construction of a new ASN building at a cost of £2M.

Construction Cost Report (for Independent Project Review)

14.02 In monetary terms, the effect of the above for relocating to LSH on the construction cost of Knab Road is as follows:

<u>Item</u>	<u>Lower Staney Hill</u>
Life cycle costing	Nil
Site purchase	£200,000
Site development – drainage addition	£100,000
Site development – demolition omission	(£520,000)
Displaced community	Nil
Earthworks cost – rock blasting	£3,500,000
Build costs – saving for no phasing (average value)	(£875,000)
Build costs – abortive works at Knab Road	Nil **
Services cost – additional requirements	£100,000
Road works - roundabout	£500,000
Revenue – reduction in transport costs	(£50,000)
Revenue – income from sale of Knab Road (average)	(£875,000)
Other costs - Fees	£2,000,000
Other costs – ASN building	£2,000,000
	<hr/>
Total (excluding VAT)	+ £6,080,000 =====

** Note that the above calculation is based on “extra over” costs therefore the costs for the advance works (that may turn out to be abortive costs) are already included within the current target cost plan.

14.03 As can be seen from the above, we estimate that relocating to Lower Staney Hill will incur an addition of £6,080,000 (excluding VAT) over and above the current target cost plan for Knab Road.

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Project Title:	SIC 03: Anderson High School
Details:	New school buildings
Location:	Knab Road, Lerwick, Shetland Islands
Use type:	Education
Client Developer:	Shetland Islands Council / O'Hare and McGovern
Lead Designer(s):	RPP Architects / Land Use Consultants
Planning Authority:	Shetland Islands Council
Planning Status and Ref:	Post planning
Issue Date:	17th August 2009

Introduction

This report is in two parts. The first part of the report is a commentary on the designs for a new school on the existing John Anderson High School site as presented to an A+DS Design Review Panel at a meeting held on 5 August 2009 in Lerwick. The second part records observations made by the A+DS panel on general issues related to the current review being undertaken by the Council, not covered specifically at the meeting referred to above. This A+DS review has been carried out to inform the work currently being carried out on behalf of the Council to establish the merits of the current proposals before the project proceeds to the next stage.

1.0 A+DS views on the O'Hare and McGovern proposals

1.1 General

We thank the project team for their clear presentation of the proposals. We acknowledge that we are making comments on the proposals at a late stage and at a difficult time for the project, and are appreciative of the frank and open way in which the designs and the context within which they have developed were presented and discussed.

Notwithstanding the significant constraints that exist, we feel that the designs could be improved in a number of ways.

1.2 Site analysis, layout and landscape design

There appears to be a fundamental problem in the way in which the site layout has been addressed, resulting in a development that would sit uncomfortably in its surroundings, both in relation to its immediate context (in particular the neighbouring listed buildings to the north east), and within the wider context of the town. We understand that the current brief excluded the listed buildings and land around and to the west of them from the site to be developed for the school, and that community consultation on an earlier scheme had raised issues about development on the south west corner of the site. The architects have worked hard to satisfy the programmatic requirements of the brief into the restricted site that remains, but the design approach and narrative seems to have been driven by a series of constraints, rather than opportunities, and suffers from not having taken a holistic and creative approach to the site as a whole. The three listed buildings define the heart of the site, and an opportunity to create a public space which connects these historic buildings to the new school and back to the town. By not addressing this

connection, the centre of gravity of the site has been shifted, and place-making opportunities lost. We would like to have seen a more considered analysis of the design opportunities that the entire site presented, as a school, as a community facility, and as an integrated part of Lerwick, and designs presented that exploited more inventively the full potential of this beautiful and prominent site.

The exposed nature of the site, and the close proximity of the tightly defined streets and vennels of Lerwick, suggest a design approach that builds upon the topography and climate conditions and historic precedent to provide a range of sheltered places defined and protected by the buildings that surround them. We acknowledge that the landscape architects have tried, with some success, to create sheltered and attractive spaces, particularly in the main south facing gardens. However, the landscape response appears to have come after key decisions on the layout of buildings on the site were already made, rather than being an integrated part of the whole design process, when it could have made better places at the heart of the project. As a result, the development as a whole seems alien to local tradition and does not build upon the opportunities offered by the site and the building programme as well as it might.

1.3 Transparency and views

The elevated nature of the site ensures 360-degree exposure to outstanding views. An opportunity exists in the site layout and landscape treatment to exploit the differentiation between enclosure and transparency to create a series of inspirational places and experiences, and provide visual links through the site as demonstrated so skilfully in the streets and vennels of Lerwick town centre. Again, a thorough analysis and design response that considers the site as a whole is essential to such an approach. The three listed buildings both block and frame views out to Bressay, at least at the lower levels, and there is potential to explore the framed views more creatively in the designs to expose these views and relate the new development more closely to its context. For instance, we wonder why one of these framed views has effectively been given over to a service yard.

We would like to see a similar approach adopted in the design of the interior of the school. There is the potential to use carefully framed views to increase legibility and aid orientation within the building. We acknowledge that the corridors and the main atrium space terminate in open views, but there seem to have been other opportunities missed. For instance, we wonder why the main entrance space has not been located and opened up to exploit the open views, even as a glimpse of things to come. Such an approach would assist orientation, provide a spectacular and unique experience for those entering the school, and ground it firmly in its place.

1.4 Internal organisation

The internal atrium is the most successful aspect of the designs. It has been carefully considered to provide a social hub at the heart of the school, and the sequence of spaces through the atrium to the garden appears to work well. The teaching wings are less successful, generally characterised by long and narrow double loaded corridors and providing no places for students to stop or interact in an informal manner within the circulation areas. Such places need not be large – a series of small informal places where students may stop for a short chat may be more attractive and useful.

These double loaded blocks are also wide, reinforcing the large mass and scale of the parts of this new building in relation to those that already exist. cursory comparisons of the floor plate of the existing buildings with the new reveal the nature of their differences. We feel that a different way of organising the teaching accommodation, perhaps in narrower fins, or clusters, would create the potential for more attractive and flexible circulation spaces and a building form that would more successfully integrate with its surroundings and reflect the character and identity of the Shetland Islands.

1.5 Energy efficiency and longevity

We note that moves have been made to minimise the energy consumption of the building, through use of the district heating system, high insulation and the use of the atrium to aid natural ventilation and ensure an EPC 'A' rating. However, we would like to have seen more attention paid to the provision of natural light beyond the use of larger than normal windows, with the introduction of rooflights, inventive measures to reduce solar glare, and manipulation of the section to provide a variety of different sources of daylight, enhancing the quality and comfort levels in teaching and circulation spaces.

We understand that the designs incorporate demountable partitions to allow for flexibility in the future. This is welcomed, but we would like to see more attention given to potential permutations, to establish just how adaptable the different parts of the building are, and the kind of scenarios that might be supported.

1.6 Conclusions

We acknowledge that this review has taken place when the designs are at an advanced stage, and the comments we have made would have been better made whilst they were still being developed at outline design stage. We also recognise that the project has a long history, and that there are constraints on the site and the brief which may be mitigating against the potential to develop the best possible design solution. However, the building of a new school is an important event for any community, and the Anderson High School is of civic and educational significance for Lerwick and the Shetland Islands as a whole. A high quality design is critical if the investment made in the new school is to produce a building of which the people of the Shetland Islands can be proud, and reflects the high value that they put on educational achievement and civic life. We do not feel that the designs as currently presented will fulfil those criteria, and suggest that significant amendments would need to be made to the design and the brief that is guiding them if a successful result is to be achieved.

2.0 A+DS's observations on general issues raised by the review

2.1 Location

We recognise that the Knab Road site is a difficult one, and the size of the brief necessitates a density of development that is not easily accommodated upon it. In the hands of creative designers who viewed the site as a series of opportunities rather than constraints, we do not doubt that an acceptable design solution could be arrived at which built upon the potential offered by this fantastic site. However, we understand that the Knab Road site is not the only site available for a school, and that the Clickimin site may provide opportunities that the current location does not.

2.2 Clickimin site

A+DS has consistently advocated that schools should be at the heart of communities. The Clickimin site, though on the other side of town, remains close to the centre and at the heart of residential areas. Its proximity to sports facilities also lends it an advantage, and it is readily accessed by vehicular and pedestrian traffic from both sides of town. There is more than sufficient land available within this beautiful and sheltered site, providing a level of choice for the siting of a school and the potential for expansion in future. Paradoxically, a site with apparently fewer constraints may be a more difficult proposition for the current design team. A more disciplined and rigorous design approach will prove essential.

There is an opportunity on the Clickimin site to create a hub, a civic building or series of buildings dedicated to excellence and innovation in education and well-being and enhancement of the wider community. For such to succeed it is essential that the site as a whole is considered before the site for the school buildings is identified and the location of school, sports buildings, pitches and other community facilities carefully considered with a view to creating an integrated complex. The criteria contained in the Council's own policy documents, in particular its draft policy document "Towards Sustainable Construction and Better Design in Shetland" and "Masterplan Development Handbook", should inform this process.

2.3 Precedent

As stated above, the Anderson High School is of civic as well as educational significance for Lerwick and the Shetland Islands. Its origins make it one of a unique group of schools initiated by visionary philanthropists. In the 19th century Anderson had a vision which changed the lives of generations of islanders. It is important that the building of a new school – a single event which holds so much for future generations of children – achieves a similar impact in the 21st Century.

Appendix

Presenting Team:

Hazel Sutherland	Shetland Islands Council
Helen Budge	Shetland Islands Council
Robert Sinclair	Shetland Islands Council
Peter McEwan	O'Hare and McGovern
James Beggan	O'Hare and McGovern
Alan Shields	RPP Architects
Sam Oxley	Land Use Consultants
David Swann	Aecom

A+DS:

Chair:	Angela Williams
Panel:	Roddy Langmuir, Gordon Murray
Staff lead:	Angela Williams
Staff:	Steven Malone

Observers :

Andrew Laidler
John Hill

Shetland Islands Council
CRDG

SHETLAND ARCHITECTURAL SOCIETY

COMMENTS ON NEW ANDERSON HIGH SCHOOL PROPOSALS

August 2009

1. Introduction and Background

On 18 June 2009 Shetland Islands Council decided to “convene a local Architectural Review Panel to comment on the proposed design” as part of an overall Site Selection Review. Discussions with Andrew Laidler, the co-ordinator appointed by the Council to oversee the Site Selection Review, led to an agreement that the Shetland Architectural Society would form a panel from its membership with representatives from all the local Architectural practices. It was also subsequently agreed that the panel would internally produce this report on its findings.

Members of the panel met Andrew Laidler on 21 July 2009 to discuss the remit of the report and the timescale for its completion. It was stipulated that the report should be completed and submitted no later than 10 August 2009. It was also agreed that while the main content of the report should focus on the current design proposals, the panel could make comments on any relevant issue including suggestions for alternative sites and/ or proposals. It was decided that the panel could set its own criteria for the report format.

At the meeting on 21 July 2009 the panel members received an initial package of information including the brief for the Site Selection Review, the Project Design Brief Revision F dated 25 February 2009 and a selection of drawings comprising floor plans, sections and elevations. On 28 July 2009 a further package was issued including an Architects Design Statement, an Environmental Report dated February 2009 and more drawings comprising site layout, site sections, phasing plans and some visualizations.

The panel met on 31 July 2009 to discuss the proposals and this report is a record of the comments expressed at the meeting.

2. Comments on the Project Design Brief

In any project the brief is vitally important – it must be right, otherwise the project will encounter difficulties throughout its development. In this case various queries arose in discussion of the brief :

1.3 Justification

It was felt that problems with burst pipes, etc. cannot really offer justification to demolish a building as it should be possible to replace services installations.

The 'Blueprint for Education' is not yet complete, so there must be a high risk that "planning for future service needs" is based on information which may later prove to be inaccurate.

"One teacher one classroom" appears to be particular to Shetland, and it is understood that other authorities tend to have more shared use of classrooms. It would also appear that in other areas more flexible teaching arrangements are being explored and adopted. "One teacher one classroom" is an expensive method of teaching provision which should be reviewed with a view towards reducing area and cost.

1.4 Capacity

The requirement to design for 1,000 pupils is in excess of the projections for either the Status Quo or the Curriculum for Excellence. It should be possible to design a school to match the anticipated number of pupils but with the capability to extend in future if necessary, the advantage being that it would save cost and any extension could be tailored to meet the needs at the time.

2.1 Design Criteria

The brief requires that the design should comply with Council policies regarding size, scale and dominance of the building in relation to the site; that it should successfully integrate into the Lerwick skyline; that it should integrate sympathetically with the existing buildings to be retained; and that external sheltered areas should be provided. These aspects of the current design proposals are examined in section 3 of this report.

It is also stated that the design should be in line with CABI guidance on "Creating excellent secondary schools". The Architects Design Statement notes the CABI 10 key points for good school design, and these are analysed in section 3 of this report.

2.8 Integration with Existing Buildings

The brief states that the design should take account of the existing buildings to be retained in terms of visual integration, potential uses within the new school, and a physical link to the new building.

These issues are commented on in section 3 of this report.

4.2 Objectives

The stated objectives include reduction of carbon emissions; minimizing impacts on amenity and the environment including effects on nearby residents and buildings, landscape character and visual amenity, reduction of traffic generation, and minimizing noise. These objectives are covered in more detail in the Environmental Report and are commented on in section 3 of this report.

3. Analysis of Current Design Proposals

The areas of the Project Design Brief highlighted in the preceding section are now examined, together with the CABE guidance referred to, and then followed by general comments on the overall design.

A review of “one teacher one classroom” together with capacity more closely matched to actual requirement could result in a smaller building with better use of space and greater flexibility. A reduction in size should be easier to plan as well as less expensive to build.

2.1 Design Criteria

The proposed design is very dominant in relation to the existing buildings to be retained and does not respect the existing townscape around the site.

It does not integrate successfully into the Lerwick skyline – it would be a large imposition with a bland appearance.

It does not integrate sympathetically with the existing buildings to be retained – it is out of scale and the massing, materials and articulation of the elevations do not relate well to the immediately adjacent historic architecture.

Some of the external sheltered and semi-enclosed spaces between sections of the building are high and their configuration would indicate potential problems with wind effects, e.g. draughts, vortex, etc.

2.8 Integration with Existing Buildings

As previously noted there is concern regarding the lack of visual integration with the existing buildings.

It is also very disappointing to see that no attempt has been made to incorporate the original AEI building into the new school and that no use has been identified for it or the Bruce Hostel in the current proposals. In fact the design appears to be compromised by the existing buildings, and this is compounded by the absence of future uses for the existing buildings. The current proposals do not readily facilitate the redevelopment of the existing buildings, and it could be argued that their future uses are compromised or even sterilized by the design of the new school.

The physical link to the existing ASN building is commendable in principle, however the retention of the ASN building has placed further constraints in terms of site layout and levels.

4.2 Objectives

Reduction of carbon emissions : the location of the existing site will result in a continuation of the existing situation, i.e. large numbers of pupils transported by motor vehicles. There will also be carbon release from demolitions and associated transport.

The current design will have a significant impact on the amenity and environment due to its size and dominance. The fundamental problem is that the brief demands a building too large for the site, which is constrained by the existing buildings. The lack of available space is exacerbated by the failure to try to incorporate any of the existing buildings in the design, apart from the ASN building.

Consequently the resultant design has a very high east elevation facing the harbour, and this is juxtaposed immediately behind the original AEI building – a mismatch in size, scale, massing and materials.

There is a lack of distinctiveness and identity in this generally uninspiring design.

Traffic generation for the new school is likely to be similar to the existing, or perhaps slightly better due to improvements in the proposed new circulation pattern, however if new uses are identified for the existing buildings they will each require their own parking provision and will add to the traffic volume in this area of the town. The town has grown, and continues to expand, away from the existing site and this is coupled with increased car ownership.

Construction traffic will have a significant impact not only on the surrounding area but also on the town centre as large vehicles must pass through it to reach the site.

In general terms of sustainability every opportunity should be taken to re-use existing buildings – the lack of identified uses is therefore not good sustainable development.

Referring to the CABE 10 key points for good school design in turn :

1. The dual entrance at different levels appears confusing and seems to be driven by a desire to directly relate the main entrance to the new access road. It does not contribute to “an easily legible plan” and conflicts with the generally accepted principle of one main entrance for security reasons.
2. It is assumed that the spaces provided will meet the requirements of the brief.
3. Circulation generally appears to be simple to understand and corridors appear to be of generous width.
4. Some parts of the building facing each other, or facing other buildings, may struggle to achieve satisfactory daylighting levels.
5. The design is unattractive due to its height and bland appearance.
6. The design lacks civic presence – it looks more like a commercial development.
7. The organically shaped landscaping design does not relate to the building design – it has the appearance of a late attempt to try to mitigate against the lack of quality in a large plain building.
8. Community access and out of hours use appear to have been considered.
9. The specification of large areas of painted render to external walls is questionable for this exposed location, also the apparent lack of appropriate detailing may lead to future weathering problems. The areas of flat roof are also of concern on this particular site.
10. The design does not appear very flexible, with no scope for expansion or contraction, although non-structural internal partitions may enable some reconfiguration in the future.

General comments in addition to the foregoing :

The current proposals partially succeed insofar as the new school has been moved away from the upper part of the site, leaving Knab Road as existing apart from new access/ exit points, and retaining the ASN building and its outdoor space as physically linked elements within the overall design.

The design has also tried to step down the site using the existing levels to some extent. The atrium would bring welcome daylight into the heart of the building, however the internal layout around it is perhaps too much like an airport terminal or shopping mall. Circulation is generally straightforward.

The layout is very traditional – it would be good to see more flexible teaching spaces.

The main entrance is in an exposed part of the site, facing south-west.

The whole design appears to be seriously constrained by not only the existing buildings, retention of the ASN building, parking requirements, roads, external circulation, access, neighbouring properties and site levels, but also the required phasing/ demolitions. The phasing proposals appear to have been well considered, but still give huge concerns in terms of noise and potential disruption to both staff and pupils, which partly contradicts the claimed advantages of a new school on this site over refurbishment of the existing.

The height of the building, its visual impact and exposure are all areas of general concern. There are potential problems with wind and hail noise, and wind chill effect on comfort temperatures within the school.

The proposals appear to require significant excavations, some of which would probably be rock.

The perception of the panel is that the proposals do not appear to be fully developed, possibly due to constraints of time.

4. Possible Redevelopment of Existing Buildings and Site

The original AEI building could be investigated as an integral part of a new school developed around it. This should include revisiting the idea of developing the green space to the east of the existing buildings. It would be easier to achieve this with a reduced brief as previously suggested.

The refurbishment of the existing school as a series of small contracts including limited extension, possibly using part of the green space to the east as noted above, could be considered as a preferable and much less expensive option than the current proposals.

5. Lower Staneyhill Site

The Lower Staneyhill site adjacent to the Clickimin playing fields was previously identified for construction of a new school and is still the logical choice for a new build, providing uses are identified for the existing buildings and site.

The outward growth of Lerwick to north and south has resulted in the Lower Staneyhill site becoming the best location for a school to serve the town population. Footpaths and cycle paths could be developed to assist access to this site, whereas the existing site is too far away from Sound, Quoys, North Road and Staneyhill for pupils to walk or cycle to school.

The proximity to the Clickimin leisure complex should achieve savings in transport costs for swimming lessons.

The visual impact of a new school on this site would be less than the existing site, the exposure would be less severe, and there would be more scope for future expansion if required.

Most importantly it would eliminate disruption to staff and pupils who would continue to use the existing buildings until the new school became available for occupation.

The existing buildings and site would of course have to be redeveloped in future, which would undoubtedly involve some disruption in the Knab Road area. It is assumed that large parts of the existing school would be demolished, leaving only the listed buildings and possibly the ASN building.

Future uses could include relocation of Shetland College, Council offices and perhaps a limited development of private house sites.

6. Conclusions

The 'Blueprint for Education' should ideally be finalised before completing the design for the new school.

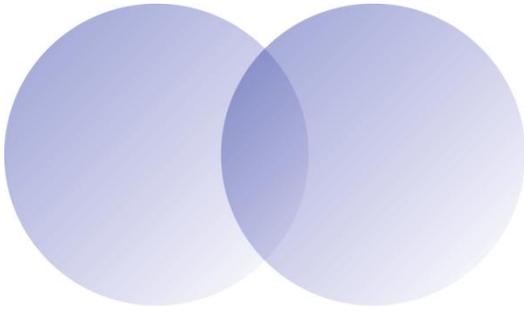
The brief should be reviewed to reconsider the 'one teacher one classroom' requirement together with a re-appraisal of the overall number of pupils.

The current design proposals are too big for the site, too disruptive, lacking quality and visually unacceptable in this particular location.

It is recommended that the Lower Staneyhill site be reconsidered for the reasons noted above.

It is also recommended that in the event of a change of direction from the current proposals a traditional procurement route should be adopted.

Whatever the outcome of the Site Selection Review it is essential that the uses of any redundant buildings or areas of site are identified and agreed as part of the overall scheme in consultation with all stakeholders (including the wider population and town centre bodies).



Private and Confidential

Anderson High School Project Risk Report

Prepared for: Shetland Islands Council

Report authors: Owen Rees - Principal Strategic Risk Management Consultant
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Date prepared: 17 August 2009

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Contents

Section		Page No.
1.	Introduction & Executive Summary	1
2.	Risk Profile for Each Site	5
2.1	Risk Matrix for Knab Road Site	5
2.2	Risk Register for Knab Road Site	6 – 14
2.3	Risk Matrix for Clickimin Site	15
2.4	Risk Register for Clickimin Site	16 – 24
3	Next Steps	24
Appendix A	Risk Prioritisation Methodology	25 - 26

1. Introduction & Executive Summary

Between Tuesday 11 and Thursday 13 August 2009, Zurich facilitated a risk evaluation process with officers and staff from Shetland Islands Council for the Anderson High School project. The risk evaluation forms part of the wider review into the project.

The scope of the risk evaluation process was to identify and prioritise the risks facing the project. Naturally there is no risk free option; there are risks in choosing either site. Some risks apply regardless of the site chosen and some risks apply to one site or the other. The aim of the risk evaluation process was to allow Council Members to take an informed view of the risks they are taking on by choosing one site over the other.

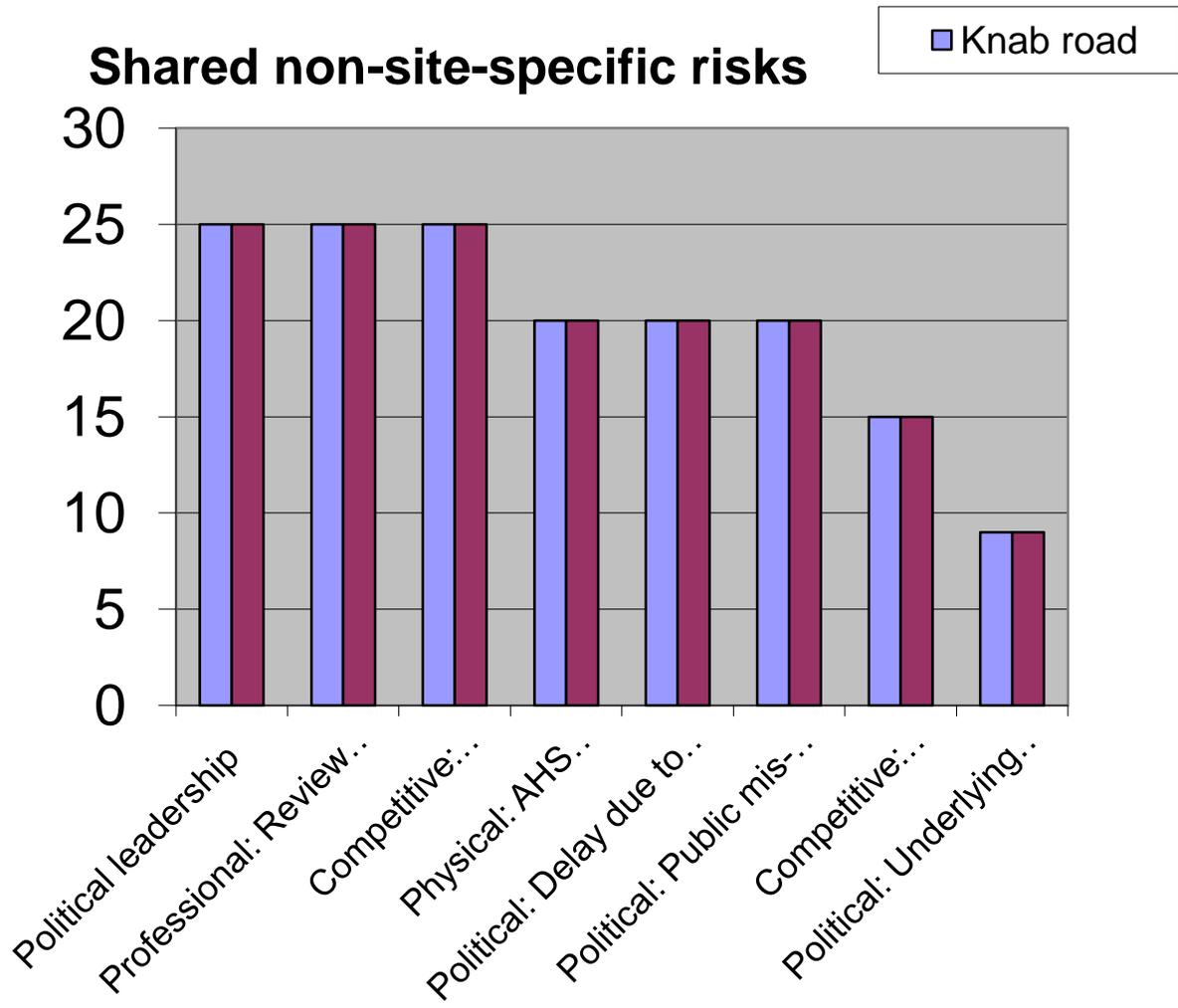
The risk evaluation process was carried out using the Council's own risk management methodology. Key officers and staff from the Council who have been involved in the project were interviewed individually or in small groups to identify the risks to the project. The output from these meetings were then analysed by Zurich and presented back in the form of a 'risk scenario'. A risk scenario is simply a description of the cause and impact of the risk. Officers and staff then prioritised each risk on the risk matrix, using the criteria set out by the Council in its risk management methodology. **Appendix A** sets out the criteria used for scoring each risk. Appendix A also contains the risk matrix that is used for calculating the score of each risk and which zone it sits in (Red, Amber or Green).

A point of significance here is that the methodology rates a loss or increased cost of working of more than £1 million as a 'catastrophic' impact – the most severe. In a project with a budget of approximately £49 million, a £1 million cost or loss may seem relatively unimportant. In absolute terms a £1 million cost or loss may seem crucially important, given what that money could have been spent on. It is for the reader to decide how they view it.

It should also be noted that prioritising the risks for the Clickimin site was less straightforward than for the Knab site. This was due to the uncertainty around the nature of the proposal and lack of hard facts available on which to make the evaluation, which was in contrast to the Knab site where more detail around the risks and their mitigation was known. It should be further noted that some of the risks relating to the Clickimin site may vary in their ultimate value if/when clear information are known about that site as a detailed proposal. As it stands however, it was very much a case of evaluating a range of "given" facts at the Knab site against a range of "unknown" facts where Clickimin was concerned, so it was not possible to clearly compare the sites on a "like for like" basis.

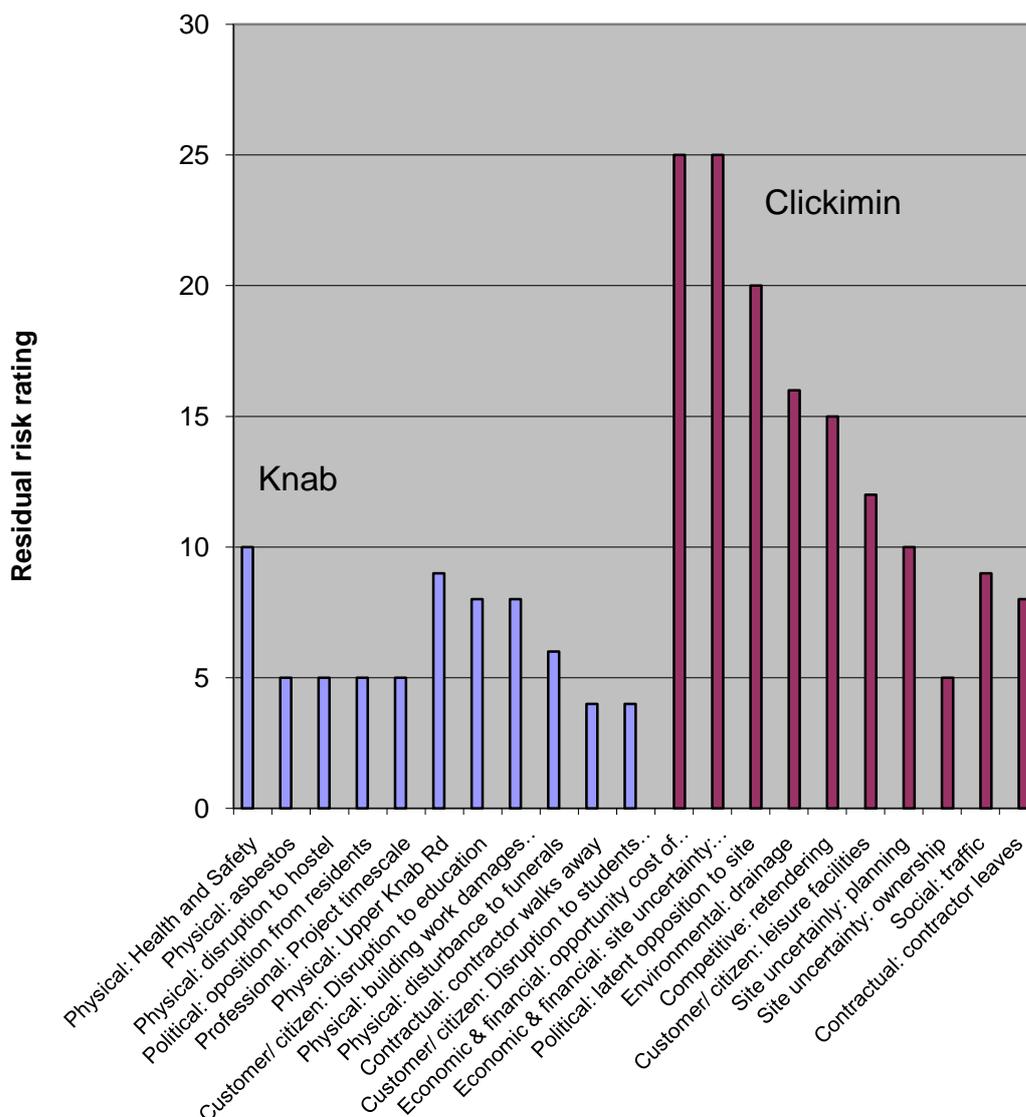
In total 29 risks were identified and scored. Of these 29, risk numbers 1 to 8 apply to **both sites**. The graph (below) shows the risks identified that would apply to both sites.

Residual risk rating



Risk numbers 9 to 19 apply to the **Knab Road Site only**, whilst risk numbers 20 to 29 apply to the **Clickimin Site only**. In an attempt to provide an at-a-glance “comparison”, the specific risks relating to each site have been shown jointly in the graph below.

Site specific risks



Clearly not all risks are of equal significance. To help prioritise the risks further the risk matrix has been split into 3 zones – Red, Amber & Green. Red risks are the most significant, and green the least.

It was clear from the risk evaluation process the general benefit the officers and staff who took part gained from it. The process allowed officers and staff to share their own knowledge, and expertise around a table resulting in a greater understanding of the range of risks for the project.

2. Risk Profile for Each Site

2.1 Risk Matrix for Knab Road Site

Figure 1 shows the risk profile if the Council decided to proceed with the Knab Road site.

Figure 1 – Risk Matrix for Knab Road Site

Risk Matrix For Knab Road						
	Frequency					
	Rare	Unlikely	Possible	Likely	Almost Certain	
Severity	Insignificant				11, 12, 13	
	Minor		19		15, 16	
	Significant		17	8, 14		
	Major	18				6
	Catastrophic	10	9	7	4, 5	1, 2, 3

2.2 Risk Register for Knab Road Site

Table 1 sets out the risk register for the project if the Council chooses to proceed with building on the Knab Road site.

Table 1 – Risk Register for Knab Road

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
(1)	Political	B: Political Leadership	<p>There is a widely held perception that members have not shown adequate political leadership throughout the project.</p> <p>Whereas there has been vociferous protest from some at the decision to build at Knab Road there hasn't been a clear voice explaining why the decision was taken.</p> <p>There is a fear that whatever the decision, members will fail to communicate the rationale behind it & set out a clear vision for building the Anderson High School.</p>	<ul style="list-style-type: none"> - No clear 'route map' for building AHS - Project will continue to be delayed because the Council is seen as weak - Affects the Council's ability to take difficult decisions in future & see them through - 'Pressure groups' gain disproportionate influence - Officers frustrated at lack of clear leadership - Resultant additional costs 		25	
(2)	Professional	B: No definitive answer from review	<p>There is a perception that some see the current review of the project as providing a certain answer that will be the 'final word' in where the school will be built, but this may not be the case.</p>	<ul style="list-style-type: none"> - Expectations are not met - Public criticism of the review, the process and its independence - Existing views are entrenched - Wasted time and money - Project delays continue 		25	In the event that the Knab site is rejected a comprehensive site appraisal, built on proper site investigations should be carried out.

RISK NO	RISK CATEGOR Y	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
(3)	Competitive	B: Council's reputation as a client is damaged	There is concern that the Council's reputation as a client could be seriously damaged because of the delays in work starting. In the future the Council may be seen as a high risk client with contractors having no certainty that their contracts will be fulfilled.	<ul style="list-style-type: none"> - Some contractors may choose not to tender in future - Some contractors may tender but with a 'premium' for the risk factor - May result in a lack of interest from quality contractors for Council tenders - Unnecessary increase in costs of future projects - Adverse impact on budgets - Opportunity costs 		25	
(4)	Physical	B: Maintenance of the current AHS	<p>The current AHS needs to be maintained while it is open. The amount of work required and the cost will be determined by how long it is needed.</p> <p>To enable appropriate planning of maintenance there needs to be clear guidance given on the school lifespan. There is concern this will not happen.</p>	<ul style="list-style-type: none"> - Maintenance work is not appropriate – could spend too much unnecessarily or spend too little and have to redo work - Costs wasted - School risks not being fit for pupils and staff - Increased disruption due to building failures 		20	
(5)	Political	B: Progress delayed due to election and electioneering	AHS is and has been a high profile political issue so could influence the 2011 elections. Progress toward building the new school could be delayed further due to the election and electioneering	<ul style="list-style-type: none"> - Progress delayed until after the 2011 election - New members could have different views - Inconsistent promises/pledges made around the project 		20	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
				<ul style="list-style-type: none"> - Polarisation of opinion - Costs associated with delay - Opportunity costs 			
(6)	Political	B: Public Information / Misinformation	<p>There has been misinformation and conflicting information about the project appearing in the media, specifically around the health & safety risks at Knab Road, and erroneous timescales for building a new school on the Clickimin site.</p> <p>There is concern that unless the Council is able to clearly articulate the facts about the project misinformation will go unchallenged.</p>	<ul style="list-style-type: none"> - Misinformation not challenged and corrected - Inaccurate perceptions of the project emerge - Public are misled and therefore dissatisfied - The public debate and ultimately the final decision could be based on incorrect information - Council's reputation tarnished 		20	The preparation and wide circulation of a factual briefing, prior to Council decision.
(7)	Competitive	B: Phasing / Delay	There are other major projects coming on stream in Shetland in the next 2 – 3 years. By choosing to further delay work on the Knab Road site, or by changing sites, there could be competition between the school project and others for construction industry resources.	<ul style="list-style-type: none"> - Impact on the costs of the project - Further delay to work if the contractor or sub contractors cannot find full complement of staff - Potentially less satisfactory sub-contractors or staff chosen 		15	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
(9)	Physical	K: Health & Safety	There is concern among some that by building the new school while the old school is operating students' health & safety is at risk. A student, teacher or visitor could be injured or seriously injured. However, the approach of building a new school on an existing site is not new, with previous examples in Shetland and would also apply in the case of the new Mid Yell school.	<ul style="list-style-type: none"> - Impact on person injured & family - Potential affect on wider school community - Impact on Council for allowing students to be taught while building work going on 	<ul style="list-style-type: none"> - Compliance with health & safety regulations - Health & safety monitoring - Good site management 	10	
(10)	Physical	K: Asbestos	If the new school is built at Knab Road the old school will be demolished – possibly while students are on site. This will mean removing the asbestos. This poses a potential health & safety risk.	<ul style="list-style-type: none"> - Potential impact on health & safety of students and/or residents - Potential disturbance and/or disruption to students while asbestos is being removed - Potential disturbance and / or disruption on local residents, the hostel, and general area. 	<ul style="list-style-type: none"> - Work would be carried out by a licensed contractor - Follow health & safety regulations 	5	
(11)	Physical	K: Disruption to Hostel	The Janet Courtney Hostel is home to students at evenings & weekends. Any disruption to the school caused by the works could affect the students who live in the hostel, e.g. loss of water supply, loss of electricity, loss of heating	<ul style="list-style-type: none"> - May need to send students home - May need to find alternative suitable accommodation for students - Disruption to students - Impact on reputation of the school & council 	<ul style="list-style-type: none"> - Well practiced contingency plans for dealing with disruption 	5	Educational Impact Analysis: Assessment from the Educational Consultant on the real/ perceived disruption to

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
							education, based on academic results/experience elsewhere.
(12)	Political	K: Opposition from residents	<p>It is planned to implement some temporary parking bans around the Knab site to enable better traffic flow.</p> <p>Local residents may complain about the disruption they experience from the construction work at Knab Road</p>	<ul style="list-style-type: none"> - Forced to consider alternative solutions - Possible disruption to project timetables - Increased costs - Impact on reputation 		5	
(13)	Professional	K: Project timescales	<p>Contingency has been built in to the project timescales, e.g. for weather disruptions and educational factors. But further interruptions such as the speed of the decision making process and continuing challenges could cause further delay</p>	<ul style="list-style-type: none"> - Key project milestones missed - Project timescales have to change - Costs increase - Working patterns may have to change - Disruption to pupils, staff, residents - Potential delays to delivery of the project 		5	
(8)	Political	B: Underlying or unspoken opposition to any site in Lerwick	<p>There is a view that some opposition may be born out of concern around the impact on other communities, outside of Lerwick, of a new school being built anywhere in Lerwick.</p> <p>There may be a perception that the new school could precipitate school closures, especially since it will have</p>	<ul style="list-style-type: none"> - Impact on decision making process - No clear consensus on the need for a new school - Resistance to any project - Continued changing of site and project brief - Delays continue - Impact on current & future 		9	

RISK NO	RISK CATEGOR Y	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
			<p>excess capacity – despite the current AHS being able to take more students than the new design allows for.</p> <p>These fears could result in localised opposition to the project, whether articulated or not.</p>	<p>students at AHS</p> <p>Increased cost</p>			
(14)	Physical	K: Upper Knab Road	<p>The upper part of Knab Road requires improvement and work to upgrade footpaths for the new school. There are questions whether the structure will cope with heavy construction traffic – improvements will be required at some point.</p> <p>The Cemetery nearby has a wall which is in a poor condition which could be affected by heavy traffic. Use of the road could be restricted at some point in the project.</p> <p>If traffic volume causes damage to the district heating pipes or connections, Knab road (single access point) may need to be closed for repair works causing delay to the project.</p>	<p>Additional costs to the Council</p> <p>Disruption to the project</p> <p>Disruption to pupils, teachers and local residents</p> <p>Reputation of the council damaged</p>		9	
(15)	Customer / Citizen	K: Disruption to Education	<p>Building the new school at Knab Road will mean the contractors being on site when students are being educated. The noise, dust & general site management could disturb their learning.</p>	<p>Noise</p> <p>Health & safety risks</p> <p>Distraction for pupils</p> <p>Individual students may get poorer results than if no building work was done</p> <p>Unhappy students & parents</p>	<p>Works scheduling includes stopping for exam periods & carrying out noisy work during holidays</p> <p>Agreed good site management</p>	8	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
				<ul style="list-style-type: none"> - Impact on reputation of the school - Could result in project timelines being altered 	<ul style="list-style-type: none"> - practice, e.g. noisy equipment sited at edge of site - Site traffic restrictions – no trucks for 30 mins either side of the start & end of the school day - Depute Head appointed as daily liaison point for school to raise issues or concerns with contractors - Adherence to health & safety regulations - Use of experienced contractor 		
(16)	Physical	K: Building work & demolition damages services to the school	<ul style="list-style-type: none"> - There is uncertainty on the location of some services on site. The loss of gas, electricity, water would mean that the school would have to close. - Building work could damage existing services on site. 	<ul style="list-style-type: none"> - Disruption or disturbance to school - School has to close - Pupils sent home - Parents complain - Disruption or disturbance to education - Reputation of the project and Council damaged 	<ul style="list-style-type: none"> - Digging work scheduled for periods when school closed to minimise disruption or disturbance 	8	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
(17)	Physical	K: Disturbing Funerals	There is concern that Funerals in the church on Knab Road could be disturbed by the building works	Distress to those attending funerals	Agreement in place with contractor to respect funerals and operate a "silent site" during these times. Contractor will be given advance notice of times of funerals – only one undertaker so easily achievable. Experience considerate contractor	6	
(18)	Contractual	K: Contractor Walks Away	A contractor is in place to build the school at Knab Road. Further delay in building the school may mean the contractor walks away from the project.	Need to find a new contractor Seen as a poor client to deal with Costs of procurement process beginning again May have problems getting interest or competition from quality, reputable contractors May need to pay a 'premium' to a contractor as seen as a bad risk	Continuous dialogue with contractor	4	
(19)	Customer / Citizen	K: Disruption to the life of students at the hostel & surrounding	The Janet Courtney Hostel is home to students at evenings so they will be 'on site' for longer periods of time outside of school opening hours. Potential for disruption or	Noise Health & safety risks Distraction for pupils Individual students may get poorer results than if no	Protected from noise by proximity of other buildings All work will have stopped by 8pm	4	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
		houses	disturbance to pupils experience and quality of life at the hostel during construction. This also applies to some houses that are closer to the school than the hostel	<ul style="list-style-type: none"> - building work was done - Unhappy students & parents - Impact on reputation of the school 	<ul style="list-style-type: none"> - at the latest - No work on Sundays 		

2.3 Risk Matrix for Clickimin Site

Figure 2 shows the risk profile if the Council decided to proceed with the Knab Road site.

Figure 2 – Risk Matrix for Clickimin Site

		Frequency				
		Rare	Unlikely	Possible	Likely	Almost Certain
Severity	Insignificant					
	Minor					
	Significant			8, 28	25	24
	Major		29		23	6
	Catastrophic	27	26	7	4, 5, 22	1, 2, 3, 20, 21

2.4 Risk Register for Clickimin Site

Table 2 sets out the risk register for the project if the Council chooses to proceed with building on the Clickimin site.

Table 2 – Risk Register for Clickimin Site

Reference number: FSH - LJK75376/1

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
(20)	Economic / Financial	C: Opportunity cost of £5m already spent	The Council has already spent approximately £5m on the AHS project. If the Council decides to stop building at Knab Road much, if not all, of this money will have been effectively 'lost'.	<ul style="list-style-type: none"> - Delay in building the new Anderson High School - Opportunity cost – could have spent £5m on other priorities for the community - Some of the work officers & staff have done is wasted - may need to be need to refocus their work on a new site - Demoralised officers & staff - Council seen as wasteful by some 		25	
(1)	Political	B: Political Leadership	<p>There is a widely held perception that members have not shown adequate political leadership throughout the project.</p> <p>Whereas there has been vociferous protest from some at the decision to build at Knab Road there hasn't been a clear voice explaining why the decision was taken.</p> <p>There is a fear that whatever the decision,</p>	<ul style="list-style-type: none"> - No clear 'route map' for building AHS - Project will continue to be delayed because the Council is seen as weak - Affects the Council's ability to take difficult decisions in future & see them through - 'Pressure groups' gain 		25	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
			members will fail to communicate the rationale behind it & set out a clear vision for building the Anderson High School	disproportionate influence Officers frustrated at lack of clear leadership			
(2)	Professional	B: No definitive answer from review	There is a perception that some see the current review of the project as providing a certain answer that will be the 'final word' in where the school will be built, but this may not be the case.	Expectations are not met Criticism of the review, the process and its independence Existing views are entrenched Wasted time and money Project delays continue		25	
(21)	Economic / Financial	C: uncertainty around site – site preparation	Site preparation costs at Clickimin are expected to be higher than at Knab Road due to the rock excavation & old landfill site. The cost for this have not been accurately assessed, therefore there is uncertainty about the cost of extra site work.	Costs are prohibitive Budget exceeded Design compromised to save costs OR money found from elsewhere – opportunity cost Final building does not meet expectations or requirements		25	
(3)	Competitive	B: Council's reputation as a client is damaged	There is concern that the Council's reputation as a client could be seriously damaged because of the delays in work starting. In the future the Council may be seen as a high risk	Some contractors may choose not to tender in future Some contractors may tender but with a 'premium' for the risk factor		25	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
			client with contractors having no certainty that their contracts will be fulfilled.	<ul style="list-style-type: none"> - May not interest quality contractors in Council tenders - Increased costs of projects - Impact on budgets - Opportunity costs 			
(4)	Physical	B: Maintenance of the current AHS	<p>The current AHS needs to be maintained while it is open. The amount of work required and the cost will be determined by how long it is needed.</p> <p>To enable appropriate planning of maintenance there needs to be clear guidance given on the school lifespan. There is concern this will not happen.</p>	<ul style="list-style-type: none"> - Maintenance work is not appropriate – could spend too much unnecessarily or spend too little and have to redo work - Costs wasted - School risks not being fit for pupils and staff - Increased disruption due to building failures 		20	
(22)	Political	C: Latent opposition to the Clickimin site	<p>It is not clear what level of opposition there could be to the Clickimin site by particular groups. Especially as there is no detail about what a school on this site would look like, cost etc.</p> <p>Opposition to the school being built on this site could emerge.</p>	<ul style="list-style-type: none"> - Campaign(s) against the Clickimin site - Pressure put on members - Decisions questioned and/or changed - Clickimin site defeated by public opposition - Potentially more 		20	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
				reviews, delays & costs			
(5)	Political	B: Progress delayed due to election and electioneering	AHS is and has been a high profile political issue so could influence the 2011 elections. Progress toward building the new school could be delayed further due to the election and electioneering	<ul style="list-style-type: none"> - Progress delayed until after the 2011 election - New members could have different views - Inconsistent promises/pledges made around the project - Polarisation of opinion - Costs associated with delay - Opportunity costs 		20	
(6)	Political	B: Public Information / Misinformation	<p>There has been misinformation and conflicting information about the project appearing in the media, specifically around the health & safety risks at Knab Road, and erroneous timescales for building a new school on the Clickimin site.</p> <p>There is concern that unless the Council is able to clearly articulate the facts about the project misinformation will go unchallenged.</p>	<ul style="list-style-type: none"> - Misinformation not challenged - Inaccurate perceptions of the project emerge - Public are misled - The public debate and ultimately the final decision could be based on incorrect information - Council's reputation tarnished 		20	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
(23)	Environmental	C: Drainage	<p>Managing drainage at the Clickimin site would pose more of a problem than at Knab Road.</p> <p>A solution isn't clear at this stage and a cost effective solution may prove to be a significant technical challenge.</p>	<ul style="list-style-type: none"> - Would need a full evaluation of how drainage would be handled at Clickimin site - Increased cost of doing the evaluation - Need to get agreement with SEPA on the solution. - Delay to building the school - The solution may be more expensive than at Knab Road - Potential for higher maintenance costs 		16	
(7)	Competitive	B: Phasing / Delay	<p>There are other major projects coming on stream in Shetland in the next 2 – 3 years. By choosing to further delay work on the Knab Road site, or by changing sites, there could be competition between the school project and others for construction industry resources.</p>	<ul style="list-style-type: none"> - Impact on the costs of the project - Further delay to work if the contractor or sub contractors cannot find full complement of staff - Potentially less satisfactory sub-contractors or staff chosen 		15	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
(24)	Competitive	C: Re-tendering	Building on the Clickimin site would require re-tendering for a new contractor. The Council may be unable to find a quality contractor at similar costs	<ul style="list-style-type: none"> - Could be seen as a difficult client thereby making SIC tenders less attractive - Costs for the build increase - Design compromised to save money - Potentially have to settle for a less experienced/competent contractor 		15	
(25)	Customer / Citizen	C: Leisure facilities	There is a suggestion that a school at Clickimin could use existing sports facilities at that site so saving costs if built there. These assumed cost savings may not prove to be realistic in practice.	<ul style="list-style-type: none"> - Facilities do not suit educational requirements - Deterioration in standards - Disruption to existing daytime users of the facilities - Complaints - Forced to include more sports provision in the project at that site 		12	Discussion with SRT to determine and quantify the actual position and capital/space revenue costs.
(26)		C: Uncertainty around site - planning	Although zoned for educational use the Council does not have planning permission at the Clickimin site so planning may not be granted	<ul style="list-style-type: none"> - Submission of a new planning application - Increased cost of project - Compromise in the design - More delays - Opportunity costs 		10	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
(27)		C: Uncertainty around site - ownership	The Council don't yet own the land at Clickimin. They may not be able to procure the land – at all or at a reasonable cost.	<ul style="list-style-type: none"> - Site is ruled out - Have to look for a new site - Delays to the project - Costs increase - Reputation damaged - Opportunity costs 		5	Possible need for a Compulsory Purchase Order
(28)	Social	C: Traffic flows around the campus	<p>The impact on the traffic pattern by building at the Clickimin site is not clear at this stage as a detailed evaluation hasn't been made.</p> <p>It is also assumed fewer students would require to be bussed to the school because of its location. Again this may be flawed because the topography of the area means individual students' actual journeys would be greater than the thresholds for bus travel, even though they may be within the threshold if you were to draw a straight line between their home and the school.</p> <p>Assumed savings in the</p>	<ul style="list-style-type: none"> - assumptions about decreased travel costs compared to Knab are wrong - complaints from parents depending on how the distance travelled to school is measured, i.e. the actual distance of a journey may be greater than if the Council measures 'how the crow flies' - more journeys may be made by car / drop off if Clickimin is enroute for parents place of work. 		9	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
			transport budget may not arise.	Increased traffic in an area which is already a "fast" road may lead to more Road Safety issues.			
(8)	Political	B: Underlying or unspoken opposition to any site in Lerwick	<p>There is a view that some opposition may be born out of concern around the impact on other communities, outside of Lerwick, of a new school being built anywhere in Lerwick.</p> <p>There may be a perception that the new school could precipitate school closures, especially since it will have excess capacity – despite the current AHS being able to take more students than the new design allows for.</p> <p>These fears could result in localised opposition to the project, whether articulated or not.</p>	<p>Impact on decision making process</p> <p>No clear consensus on the need for a new school</p> <p>Resistance to any project</p> <p>Continued changing of site and project brief</p> <p>Delays continue</p> <p>Impact on current & future students at AHS</p> <p>Increased cost</p>		9	
(29)	Contractual	C: Contractor Walks Away	A contractor is in place to build the school at Knab Road. Further delay in building the school may mean the contractor walks away from the project.	<p>Need to find a new contractor</p> <p>Seen as a poor client to deal with</p> <p>Costs of procurement process beginning again</p> <p>May have</p>		8	

RISK NO	RISK CATEGORY	RISK	TRIGGERS	CONSEQUENCES	EXISTING RISK CONTROLS / SOLUTIONS	RESIDUAL RISK RATING	FURTHER CONTROLS/ SOLUTIONS REQUIRED? Y/N
				<p>problems getting interest or competition from quality, reputable contractors</p> <p>– May need to pay a ‘premium’ to a contractor as seen as a bad risk</p>			

3. Next Steps

The following recommendations are made regardless of which site is chosen:

- the relevant risk register should be adopted by the project team
- action plans to implement ‘further controls’ to mitigate risks that are outside the Council’s tolerance for risk should be developed
- the risk register should be reviewed on a regular basis, and action plans monitored to ensure the risks are managed appropriately

Appendix A – Risk Prioritisation Methodology

Step One is your estimation of “likelihood”.

Look at the text in the box below and decide which description best matches your views on this particular risk/event, in order to decide whether the chance of the event actually happening is “rare”, “unlikely”, “possible”, “likely”, or “almost certain”.

Descriptor	Description
Almost certain	I would not be at all surprised if this happened within the next few months
Likely	I think this could occur sometime in the coming year or so
Possible	I think this could maybe occur at some point, but not necessarily in the immediate future
Unlikely	I would be mildly surprised if this occurred, but cannot entirely rule out the possibility
Rare	I would be very surprised to see this happen, but cannot entirely rule out the possibility

Step Two is your estimation of “severity”.

Find the most realistic outcome for the risk you have identified and move along to the left hand side of the table to establish its value, i.e. 1= insignificant, 5= catastrophic.

HAZARD	Personal Safety	Property loss or damage	Failure to provide Statutory Service or breach of legal requirements	Financial Loss or Increased cost of Working	Disruption in Service (Days) (This may vary with the criticality of the service)	Personal Privacy Infringement	Environmental	Community	Embarrassment
Insignificant	Minor injury or discomfort to an individual	Negligible property damage	Litigation, claim or fine <£2k	<£10k	None	Isolated personal detail revealed	Minor localised - damage to plants	Inconvenience to an individual or small group	Contained within Service Unit
Minor	Minor injury or discomfort to several people	Minor damage to one property	Litigation, claim or fine £2k to £50k	£10k to £100k	1	Isolated personal detail comprised	Death of invertebrates	Impact on an individual or small group	Contained within Service
Significant	Major injury to an individual	Significant damage to small building or minor damage to several properties from one source	Litigation, claim or fine £50k to £250k	£100k to £500k	2-3	Several persons details revealed	Death of fish	Impact on a local community	Local public or press interested
Major	Major injury to several people or death of an individual	Major damage to critical building or serious damage to several properties from one source	Litigation, claim or fine £250k to £1m or custodial sentence imposed	£500k to £1m	4-14	Several persons details comprised	Death of animals	Impact on several communities	National public or press interest
Catastrophic	Death of several people	Total loss of critical building	Multiple civil or criminal actions. Litigation, claim or fine above £1m	>£1m	>14	All personal details revealed/comprised	Permanent damage to site of special interest	Impact on the whole of Shetland	Officer(s) and/or members forced to resign

Shetland Islands Council Risk Matrix

		Frequency				
		Rare	Unlikely	Possible	Likely	Almost Certain
Severity	Insignificant	1	2	3	4	5
	Minor	2	4	6	8	10
	Significant	3	6	9	12	15
	Major	4	8	12	16	20
	Catastrophic	5	10	15	20	25

Example: If a risk is *Almost Certain* to happen but its severity will be *Insignificant* it will have a score of **5**. Similarly if a risk is *Unlikely* to happen but its severity (or impact) will be *Major* it will have a score of **8**.

Transcription of Public Meeting regarding Anderson High School Replacement Project

Chairman: I would like to welcome you all here to this public meeting to discuss the review of the Anderson High School replacement project. The Services Committee of Shetland Islands Council are charged with the responsibility of seeing this review through hopefully to a completion by the middle of August for onward discussion at the Shetland Islands Council series of Committee meetings and full Council in September. The review was called following the last meeting of the Council to look at specifically the merits of the two sites, namely the Knab Road site and Lower Staney Hill site. To look at the whole life costs which is, as I understand it a technical term that will look for the cost of the building over a 30 year period and to look at its fitness for purpose, to consult the Government's own architecture and design service which is Architecture and Design Scotland. To look at the fitness for purpose of the building for education purposes and also to look at the costs. Now, before we go any further I have been told by the Town Hall Manager to advise you that if there is a fire alarm it will be a real emergency, there is no test planned during this function. If the alarm sounds you certainly won't mishear it and you should make your way through the two fire exits here and muster at the War Memorial opposite the Town Hall. Please do not use the lift or re-enter the building until either the Fire Master or the Town Hall Manager has given the all clear. That is just about all I have to say before I open the meeting except to introduce to you, on my right is Dave Clark who is the Chief Executive of Shetland Islands Council. On my far right is Gordon Greenhill who is the Executive Director of Infrastructure Services and as such is in charge of planning, roads, public health and just about everything else. On my left is Andrew Laidler who has been appointed as the co-ordinator to gather all the data and material that the Council is going to need to review this project for presentation to the Council and his task is to see that completed by the middle of August.

So, on opening the meeting, as I say there is no format for this except that I am going to ask to open the proceedings Jim Anderson, the Chairman of Lerwick Community Council, to speak, Jim.

Jim Anderson: Thank you very much Gussie. I don't really have a terrible lot to say other than as you are all probably aware the Lerwick Community Council did object to the planning application that was submitted two or three months ago for the school up at the Knab site and our objection was based on the sustainability of the transport, ie the fact that it was located on the peninsula of the Town. But really I think the question I would ask tonight is to look for confirmation that in looking at the whole life costs that things like will costs benefit to the Shetland Recreational Trust be taken into account. Will the proposed building at the north Staney Hill housing and the infrastructure that will be required for that be taken into account so that the whole life costs of not just the school but of other projects on other bits of Shetland, and things that we all have to pay for that comes out of the public purse will be taken into

the cost. So really it is to make sure that the big picture will be looked at, hopefully. That's all, cheers.

Chairman: I should have said at the outset that this is being recorded so that we have a record of proceedings.

Jonathan Wills: Councillor for Lerwick South along with Gussie, Jim and Cecil. Just a point of procedure, some Council staff have expressed their concern to me that they are not sure if it is okay for them to speak at a public meeting like this about a matter of Council policy which is in controversy and I have told them that it is and they have your personal invitation and we very much want to hear what staff of the Council think that there is some uncertainty in some places and you might like to clear that up.

Chairman: I am happy to clear that up, yes. Everybody in attendance here tonight is invited to make their contribution. Right, anybody else want to speak at this point in time.

Neil Risk: I am a parent. I would like to express my thanks for this meeting being called. It is very heartening to see so many parents here and members of the public who are obviously concerned given that it is the middle of the summer holidays and a fine night. It is also heartening that the Council last week saw fit to take a decision which demonstrated that they are not going to be directed by their Officials in every case and I hope that they are going to take account of the views that will be expressed tonight. Can I ask two things, firstly that this will not be a paper exercise to appease critics and can I also ask what will happen if the conclusion is that the site that has been chosen is not fit for purpose or there are other criteria which demonstrate, as I think most people think, that it is not the place to build a new school.

Chairman: I can give you an assurance that it certainly will not be a paper exercise. As far as future consideration of the site is concerned that will be a matter for the Council when it meets in September. I can't anticipate that but I am sure that, yes?

Neil Risk: Does that mean that the Council may then consider alternative sites because I think that is what people want to be assured about.

Chairman: Yes, indeed, yes.

Neil Risk: That is definitely the case.

Geordie Simpson: Now a resident of Breiwick Road. I am blyde to see a big turnout here tonight and I keen that it is a fine night outside and a lot of us want to get home and cut the grass so can you not just have a show of hands for both sites.

Chairman: Yes, I have a certain sympathy for that point of view but other folk here might want to speak so I think they should be afforded the opportunity George.

Neil Robertson: Knab Road resident. Most folk have maybe read a letter or so that I have written and heard on Radio Shetland objections that have been put forward and all the rest of it. Given that there is a fair number of folk here tonight, and I am not trying to pick on anybody but is there anybody here that would like to say something in favour of the Anderson High School site as it is as I just don't know anybody that wants it to be built there.

Emma Williamson: I am in favour of the school being built, I am not not in favour of it going to Clickimin but it doesn't matter what goes on that site it is going to cause disruption to traffic, it is going to cause disruption to the residents so you can build what you want there it is going to be a complete nightmare for however long it takes to build it and the fact that I have a bairn going through school shortly is that I want that bairn to go into a new school because we have no idea how long the delay is going to be on putting a school anywhere else in the Town. And the costs. I am sorry but I just don't believe that you can build a school on the Clickimin site that is not going to cost more money as what it is to put the school up where it is now, it is ready to go and the amount more money it is going to cost to buy land, pay tax on taking all the rock out of the side of the hill, it is going to escalate and escalate and escalate and we are going to be back to £63m or whatever it was before, so, but that is just my opinion, I just think that it should stay where it is, get it up and get the bairns into a new school.

Alec Fullerton: Parent. As far as I am concerned this will be a massive disruption to the bairns' education for the three or four year of a massive construction project. This was identified in the feasibility study that was done in 1999 as one of the principal reasons for recommending the Lower Staney Hill site. Nothing has changed in the intervening ten years in that regard. The disruption caused by the pre-works is an ample illustration of just what disruption the main works is going to cause at the Anderson High. I have a friend who has been working in the construction industry up at Bells Brae. They have been working with hand held drills putting in windows and they have been getting complaints about noise there. So what is going to happen when you come in with massive machinery with rock breaking equipment outside windows in close proximity to where our bairns are being educated. Don't tell me that this is not going to affect the teaching and education of our bairns.

Kathy Grieves: I actually went to the Anderson High many, many moons ago and I have been following the discussions over the years even when I was South. I believe that about 50 years ago they mooted building on the site on the top of the Staney Hill which was a very wide open site where they could even have room for new infant schools because as of now Bells Brae is bursting at the seams, so is Sound School, there is nowhere else to go. I think you have to go out of Town, have a new infrastructure, new roads, Lerwick New Town, keep everything on the hill site, near to Clickimin, near to services and just look at the whole, because at the beginning actually, Gussie you said two sites but I think what was mentioned before was look at all the sites available so I think maybe we would need to look at more than two.

Chairman: I only know of two at the moment.

John Fraser: Concerned parent. I would just like to echo the sentiments of Alec Fullerton because I am going to be very selfish about this. My primary concern is my peerie boy and my peerie lass. Everything else does matter to me but is secondary. I have a peerie lass going to the school next year and a peerie boy that will follow two years after. They have one go at this and if it goes ahead that the school is built on the existing site, I have not seen a quiet building and demolition site yet. It just can't happen and I think the Councillors have to consider that they too as well as a parent have a duty of care towards these bairns and for goodness sake don't let them down and guard against what is potentially going to be a lost generation because they will never get this back and just mind on these bairns.

Ivor Cluness: Parent. One of the things that I would like in the review looked at is that we are hearing more and more about the Recreational Trust struggling financially, it is never out of the paper as well, surely the use of the facilities that is at Clickimin can be, I mean you drive past there every day through the day, none of that parks is being used through the day. The leisure centre is probably in minimum use. Surely all that facilities can be used and can be cut back from the contract so that you don't have to copycat another lot of facilities, savings.

Flea: I think that what we have heard so far tonight and the applause that has been given speaks for itself that the Clickimin surely is going to be the appropriate place bearing in mind also that there is going to be a substantial number of new houses built on the North Staney Hill site. I would like to take this opportunity in thanking Dr Wills when he came into the Council for the work that he has put in in getting the course changed and to look at both sites and I think that Jonathan deserves applause for everything that he has done. The one other thing that concerns me, Mr Chairman, is it has been brought to my attention that an allegation that some of the teachers were asked not to speak to their elected Council Members about the Anderson High school. I would like to get to the bottom of this. Is there any truth in it and who made that statement or statements because to me that is pretty serious. That is not democracy at work.

Chairman: I can't answer you Flea. I don't know.

Flea: Did you hear of that allegation as well yourself.

Chairman: I heard the rumour, yes.

Flea: Is there anybody in here prepared to stand up and make their presence felt to say that they did this?

Chairman: I would really prefer to hear their opinions on the school rather than...

Flea: Yes, but it is serious that people can't come and speak to their fellow Councillors.

Chairman: Yes. Anybody else want the mike?

Tom Jamieson: St Olaf Street resident. We started this petition due to the fact that none of us had been notified to the amount of disruption that was going to be around the residential area. The Council had never made any provisions for parking and we realised it was just going to be chaos with the trucks and everything. The thing really with the Lower Staney Hill site is the trucks. I was told by MK Leslie that all the trucks would come over the Staney Hill road meaning that only one road would be disrupted by the heavy lorries coming over the top and going back over the top again and they would not have to come drizzling through the Town to the other end, because even the long vehicles and all that, it is all going to go by the centre of the Town, around the Harbour and up Knab Road. None of this would happen if it went to Lower Staney Hill and as far as the rock goes, the breaking of the rock, we have dug out Quoys, how many houses have we put up in Quoys already. It is a huge site up there. It is not as steep as what Lower Staney Hill is and I am sure that if it got started and underway at the Lower Staney Hill it would be finished long before you ever started to refurbish the school up at the, or build a new one up at the Knab.

Rhoda Polson: I tell you what bothers me is that I am wondering what is going to happen to the road. They aren't just that great as they are and if they start thumping big lorries up and down and up and down, round about, what happens if the district heating gets damaged. Who is going to come in and heat the houses and who is going to pay for electric fires and pay the hydro? I have never heard anybody mention that. There is an awful lot of things that you haven't taken into consideration. You just want a run up to the Knab, there is more to it than that. I would like to make another point. What price do you put on a student and their wellbeing?

John Fraser: I've heard it said in passing that consideration for the Knab site is that if it is not there then the detrimental effect it could have on Lerwick's Town Centre. Now, this concerns me and I would seek assurance that educational policy is not going to be determined by the potential viability of fast food outlets and sweetie shops in Lerwick. Secondary to that, I would ask that each Councillor prior to any vote declares any commercial interest that they have in the Street prior to making that vote and remove themselves accordingly.

Laurence Smith: Chairman of the Lerwick Town Centre Association. Just listening to what was said over there. To me it is a bigger issue than that. To me Lerwick Town Centre is a core historic centre for Lerwick and the small places that you talk about might be insignificant to you but they make up the whole and that is what we are worried about, we are worried about the loss of footfall from the Town Centre. I mean I can say no more than that, I know it is a big issue. I know that there has been problems with the first design, I understand there is a second design on the go now which may even be more

disruptive to the kids. I am quite aware of some of these issues. All I can say from the Lerwick Town Centre Association point of view is that, you know, we have a Town Centre, we have a historic core. We have tried over the years to put forward the point that we need to retain activity in the centre of the Town and over the years we have been losing it. To lose the Anderson High School from the area will be a big loss of activity, I mean, there is no two ways about it and I think everybody would agree with me on that so for us that is a concern. We are not into the realms of objecting to what is the main issue which is the site chosen for the school, we are just trying to put over the concern time and time again that these things do affect the Centre of the Town. We are worried for the Town Centre and the small businesses. Small businesses that are there make up the whole and it is your Town Centre as well as my Town Centre if you live in Lerwick and we look for its future. The only thing I would say about the school is that if you do move the Anderson High School lets give some serious thought to putting in place some activity to replace the school. Thank you.

Karen Craigie: Concerned parent. It is more this sort of thing, the disruption for the next few years to the kids. I've got somebody, a daughter who is going into Fifth Year, the most important years of her schooling, and I do not want her being disrupted by all the clatter, the racket. I live in Gulberwick and the noise that has come from all the houses getting built there is absolutely phenomenal and you know we have to think of these kids that are coming up. I have two little ones as well, I want them to go to a new High School so we have really got to take into account, I am sorry Laurence, I think the Town Centre bit is really important, I think the Town Centre is the hub of Lerwick but I think you perhaps have to look at this time of the year, the tourists, you should really be pulling the tourists in, I don't think that is really important at the moment. I think it is where the High School is going to go is what is important.

Robbie Leith: Member of the public. At the moment I think it is right to say that the bairns are being, at the High school just now, they are being bussed to the swimming pool for part of their activities at the school and I suppose if we built the school at Clickimin we could bus the bairns "in ower at denner time" for their sweeties. If that is what Laurence Smith is worried about. Seriously though, a couple of years ago I tried to highlight all the points about the school going to the Clickimin Centre and I had a letter in the Shetland Times about it and it was pointed out to me that the cost. What I was told was that I didn't realise that the cost of building the school at Clickimin was going to be extortionate compared with building it at the Knab and that was one of the main reasons the Knab was being considered as the site. And now a couple of years later what we find out is that really it is going to cost no more to build at Clickimin as what it is at the Knab but over the last two years we have the consultancy fees and plans and all that being drawn up, already £1.49m has been spent on it and lets not waste that money and carry on with it at the Knab. I think we are getting to a point where we have had enough of the wool being pulled over our eyes. What we really want is the school in the right place that is appropriate for the kids with as little disruption to the kids which means they can move from one school to the other with no interruption,

no disruption in between or after with demolition and just get to look at that and get on with it as fast as we can.

Colin Black: Resident of Knab Road and former parent of Jamie who has just left school. I think it is a pity we are having this meeting because this is the fourth or fifth public meeting I have attended since about 2006 and the meeting back in 2006 was really just covering residents that were invited by letter. This is the first full public meeting that I am aware that has been held, so it is a shame we are having it because you just need to look back in the Shetland Times back to 1983 when they were speaking about having the school at Clickimin and possibly having the old school done up as Council offices, would you believe it. Here we are 26 years later and even in the interim between 1999 and now, Clickimin was the preferred site. Somewhere along the line between 1999 and 2003 a decision was made that we could still build at the Knab but it would be either less or equal to what we are going to build at Clickimin and now, lo and behold, is as Robbie has just said there, it has turned out that that's not really the case. The difficulties Gussie that you mentioned on the radio tonight are exactly that, costs are no better, the technical difficulties are worse, and we have gone through these in our objections and here we are again having to go through some of the same words again so I really think it is a shame that we are having to have this. This should have been a public meeting that was held and the Members could see what folk really feel and you just need to look to the Shetland Times or the Shetland News, you don't need to look too far to see what the majority of the opinion is. I just think now, having heard the feedback tonight, you aren't really needing to go that much further Gussie because if you have the hand count and get it you will see that folk will say just get on with it, and to pick up on Laurence and Emma's concerns. I agree with Laurence, I am proud of Lerwick as well, I was brought up in Lerwick to about 15 and I would like to see activity generated in the Town Centre. I think that is another project. I think that is where you are at with the Lerwick Town Centre Association. It is a pity you didn't have this turnout last night, and I couldn't go last night I am sorry. But that is another project and lets generate activity for the Town of Lerwick. On Emma's point of what else may go there, education is about getting what is right for the school children in Shetland. As I have said before the whole of Shetland. That is not about what might be built somewhere else. Lets just try and get on, get the school built at a less cost in a quicker time and get them in in a flit with no disruption as soon as possible.

Chairman: Does anybody have anything to say or any issue to raise that hasn't been raised here yet?

Cecil Smith: SIC Councillor for Lerwick South. Just I think that one or two points need to be made fairly clear here tonight because it was me that moved the recommendations at the Planning Board on 15 June as you will all be aware. I did that because in the report from the Planning Department there was nothing in that report that I could see that we could do and legitimately refuse that planning application and during the last year or 18 months while we have been doing this I have been asking on numerous occasions about consultation and was Officers quite happy that consultation

was going ahead and was being done and I never got a negative reply, everything seemed to be going very, very well but I was soon aware after 15 June that consultation hadn't been going as well as I had been led to believe. I feel that I was misinformed and made a decision that day that I wouldn't have probably made if I had known better than what I know now. I just feel that if we are going to go down this road and I accept democratic decisions and I think the right decision was made on the Thursday following the Planning Board meeting because there were several Members of the Planning Board there that felt they could not support what happened on Monday and that is a democratic decision and I accept that. However, I do have to say that if and when [tape stops] (inserted from minute record – "He said that he hoped that following the review, if it still remained that the Knab site was recommended, the application be resubmitted and a decision made by the Council or Scottish Government."). [tape resumed] A decision will be made either by the full Council or by the Scottish Government if necessary. I don't think that I want to be in a position like I was on 15 June with stuff in front of me that I thought was genuine and I did not have the information that I felt was correct. Thank you.

Graham Wishart: I'm a parent. Two points if I can. Cost and cost analysis. Can you confirm that when you do your comparisons between the two sites that you will compare the same building on each site? One site is reasonably flat and the other is probably, reading in the Times at least, steeper if not steep. In other words, how equally deeply will they be? Another point is on cost. Reading again in the Shetland Times and I heard only this morning for example on Radio Orkney, they are going to build four public buildings, two schools, a swimming pool and a halls of residence, I don't know the sizes but they are speaking just over £50m. Everybody in this room and in Shetland in fact is going to favour this new building one way or another. Does it need to be as dear as it is? Having said that, I want to get on with it but does it have to be so expensive? Thank you.

Ian Fraser: Concerned grandparent and former teacher. I have just realised that I am probably one of the very few people present here this evening who has direct experience of what is involved in trying to run a school on a building site. Some 25 years ago Scalloway School had a new secondary and a fully refurbished primary department while the school was in operation. The work went on for well over two years, not nearly as long as seems likely in Lerwick. That I have the clearest recollection of what was undoubtedly the most traumatic years of my life. The noise, the dust, the disruption and one other point ladies and gentlemen, the real danger to pupils that has not yet been mentioned. I would certainly hope that unless the figures that come out for Clickimin are vastly greater than those for the High School that the new school would go to Clickimin. Thank you.

Anne Watt: Parent of a child coming up into Fifth Year and another coming up into First Year in three years' time. I am very, very concerned about the site at the Knab. There has been a lot of money wasted by the Council over the years and I think that in my personal opinion that if you consider that this is

going to be wasted money I want it wasted on my child, I want the site to go to the Knab.

Jim Irvine: A question Chairman. Cost is going to be brought into this at some stage I feel. I think that anybody that has thought about the diversity of the sites will realise that probably the Staney Hill is going to be a bit more than the proposed plans which have at least received tacit planning permission and staying on a building site, I mean those of us who are in the Twageos area know all about it when the work was done in the 70's. The planning permission was granted on the condition that they didn't use Twageos Road for vehicles. The planning permission was just ignored of course and those of us with young bairns at the time had to try and keep them locked up and watch them. That went on for two years. Our ones were grown up by then. Science for all building which was referred to the Secretary of State, the Director of the Planning Department recommended refusal but to dodge that of course it was referred to the Secretary of State who granted permission and there was a strong campaign against the science for all building and it was a total waste of time because the consultation was very much which has been mentioned earlier, it was practically non-existent. Only the residents were asked to a meeting and so on. I remember it well. What I think folk that are supporting the Staney Hill site should be guarded against is the cost creeping into it again for only a few million less than the estimates at a time people, dare I say it, most of them country members because they maybe thought that they would get a road in their area instead to make up the difference, wanted to develop the Knab site and they went along with this almost in stealth. Fortunately the point was made that it would run into difficulties and should come back for further consideration and as you said on the wireless tonight it has been nothing but difficulties. It is impossible to shoehorn that in there. It is going to be absolute chaos for the bairns in particular no matter to a senior guy like me. I am away a lot now but I will certainly guarantee one thing, I wouldn't get my house rented when I am away when they read the press reports about this. So the cost is going to be brought up and what should be looked at closely if the favoured site is the Staney Hill is looking at a repair and maintenance programme for the existing buildings now because I mind in the 70's we built new roads we were repairing ones alongside them and the new Director of Infrastructure, Alan Wishart will probably be read up on some of this, we were having to spend several millions on maintenance alongside building new roads, had to keep the traffic moving so if there is a bit of revenue expenditure to keep the existing school going while the proper plans to building at the Staney Hill go ahead, and even if it is a £100m, borrow that from the Charitable Trust and do the bloody job properly because it has never been done and Florence Grains keeps saying that we are going round in circles, we are going round in circles, well she was Chairman of the Services Committee alongside me when I was Chairman of the Infrastructure Committee for four years and that was the four years that all this started going to the Knab. I reckon if Peter Malcolmson had got back, I mean he lost the election, Geoff Feather didn't win it, but if he had got back I reckon that the Staney Hill site would have been complete now and the school would have been three quarters up so that is where it has gone wrong. It isn't that we are going around in circles, it is that people were

persuaded to save a million or two by going to the Knab. I am not saying who persuaded them or who was involved but I keen who they were.

Neil Risk: You have had valuable contributions here Chairman. I think the Council has an opportunity now, an opportunity to show that they respect the democratic view. I think the democratic view is very clear and I think that what is against the Knab site is also very clear and there is no question that you should be looking at an alternative site. If you care about children's education then it is not just this generation it is the generations to come. If you choose the right site then I think that this Council will be looked upon with favour. If you choose the wrong site I think you will be reviled for generations to come, I am sorry to say.

Joyce Davis: Mother of a pupil just going into Second Year. We live in the country. We live next door to a junior high school but we elected a long discussion with our daughter to send her to the Anderson having looked around both. In our discussion following both of those visits to the junior high and the Anderson at no point did we discuss the building, the paint, the conditions, the only thing that our daughter was concerned about was the curriculum, the options for activities at school, how friendly the teachers were, how happy the school seemed. Having been there now for a year we would like to just make comments tonight about what a fantastic school the Anderson High School is. Not the building perhaps but the teaching staff, the patience and understanding and the level of academic success that our young people achieve. We were open minded about the two sites and the only information we really got was from reading the Shetland Times so bearing in mind how objective that is and trying to be open about what the best thing is for our children. We are concerned about two things. One, what is the consultation process going to do and take into account the views of our young people in that school and the views of young people moving up into that school, have they been asked what they feel about being in that school. We can discuss educational policy, we can discuss our views from a distance but it is the young people and their teachers on an everyday basis who are living and working in that building who know what works and doesn't work and I would like to be reassured that following this consultation that those two things have been taken into account and seriously taken into account.

Stuart Hay: History Teacher. I think that it is interesting that in 1862 when the Anderson Educational Institute was built, we will ignore the fact that Lerwegians didn't really want it, it might have upset the Town if too many were well educated, but there was a huge debate about where it would be built. Eventually it was built out of town, well out of town, in as we know, Twageos. Now that did not stop the growth of Lerwick as a thriving, growing commercial centre. Indeed, it flourished despite it and I think it will continue to flourish as a lane dweller and totally sympathetic and indeed I admire the work Laurence Smith does on behalf of the Town, often maybe not appreciated but it certainly should be. But I think that debate in 1862 is not that far removed from the debate we are now having and there might be as history often teaches, a lesson to learn that the good Lerwegians of 160/170 years ago debated long, deliberated long and when they chose where they chose they chose rightly

and it is an interesting reflection that's a building I live in and despite its problems and its difficulties it is still there and I guess will still continue to be there and there is maybe another lesson, the quality of what we build and the adaptability of what we build has to think of young people who are in our school today who live in the 22nd Century, who will have families in the 22nd Century and that school will have to be adaptable, it will have to consider the kind of Shetland we need for a century long or time long past us just as it did in 1862 and I have every faith that that will be done after 36 years of working in this community. I am proud to work for it and proud that Councillors and people who serve this will serve it well. I have said enough but I am astounded by the number of people and impressed by the number of people and I think as Neil has said it is a very powerful indication of local democracy at work. Thank you.

Chairman: Has everyone that wants to speak had the opportunity to speak?

Jonathan: Thank you Chairman. I have been making a lot of notes on what people have said and I would just like to comment on one or two of the points that have been raised to me as a Councillor that are worthy of following up. I would first of all like to acknowledge the Flea's very kind remarks but like most of the nice things that are said about me it is completely unjustified. In fact all I did was take notes, write it down and pass it on because the material I have collated I couldn't possibly have come up with that on my own because I don't know enough and I have had an enormous lot of help from hundreds of people in this community. In fact I have had consultants I haven't had to pay a penny, all for the public good and I thank them and I hope that the result of their work, not so much my work, as theirs will be a good one. The points that were raised by Graham Wishart and others about the comparative cost – that is an important point that we have to be comparing like with like. If you look at the 1999 feasibility study the rough design for the building then had a big piece of a building at the back and that was why they had to dig a great big hole in the Staney Hill to make space for it. If in fact you built a modern school following the contours of the Staney Hill then according to the Council's own site survey it shouldn't be necessary to do a great deal of excavation at all. If you try and dig holes in the site to make a building fit rather than make the building fit the site you could easily come up with a building at Clickimin, that's the Lower Staney Hill, which is far more expensive and we will be watching for that when we see the figures. Somebody said we should be looking at all the other sites, well maybe we should but it is a bit late. There are only two sites that are zoned for educational purposes. I don't want this to get into rezoning, that really will delay it for years and years and I think we are now looking at either the Knab Road site or at the Lower Staney Hill site. Those are the two that are zoned and I think we should keep it simple. It is a pretty good choice between the two. I see Lang Willie at the back there, so Seafield is out Willie, you can relax now. He was very keen on it actually, so was Alan Wishart but there are limits to reviews and that is one of them I think! The Shetland Recreational Trust, that is a good point that the Trust does need the Council as a customer and it has got room for us up to a point but don't think that you can just substitute Shetland Recreational Trust facilities for a school gym because you can't. It is not big enough and they

are used by other members of the public during the day and that has to be taken into account so any new school at Clickimin will have some expenditure for either a gymnasium or a games hall of some kind, it wouldn't be as big as would be required at the Knab Road site but the other point is that it would have access to full size pitches and there is the possibility of getting a full size all weather pitch which is no use to me at my age and condition but is essential for the future of the school and has never had that and that is the only site we can really get that.

The Lerwick Town Centre points, I entirely agree with what Stuart said about the work of the Lerwick Town Centre Association and I am afraid I wasn't very well yesterday and didn't get to their meeting. We have to consider the future of the Town and the Town Centre but remember that site where the Anderson High is is still zoned for education, there are other educational uses. My own suggestion is that it should be refurbished for the Shetland College and still remain in educational use and it would still be a market for people that have small businesses in the Town Centre. I have one myself even though it is afloat, just to declare an interest. Lets not think that it is suddenly going to be redeveloped for housing because it isn't, that's not the area that is zoned and I would like to knock that one on the head because I know it has been going around. I think the point about consultation, there was a full public consultation but it was on another design on a slightly different site and it was carried out in March last year but that project was abandoned in May last year and the problem with this new project, the reason people found out very late about how disruptive it would be, is that it wasn't fully consulted on and there is reasons for that that I still don't fully understand. Finally Chairman, as well as thanking everybody who has come to this meeting, it has just been amazing how many people have spoken and how many people have taken the time to come here, you might like to get an update on the progress of the two petitions. One for residents of the area which I understand Tom is now 600 people have signed, that is most people who have signed, and their concern was the disruption during construction, the main concern, and then there is the Parents and Families Petition. Patricia do you have any updates? It is 1,000. So that is 1,600 people have expressed their opinion and if you haven't signed the petition and you would like to I hope you will, and also if you disagree with what I am saying there are people in this audience I know who don't think Clickimin is right, will you please make sure that your comments are sent to the Council in a letter or an email, you don't have to speak at a public meeting. Everything that everybody says will be taken into account, this is a serious, honest review and the Councillors will make sure that we get serious, honest answers out of it. Thank you very much Chairman.

John Johnson: Going back to residents of Breiwick Road and that area, we have had a few reports on this and they reckoned that the price was okay [inaudible comments]. I would say that we had disruptions when the camp site was built, disruptions when the area was refurbished [inaudible]. There was a bus going down the narrowest piece of road in that area. There was a bus stopped and a heavy loaded truck coming up [inaudible]. (Inserted from minute record – "Mr John Johnson, Breiwick Road Resident, said that he had

lived in the area for many years and could remember the disruption caused when the camp was built at the Knab. He said that he had photos of Knab Road at that time. He also advised that he had counted 60 cars parked in the area and if it were used for construction, parking would be restricted. He said no provision had been made for it. Mr Johnson said that he observed a bus and a truck passing on Breiwick Road and the only way that could be done was for the bus to mount the pavement. He said that the road and pavement would suffer if the Knab site went ahead. He added that Breiwick Road was the narrowest in Lerwick stating that he had measured it.”)

Chairman: Does anybody else want the microphone?

John Hunter: I am a parent. I just want to say that I hope you get this sorted out before the old school falls down.

Chairman: Anybody else? Well, I think just before we wind up I would like to thank you all for coming and for your contributions. I think that in view of the remarks that have been made here tonight it would be interesting for me at least if you didn't mind if we had a show of hands here. First of all a show of hands for the school being retained on the Knab Road site. And for the Lower Stoney Hill. Thank you very much, I think that is a fair illustration. Once again can I thank you all for your attendance, I can assure you that your comments have been noted and will form part of the process and I hope that some of you at least will be able to attend the Council meeting that will take place during September and hear how the debate goes. Thank you very much indeed.

Shetland Islands Council

Confidential Report on proposed new school to replace existing Anderson High building

1. Introduction

The purpose of this report is to examine the advantages and disadvantages of building the new school on the existing site at Knab Road where preliminary work has commenced or on the alternative greenfield site commonly referred to as the Clickimin site. Whilst the central focus of the report is on the educational impact of both sites, clearly a range of related logistical factors which impinge directly and indirectly on the education of pupils have also to be considered if the report is to be credible.

2. Process

A three day visit to Lerwick allowed for a range of visits to both sites, interviews with senior officers, elected members, parent representative and head teacher. In addition relevant paper work was reviewed, local media coverage was assimilated and the views of school staff (those received by the time of the visit i.e. 29th to 31st July) considered.

3. General Observations

There has been a huge expansion in school building programmes across Scotland in the last ten years thanks mainly to the private public finance initiative in its various forms. Thus all councils have had to create an asset management plan and devise a strategic approach to replacing or refurbishing their existing school stock.

As part of that process the question of the most appropriate site for each new school has obviously been a central issue. In addressing this challenge councils have looked at a range of key factors in order to help them make the most appropriate decision for the education of their young people. A review of these factors, whilst general, does lead towards strong support for one specific option in the Shetland context.

a) Centrality to catchment area

Schools should be built as close as possible to the centre of their catchment area in order to reduce home to school transport costs, encourage healthy life styles via walking or cycling to school, minimise the time it takes for pupils to get to school and facilitate after school clubs and activities. A central location also encourages greater community use of the school, which should be seen as the heart of its community. This has frequently led to re-siting schools in order to recognise population shifts. Often schools that were at the centre of their community when they were built now lie at the periphery thanks to new house building and population movement.

b) Sports/outdoor facilities.

Given the significant costs of a new secondary school, councils are anxious to maximise the use of existing sports and outdoor facilities whilst at the same time ensuring that the new PE /outdoor facilities built as part of the school complement and enhance the existing facilities. Thus for example Glasgow City Council did not build swimming pools into schools which were built adjacent to existing council pools. Alternatively North Lanarkshire Council built a sports complex adjacent to a new build secondary to be shared by the school and local community. Councils have also taken the opportunity to save on transport costs and loss of teaching time by building new schools close to existing sports facilities. In all cases the purpose is to maximise use of both school and other facilities for the maximum benefit of the whole community.

c) Twenty First Century Comprehensives.

In designing a secondary school fit for purpose for the twenty first century a range of aspects beyond the usual classroom facilities have normally been included in the design brief such as:

- * **Adequate pupil social areas** – a recognition that school ethos is greatly improved if pupils at various stages are given appropriate social areas to encourage positive behaviour, good relationships and a sense of being valued. Similarly pupil lockers to avoid heavy bags being carried to and from/ around school are often included.
- * **Faculty areas** – Grouping together cognate subjects such as science, social subjects, creative and aesthetics etc. in particular areas of the school encourages inter- departmental co-operation and facilitates a curriculum for excellence.
- * **Specialist areas** – The recognition in recent years of the importance of specialist subjects either in the form of traditional areas such as drama, music, art or non traditional such as the vocational areas recommended by the OECD report on Scottish Education (hospitality, craft trades, hairdressing, beauty therapy, rural skills) has led to the provision of appropriate facilities in new build schools. Thus dance studios, enhanced drama / performance facilities, recording studios, hairdressing salons, catering kitchens with training restaurants, plumbing/ brick laying/ carpentry/ electrical training areas have all featured in new schools.
- * **Integrated community schools** - An inclusive school has to cater for all of its pupils hence the need to include in any new build facilities that recognise this. Thus integrated units for young people with additional support needs are essential. To be effective such facilities have to allow ASN pupils to work alongside mainstream pupils where appropriate. Similarly making all areas of the new build disability friendly is essential. The design also has to recognise that there are pupils who, although they do not have additional support needs, are extremely challenging or vulnerable or indeed both. Facilities to allow both the school and other professionals such as those from social work and health to work with such pupils are needed.

- * **Youth/ Community work**- with the school as a focal point for the community, accommodation specifically for youth work/ adult literacy and numeracy initiatives and the like are often included.

d) Logistical Issues – Schools are large complex institutions with an expanded and more diverse group of staff than in the past. Similarly visiting specialists from a variety of agencies are now common place. These welcome developments mean that adequate car parking is required in order for the school to function effectively. Linked to this is the need for efficient local traffic management systems to allow access and exit from the school. Events such as parents’ evenings, school shows, school concerts, award ceremonies and so on require additional capacity and flexibility in these areas.

4. Anderson High School

A brief view of the general factors outlined above leads to the conclusion that both of the locations available for the new Anderson High adequately fulfil all of the relevant criteria. The Clickimin site allows for initiative design with the potential to develop excellence in Educational, Community and Commercial services in Shetland.

a) Knab Road

The current proposed development at Knab Road fulfils the criteria identified within 3c with an adequate provision. When considering the life cycle of the new school with advances and developments in education the opportunity to exceed adequate and develop through new design should be considered the site is restricted, on the periphery of the school’s catchment area with significant parking and traffic management problems. The constraints of the site have lead to a high rise design which creates problems in terms of the location of departments and pupil movement. Given the exposed site, questions remain about such a high building. Whilst improvements will be made to the PE / sports facilities they will still be inadequate for a school of the size of Anderson High in the twenty first century. Pupils will continue to be bussed to Clickimin with the consequent transport costs, health and safety issues during the transfer and the loss of teaching time. Perhaps most importantly the education of existing pupils will be significantly disrupted for up to four years. Elsewhere in Scotland where builds on an existing site have had to occur ((because of lack of available alternative sites) then pupils have been decanted to empty school accommodation retained for this purpose. Alternatively on larger sites, a whole area for the new build has been separated out from the existing school to protect pupils and staff from the building work if not the noise. The complicated nature of the re-build on the Knab Road site means building works and workers in close proximity to pupils and staff for a prolonged period given the four year build programme. The possible intrusion through dust, noise, building works, traffic flow and asbestos removal present a range of problems which will undoubtedly impact on learning and teaching. Whilst it could be argued that the problem is time limited, unfortunately for the pupils involved it is their one opportunity which would be adversely affected. It should also be remembered that young people with additional support needs in the Gressy Loan Unit are very vulnerable and would find the on site works particularly stressful.

At this point in time it should be noted that the adverse comments on the Knab Road site are in no way related to the approach of the head teacher, staff or school board/ parent

council. In fact the opposite is true. Since 2003 when the decision was made to rebuild on the existing site, the head teacher supported by staff and the parent council have worked tirelessly and professionally to maximise the benefits of the accommodation schedule for the site and to minimise any disruption to the education of pupils whilst always keeping health and safety issues to the fore. Nevertheless they recognise that many are unavoidable and intractable. Once the option of the new site was reopened, parents and school staff have strongly endorsed it.

b) Clickimin – Without wishing to revisit all the criteria outlined in section 3, it is clear that the Clickimin site offers significant educational, practical and logistical advantages over Knab Road. With its central location, excellent indoor/ outdoor sports facilities, greenfield site, ease of access and freedom for design innovation, it offers the possibility of building a flagship secondary school worthy of Anderson High with no disruption whatsoever to the education of the current cohort of pupils. The site provides the opportunity to put the school at the heart of its community both physically and as a focal point for community and sports events. In addition the Greenfield site offers the possibility of an environmentally friendly building which is more aesthetically pleasing, less obtrusive, more easily maintained than a tower block design on the high point at Knab Road.

All of the desirable criteria in section 3 can be included in a new build on this site.

5. Conclusion

Given the factors outlined in this report there is no doubt whatsoever that in broad educational terms the Clickimin site is the only one which will properly fulfill all the criteria required for a twenty first century secondary school.

It is not the brief of this report to examine the contractual or financial issues involved but in education terms the council faces the choice between building a flagship secondary on the Clickimin site which will further enhance the already strong reputation of Anderson High and help it to the next level as an international centre of excellence or of building a satisfactory school on the Knab Road site which will continue to present barriers and obstacles to staff and pupils as they attempt to implement a Curriculum for Excellence and a range of other national initiatives.

ANDERSON HIGH SCHOOL PARENT COUNCIL

PARENT RESPONSES RE NEW SCHOOL - JULY 2009

(IN RESPONSE TO LETTER SENT TO ALL RELEVANT PARENTS - 8TH JULY 2009)

SUMMARY VIEW				REASONS																		
DATE	FORMAT	FROM	TO	FOR KNAB	AGAINST KNAB OR CLICKMIN	AGAINST KNAB OR OTHER SITE	SAFETY / DISTRIBUTION TO PUBL'S EDUCATION	EXPENSIVE BACK-TRACK OFFSIC POLICY	POOR STATE OF CURRENT BUILDING	NO ASSURANCES RE HALLS OF RESIDENCE	TRAFFIC / ROADS	DISCLOSURE ISSUES RE CONTRACTORS WORKERS	DISRUPTION TO RESIDENTS	CLOSE PROXIMITY OF CLICKMIN FACILITIES	KNAB SITE EXPOSED TO WEATHER	WITHIN CATCHMENT AREA FOR 100% PUPILS WALKING TO SCHOOL	REURBISH EXISTING BUILDING	DISRUPTION TO RENEWALS AT THE KNAB	BUILDING OUT OF SCALE TO EXISTING SKY LINE	SCHOOL DESIGN NOT FIT FOR FUTURE EDUCATION REQUIREMENTS	CLICKMIN IS AN AREA FOR LIKELY FURTHER DEVELOPMENT	
#####	E-Mail	Sam & Valerie Davis	James Hutton		1		1					1		1	1							
#####	E-Mail	Shona Bainson	James Hutton		1		1					1		1								
#####	E-Mail	Douglas Coutts	James Hutton			1	1					1			1				1			
#####	E-Mail	John Jamieson	James Hutton			1	1					1										
#####	E-Mail	Duncan Gay	Emma Williamson		1		1					1		1								
#####	E-Mail	Maggie Desso	James Hutton		1		1					1		1							1	
#####	Letter	Lisa Crooks & Ian Lepper & Other	James Hutton		1		1					1		1							1	
#####	Letter	Douglas & Joyce Garden	James Hutton		1		1					1		1		1					1	
#####	E-Mail	Anne & Leslie Watt	James Hutton		1		1					1		1								1
#####	E-Mail	Peter & Hazel Leask	James Hutton		1		1					1		1		1						
#####	Letter	Michael & Sheila Duncan	James Hutton		1		1					1		1		1						
#####	E-Mail	Others to Lise Sinclair	James Hutton	1			1		1	1						1						
#####	E-Mail	Brain Wood	Emma Williamson		1		1					1		1								
#####	E-Mail	Ann Marie Mulloy	James Hutton		1		1					1		1		1						
#####	Letter	Michael & Fiona Mann Patricia & Robert Wright, Elaine & Alex Fullerton, Michell &	James Hutton		1		1					1		1		1						1
#####	E-Mail	Gary Sandison	James Hutton		1		1					1		1		1						

ANDERSON HIGH SCHOOL
SUMMARY OF PUBLIC COMMENTS

	SUMMARY VIEWS				REASONS				REASONS										
	FOR KNAB	AGAINST KNAB FOR CLICKMIN	AGAINST KNAB FOR OTHER SITE	AGAINST CLICKMIN	NO PREFERENCE FOR OR AGAINST EITHER SITE	CURRENT DESIGN SUITABLE FOR EDUCATIONAL PURPOSES	PRESERVE CLICKMIN AS GREENFIELD SITE	CLICKMIN NOT SUITABLE FOR CURRICULUM	CLICKMIN USE RESTRICTED DUE TO OTHER USES/FUNCTIONS/SEVEN	SAFETY /DISRUPTION TO PUPILS' EDUCATION	EXPENSIVE BACK TRACK OFF SIC POLICY	POOR STATE OF CURRENT BUILDING	TRAFFIC /ROADS	DISRUPTION TO RESIDENTS	CLOSE PROXIMITY OF CLICKMIN FACILITIES	KNAB SITE EXPOSED TO WEATHER	WITHIN CATCHMENT AREA FOR 100% PUPILS WALKING TO SCHOOL	BUILDING OUT SCALE TO EXISTING SKYLINE	SCHOOL DESIGN NOT FIT FOR FUTURE EDUCATION REQUIREMENTS
Parents/Public/Other Staff		X								X		X	X	X	X	X			
Parents/Public/Other Staff					X														
Parents/Public/Other Staff		X								X		X	X				X		
Parents/Public/Other Staff		X			X														
Parents/Public/Other Staff		X								X		X							
Parents/Public/Other Staff		X	X							X		X	X						
Parents/Public/Other Staff		X								X		X	X	X	X				
Parents/Public/Other Staff		X								X		X							
Parents/Public/Other Staff		X																	
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Parents/Public/Other Staff		X																	
Parents/Public/Other Staff		X																	
Parents/Public/Other Staff		X																	X
Parents/Public/Other Staff		X																	
Sub-Totals		20	1	0	2	0	0	0	0	14	0	1	16	7	6	6	7	3	0

ANDERSON HIGH SCHOOL

SUMMARY OF STAFF COMMENTS

	SUMMARY VIEWS					REASONS					REASONS									
	FOR KNAB	AGAINST KNAB FOR CLICKIMIN	AGAINST KNAB FOR OTHER SITE	AGAINST CLICKIMIN	NO PREFERENCE FOR OR AGAINST EITHER SITE	CURRENT DESIGN SUITABLE FOR EDUCATIONAL PURPOSES	PRESERVE CLICKIMIN AS GREENFIELD SITE	CLICKIMIN NOT SUITABLE FOR CURRICULUM	CLICKIMIN USE RESTRICTED DUE TO OTHER USES/FUNCTIONS/EVENT		SAFETY / DISRUPTION TO PUPILS' EDUCATION	EXPENSIVE BACK TRACK OFF SIC POLICY	POOR STATE OF CURRENT BUILDING	TRAFFIC / ROADS	DISRUPTION TO RESIDENTS	CLOSE PROXIMITY OF CLICKIMIN FACILITIES	KNAB SITE EXPOSED TO WEATHER	WITHIN CATCHMENT AREA FOR 100% PUPILS WALKING TO SCHOOL	BUILDING OUT SCALE TO EXISTING SKYLINE	SCHOOL DESIGN NOT FIT FOR FUTURE EDUCATION REQUIREMENTS
AHS Staff		X									X				X					X
AHS Staff		X									X									
AHS Staff		X									X				X			X		
AHS Staff	X					X		X	X											
AHS Staff		X									X							X		
AHS Staff					X															
AHS Staff		X									X						X			
AHS Staff			X																	
AHS Staff		X									X				X		X	X		
AHS Staff		X					X				X			X				X	X	X
AHS Staff	X					X			X		X									
AHS Staff		X									X							X		X
AHS Staff		X									X							X		X
AHS Staff		X									X				X		X	X		X
AHS Staff		X									X									
Sub-Totals	2	13	1	1	1	2	1	1	2		13	1	2	4	1	4	3	8	2	5

Report of Mr A. S. Laidler Independent Review Co-ordinator to Mr D. A. Clark – Chief Executive - Shetland Island Council

Procurement of Independent Cost Consultant to provide a Whole of Life Cost Review for the proposed new high school development

Terms of Reference:

The Independent Co-ordinator was appointed to co-ordinate an independent review of the proposed New High School Development. A key element of the review identified by the Shetland Island Council and detailed in the SIC “Brief” for the Co-ordinator was the appointment of an independent Cost Consultant to carryout a Whole of Life Costing exercise and report.

This report will detail the methodology for consultant selection; Elected Member Consultation and analysis of quotations returned with a recommendation to appoint.

Cost Consultant Selection:

To ensure independence, best practice and compliance with SIC Standing Orders the selection of Cost Consultants was undertaken by the Co-ordinator. The consultants were identified from previous professional experience and an internet search for suitable regional consultancies.

A short list of five consultancies who confirmed interest and willingness to offer quotation was achieved. The schedule of consultants was forwarded for consideration to the Chief Executive and subsequently to all Elected Members. One of the proposed consultants was identified as having worked for SIC previously and was removed from the list.

The confirmed Cost Consultants to offer quotation were:

Baily Garner Limited
Franklin & Andrew (MOTTMAC)
Pellings LLP
CRGP Limited

Cost Consultant Procurement:

Invitations to submit quotations were issued to the above consultants 30th June 2009 with a stated return date of 15th July 2009.

On receipt of the invitation and Cost Consultant Brief (attached) three of the four consultants subsequently withdrew. All stated that they were unable adequately resource the exercise within the timescale set by SIC.

Franklin & Andrew (MOTTMAC) - withdrew on the 1st July 2009
Baily Garner Limited – withdrew on the 3rd July 2009
Pellings LLP – withdrew on the 8th July 2009

Quotation Return and Opening Monday 20th July 2009

One quotation was returned in the pre-addressed envelop as per the quotation instructions.

The quotation was opened in the presence of:

Mr D. A. Clark – SIC Chief Executive
M's I. Simpson – SIC Executive Office
Mr A. S. Laidler – Independent Review Co-ordinator

CRGP Limited submitted the following quotation for professional fees £7,650.00 + VAT (Seven thousand, six hundred and fifty pounds plus VAT) with an addition cost for anticipated expenses £1,300.00 + VAT (One thousand, three hundred pounds plus VAT)

In addition CRGP have provided the details and qualifications of the person they propose to undertake the review. The candidate is the Quantity Surveying Director for CRGP Limited a Member of the Royal Institute of Chartered Surveyors and has 19 years pertinent experience as a Cost Consultant. CRGP has also confirmed they can undertake the review in the time scale set by SIC. (Quotation and supporting information attached)

Recommendation to Appoint:

Given the selection and procurement of quotations has been carried out in compliance with SIC Financial Regulations; SIC Standing Orders and Best Practice. The quotation from CRGP Limited is considered to represent “Value for Money” and it is recommended Shetland Island Council proceed with the quotation submitted by CRGP Limited for the sum of £7,650.00 + VAT and addition costs of £1,300.00 + VAT.

I await your confirmation prior to contacting the consult and issuing a letter of appointment.

Andrew Laidler
Independent Co-ordinator



REPORT

To: Services Committee

03 September 2009

From: Head of Children's Services

Development of Short Break Services for Children With Additional Support Needs

1. Introduction

- 1.1 This Report seeks Council approval to develop additional short break services for children and young people with additional support needs. This includes the establishment of additional staff and other revenue expenditure.

2. Links to Council Priorities

- 2.1 This report supports the Council's Corporate priority regarding children and young people, to encourage and support them to enjoy being young. Child protection will remain one of the Council's main priorities.

3. Background

- 3.1 In the Children and Young Peoples Plan 2002-2004 it was noted that there should be an increase in the volume of residential respite for children with disabilities. This was not achieved due to lack of placements for young adults in a suitable venue.
- 3.2 The Children and Young Peoples Services Plan 2005-2008 had an action to review existing provision of respite services for children and young people with disabilities.
- 3.3 In January 2006 a review team was set up to review services to children with additional support needs. One of the conclusions of this review (reported to Services Committee in November 2006, Min ref: 69/06) was that Laburnum House is not fit for purpose due to the layout of the building, the condition of the building and the size of the building. It cannot meet the needs of the children and young people at the moment and will not be able to meet the needs into the future.
- 3.4 Another conclusion of the review was that a "Care at Home" service be developed for children and young people with additional support needs. At the time it was possible to develop this within existing resources but acknowledged that this would have to be reviewed as the services becomes

established. This service is known as an Outreach Service and is registered with the Care Commission.

- 3.5 On 12 March 2009 a report and feasibility study was presented to Services Committee recommending the development of a new build in a suitable site within Lerwick to meet the short break care needs of up to 6 children and young people at a time; and to develop Laburnum House, including an extension to meet the short break care needs of up to 5 children and young people (with Autistic Spectrum Disorders) at a time. The recommendations were approved, Min ref: 24/09.

4. Current Provision and Unmet Need

- 4.1 The services currently operated from Laburnum House have grown over the last three years due to increased assessed need. In November 2006 it was reported to Services Committee that Laburnum’s usage was at around 35% due to the complex nature of the children and young peoples needs. This has increased to 55-60% usage. This has been possible by increasing staff support and families accepting short breaks during the week as well as at weekends.
- 4.2 The Outreach Service mentioned above has also been developed and grown in the same time period. The staffing of this part of the services has been met through a combination of established staff and staff on temporary contracts. This is making this part of the service particularly difficult to manage.
- 4.3 Social Work Assessments for children and young people with additional support needs have been delayed in the past due to child protection taking priority. To address this a qualified social worker at Laburnum House has been completing such assessments as a social worker. This has seen an improvement in the speed which assessments of children with additional support needs are carried out. This enables us to identify and meet their needs more speedily.
- 4.4 There is now a considerable amount of additional service operating from Laburnum House to meet some assessed need but there is a large amount of assessed need that goes unmet. This provision and unmet need is shown in the table below. It is impossible to meet this need with current physical and staffing resources.

No. of children receiving overnight short breaks	No. of children receiving day care	No. of children receiving outreach support	No. of outstanding referrals for overnight short breaks, respite services and outreach
17	6	12	17 (12 with comprehensive assessments)

5. Opportunities and Proposals

- 5.1 An opportunity has arisen to use a Council property at 37 Haldane Burgess Crescent to meet some of this unmet need. The property has all aids and adaptation required to meet much of the unmet need. No other need for the property has been identified by Social Care, Health or Housing. The use of this property gives Children's Services the opportunity to meet some unmet need prior to the new build and extension of Laburnum being completed.
- 5.2 Additional staff would have to be recruited in order to make this possible. Currently Laburnum has 21.84 FTE, to allow Haldane Burgess Crescent to operate this will require an additional 10.16 FTE staff, which would be split nearly 50:50 between the two units to provide optimum service. The proposed staffing level is also a good indicative level for the new build.

Laburnum House						
<i>Current Staffing Level</i>	<i>FTE</i>	<i>Total Salary Cost £</i>	<i>Proposed Permanent Staffing Level</i>	<i>FTE</i>	<i>Total Salary Cost £</i>	<i>Variance £</i>
Team Leader	1.0	44,179	Team Leader	1.0	44,179	
Senior Social Care Workers	2.71	87,587	Senior Social Care Workers	3.0	96,960	
Social Care Workers	8.55	243,640	Social Care Workers	9.0	256,464	
Temporary Senior Social Care Workers	2.0	64,640	Residential Social Worker	1.0	39,994	
Temporary Social Care Workers	5.87	167,271	Admin Support	1.0	23,107	
Temporary Residential Social Worker	0.71	28,395				
Temporary Admin support	1.0	23,107				
Total	21.84	658,819		15.0	460,704	198,115
Haldane Burgess Crescent						
<i>Current Staffing Level</i>	<i>FTE</i>	<i>Total Salary Cost £</i>	<i>Proposed Permanent Staffing Level</i>	<i>FTE</i>	<i>Total Salary Cost £</i>	<i>Variance £</i>

			Assistant Team Leader	1.0	36,193	
			Senior Social Care Workers	3.0	96,960	
			Social Care Workers	13.0	370,448	
Total	0.0	0		17.0	503,601	(503,601)
Grand Total	21.84	658,819		32.0	964,305	(305,486)

*The salary costs above have been calculated using single status pay grades.

- 5.3 The increased staffing levels above represent an increase in staffing costs of £305,486 per annum. The staffing levels will provide a good balance of managing the care needs on each of the two sites as well as the outreach needs of children and young people. The levels proposed also meet Care Commission Standards. The higher level of social care workers at Haldane Burgess Crescent is due to the outreach service operating from the building. A Team Leader is not required for each building as the needs are so closely linked. An Assistant Team Leader based at Haldane Burgess Crescent will support the Team Leader in the operation of the whole service.
- 5.4 The running costs of Haldane Burgess Crescent will be similar to that of Laburnum House. The revenue budget set for Laburnum House for 2009/10 is £122,747
- 5.5 If the proposed staffing and additional revenue expenditure is approved by the Council it will enable Children's Services to meet most of the unmet need as above. Haldane Burgess Crescent will be used as a centre for outreach support; will provide overnight short breaks for 10 children, many of whom have Autistic Spectrum Disorders; and will be used for younger children who sometimes struggle in Laburnum House when it is busy and noisy.
- 5.6 As well as meeting some unmet need almost immediately the development of the service in this way means we will have trained, competent and experienced staff at the point the new build is opened as we will be able to do this incrementally.

6. Financial Implications

- 6.1 The Department requests an additional budget in the region of £428,233 per annum subject to future budget setting exercises and £214,116 for the remainder of 2009-2010. The additional cost in 2009/10 can be met from underspends within existing Education and Social Care budgets. The Head of Children's Services will undertake to provide Finance with the necessary virements.
- 6.2 Additional budget required for 2010/11 onwards will form part of the budget setting exercise. The budget strategy for 2010/11 is to reduce reliance on reserves for revenue spending by £1m. To meet this increase in service will require a shift of resources from other service areas. This may take time to

achieve and will be a challenge for Officers to address and bring forward proposals to Members in due course.

7. Policy and Delegated Authority

- 7.1 In accordance with Section 23 of the Council's Scheme of Delegations, the Services Committee has delegated authority to make decisions on the matters within approved policy and for which there is a budget. As there is no budget for the proposed increases in staffing and revenue expenditure a decision of the Council is required.

8. Recommendations

I recommend that Services Committee recommends to the Council to:

- 8.1 Approve the proposed staffing levels as at 5.2
- 8.2 Approve a virement from within Education and Social Care to meet the additional costs for 2009/10
- 8.3 Note the need for future years budget to be addressed in the revenue estimates exercise.

Our Ref: SM/eal

Report No: ESCD93(F)



REPORT

To: Services Committee

3 September 2009

From: Executive Director of Education and Social Care

Impact of Shetland Charitable Trust Funded Bodies Review Group

1 Introduction and Key Decisions

- 1.1 This Report asks Members to agree to a number of service, management and budget changes, as a result of the proposals made by the Shetland Charitable Trust Funded Bodies Review Group. The Report covers Community Use of Games Halls, the cost of the Schools Service using Shetland Recreational Trust facilities and the need to change the Equalisation of Charges Scheme.

2 Links to Corporate Priorities

- 2.1 There is no direct link to any Corporate Priorities from this Report. The proposals contributes to the Council's objectives for Sport and Leisure Services, "to support individuals and communities to help them reach their full potential". It also contributes to the need to deliver "a modern, affordable Community Care service". All the proposals seek to, "allow us to continue to deliver high quality services to the people of Shetland" but the proposals challenges the Council's recently approved Budget Strategy by highlighting areas of potential new cost burdens.

3 Background

- 3.1 Shetland Charitable Trust is currently facing financial difficulties, and struggling to meet its policy of self-sustainability. In May 2008, trustees agreed a three-year budget strategy, which aimed to make a permanent reduction in annual expenditure of at least £1 million. In order to achieve this target, a review group was established, with representation from both the Trust and Shetland Islands Council.
- 3.2 The outcome of some of the review group proposals will be formally presented to the Shetland Charitable Trust meeting on 17 September 2009. This Report highlights issues which have come to light which may (depending on decisions by the Trust) impact on how Council services are currently delivered and funded.

4 Community Use of Schools Games Halls

- 4.1 Since 2000, Shetland Recreational Trust has managed the community use of the School games halls at Brae, Sandwick and Scalloway. This arrangement which was agreed between the Council and Shetland Recreational Trust but funded from Shetland Charitable Trust, sought to establish an equitable distribution of facilities and opportunities for participation in sport and leisure activities throughout Shetland.
- 4.2 The system has worked reasonably well over the years, with regular bookings from clubs and organisations. The more casual, drop-in, usage has not been as popular as was originally envisaged. The average number of hours used at each of the Games Hall, at the moment, is set out in the Table below.

Table 1: Current Usages of Schools Games Hall for Community Use (Hours / Week at Autumn 2009)

Location	Average Current Weekly Hours Booked
Brae	10 hours
Scalloway	21.5 hours
Sandwick	17.5 hours

- 4.3 Shetland Recreational Trust faces significant increases in energy costs in the current year (about £300,000). The Trust is also expected to contribute towards Shetland Charitable Trust's overall savings target for 2010/11 (again, in the region of £300,000). All aspects of the Trust's activities and costs have been explored by its General Manager and Trustees. It was identified that the cost to Shetland Recreational Trust of managing the Community Use of Schools Games Hall was about £120,000 per annum (net of income generated). Trustees of Shetland Recreational Trust therefore reluctantly took the decision, on financial grounds, that they could no longer offer that service.
- 4.4 At the moment, a temporary arrangement is in place whereby the Schools Service will pay the full cost to Shetland Recreational Trust to continue to manage the Games Halls on behalf of the three schools, until new arrangements can be put in place. It has not been possible to offer a service for 34 hours per week, as has been the case in the past. Instead, I took a decision to seek to maintain all the block bookings from regular users. On average, the facilities are available about 16 hours per week. The proposal going forward is that the schools themselves will take over the letting of the Games Halls. This is similar to the arrangements already in place at the Anderson High School and is consistent with the principles of community schools.
- 4.5 There are a number of practical issues to put in place to enable the new arrangements to take place such as: -
- Booking times to best meet the different needs in each community
 - The school lets procedures
 - Insurance arrangements
 - Keyholder responsibilities
 - Health and safety matters, including risk assessments, first aid cover and fire procedures

- Staffing arrangements, including cleaning
- Charging arrangements, within the Devolved School Management framework

4.6 It is estimated that the additional cost to the Council from the schools managing the community use of their own Games Halls will be in the region of £70,000 per annum. This mainly relates to staffing costs.

5 Schools Use of Shetland Recreational Trust Facilities

5.1 At the outset, I should say that the Education and Social Care Department is supportive of assisting Shetland Recreational Trust to maintain its core range of facilities and services. Appendix 1 provides more detail on how the Shetland Recreational Trust fits into the overall policy framework, supporting all five of the Government's key policy objectives.

5.2 One aspect which has come to light during the Shetland Charitable Trust review group is the use which the Schools Service make of the Shetland Recreational Trust facilities to deliver the Physical Education curriculum. Members may recall that the whole philosophy around siting the Leisure Centres next to the Junior High Schools was to support mixed use of the centres by schools and the community.

5.3 The Council has a legal duty to ensure that there is an adequate range of leisure facilities for the inhabitants of Shetland. The range, level and location of service provision is therefore up to the Council to determine through its own strategies, policies and financial framework. The legal requirement is set out in the Local Government and Planning (Scotland) Act 1982, which states that the Council, "may provide or do, or arrange for the provision of or doing of, or contribute towards the expense of providing or doing, anything necessary or expedient for the purpose of ensuring that there are available, whether inside or outside their area, such facilities for recreational, sporting, cultural or social activities as they consider appropriate".

5.4 The Schools Service must ensure the delivery of the curriculum, for all our pupils. At the moment, the minimum level of provision for Physical Education is 45 minutes per week for primary pupils, (with either an additional block of swimming time, or a regular additional weekly swimming lesson of approximately 45 minutes), and approximately 80 minutes per week for secondary pupils. Pupils taking Standard Grade Physical Education studies would expect to spend 160 minutes per week studying that subject and for Higher Grade it would be 200 minutes.

5.5 The Council provides some social and recreational services directly (Islesburgh, parks and playing fields, outdoor education and the active school programme). A significant amount of facilities and services in Shetland are provided by Shetland Recreational Trust, and about two-thirds of the costs are supported by way of grant aid from Shetland Charitable Trust.

5.6 At the moment, the Schools Service pays just over £9,232 per centre to Shetland Recreational Trust towards the use of the seven rural leisure centres. The work of the Shetland Charitable Trust Funded Review Group has suggested that it might be appropriate to review this level of charge, to more accurately reflect the actual costs of the time where schools have use

of the centres. I would be supportive of such a review taking place, as it is some years since the current arrangement was agreed.

- 5.7 This would also provide the Schools Service with an opportunity to review the level of service which they need from the Shetland Recreational Trust facilities. Again, practice has evolved in each area to meet local circumstances and the work of the Education Blueprint working groups now seek to make sure that there is equality across all our schools, so that all pupils have access to a minimum standard of provision. This review will look at staffing arrangements and charging for equipment as well as the fundamental issue as to what space is required in Shetland Recreational Trust facilities in the future, during the school term. The arrangements will be formalised through a Service Level Agreement.
- 5.8 Initial indications suggest that the additional cost to the Council from a review of the schools use of the Shetland Recreational Trust facilities will be in the region of £400,000 per annum. The detail of this charge can be worked out during the forthcoming budget exercise, but is based on the schools using the centres for 190 days a year, in the morning and afternoon sessions. This will support both schools and extra curricular activities after the school day, in the rural centres. The cost of running the rural leisure centres is about £200,000 per centre per annum.

6 Changes to the Equalisation of Charges Scheme

- 6.1 Shetland Charitable Trust is considering how it might have to change the current Equalisation of Charges Scheme which has the potential to result in additional cost to the Council up to £800,000 per annum.

7 Financial Implications

- 7.1 There are significant financial implications to the Council arising from the proposals from the Shetland Charitable Trust Funded Bodies Review group to change the current funding arrangements. In total, the changes could cost the Council in the region of £1.27m per annum, which amounts to approximately 1% of the gross expenditure budget.
- 7.2 Members recently approved the Budget Strategy for next financial year, at the Council meeting on 19 August 2009. The budget Strategy approved was to reduce reliance on Reserves down to £2m, which is £1m less than the draw used to balance the revenue budget for 2001/10. The forward projections, and highlighted budget challenges, did not include specific reference to any additional costs resulting from changes to Shetland Charitable Trust funding.
- 7.3 It will be up to Members to decide how much, if any, of these additional burdens they wish to support through the forthcoming budget exercise for 2009/10, and beyond, as these are recurring costs.
- 7.4 The Schools Service is committed to meeting the challenges of the Concordat on free school meals, pre school provision and more favourable pupil: teacher ratios in early primary from within existing resources. It would appear unlikely that additional savings of up to £470,000 could be accommodated next year, although there are opportunities through the work of the Education Blueprint for longer term structural changes and savings.

7.5 The community care service faces ever more demand, year on year, as the population changes take effect. Any additional financial burden on the service will be a challenge. Waiting lists for care services continue to be challenging to meet.

8 Policy and Delegated Authority

8.1 Section 13 of the Council's Scheme of Delegations enables Services Committee to deliver projects and make decisions within policy and budget. Sport and Leisure and Community Care Services fall within the remit of Services Committee. However, these changes are not within the current budget projections so a decision of the Council will be required as to the level of financial resources required to enable services to continue at or near current levels.

9 Recommendations

9.1 I recommend that Services Committee recommend to the Council to;

- a) consider and approve the proposal for Brae, Sandwick and Scalloway schools to put in place management arrangements to enable community groups and individuals to use their Games Halls, at an estimated cost of up to £70,000 per annum from 2009/10; and
- b) consider and approve the proposal to review the Schools Use of Shetland Recreational Trust facilities, at an estimated cost of up to £400,000 per annum from 2009/10; and
- c) note that it is possible that changes to the Equalisation of Charges scheme by Shetland Charitable Trust may lead to additional costs to the Council of up to £800,000 per annum and that a further Report will be presented once the final decision of Shetland Charitable Trust is known; and
- d) provide guidance to the Education and Social Care Department as to whether these items go forward as growth in the forthcoming budget exercise or identify areas to target savings.

Our ref: HAS/sa

Report No: ESCD-95-F

Introduction

The purpose of this paper is to provide supporting information as to why Shetland Islands Council should support Shetland Recreational Trust (SRT) to maintain its core levels of service and opening hours.

Background

In 2010, SRT will celebrate its 25th anniversary of the opening of Clickimin Centre in 1985. During 2010, a wide programme of sporting and cultural events will be staged to mark this milestone.

Since 1985, a further 7 Leisure Facilities have been constructed throughout Shetland, which are owned and managed by SRT. SRT at present, also manage a number of school games halls at times when they are not used by the school i.e. the games halls at Brae High School, Scalloway Junior High School and Sandwick Junior High School.

Over the last three decades the attendances figures for these facilities has steadily increased from 110,000 (approx) in 1985-86 to the point where in 2008-09 there were 743,114 people making use of these facilities. By comparison to other local authority areas, these are exceptionally high figures, which demonstrate the high level of community participation throughout the Islands.

The services delivered and facilities managed by SRT are decentralised and located next to their respective secondary schools. This type of provision ensures that all people throughout Shetland have reasonably good access to a leisure facility and are able to learn how to swim and take part in a range of healthy, fun activities. It also ensures that jobs and economic activity are sustained and spread throughout Shetland.

The decision to locate rural SRT facilities next to their respective secondary schools has widely been acknowledged as "Good Practice" as it reduces school building costs, as can be seen at Mid Yell where no new games hall is required, and allows schools to use the leisure facilities during the day when there is less demand for community activities.

Strategic Context

The provision of adequate sports facilities is a statutory requirement on all local authorities. This requirement on Shetland Islands Council is substantially met by SRT through the provision of their facilities.

SRT also assist the Council to meet a number of its Corporate Plan objectives. These include improving the physical and mental health and well being of individuals in Shetland, increasing their levels of physical activity and ensuring that they and their communities have the opportunity to overcome barriers and achieve their full potential.

SRT also make a significant contribution toward Shetland meeting its Single Outcome Agreement targets. Some examples are as follows:

Wealthier and Fairer

Sports related consumer expenditure (excluding gambling) is £1.3 billion per year or 2.7% of total consumer spending in Scotland. As participation levels in Shetland are higher than the national average then it is reasonable to assume that local consumer spending on sport related expenditure would be higher than this percentage.

SRT is a major employer in Shetland with over 250 full time, part time and casual members of staff employed across Shetland. This equates to over 114 full time equivalent posts.

SRT facilities are a major attraction for tourist coming to Shetland, particularly for families who are in need of a wet weather facility. SRT also host a large variety of sporting and cultural events that attract large number people to Shetland e.g. Inter-county's with Orkney and Shetland, the Shetland Folk Festival etc.

Smarter

The activities and services provided by SRT assist individuals to raise their levels of self-confidence, self-esteem and social skills. They support schools to provide a good standard of PE for children throughout Shetland, which has been proven to raise educational attainment and improve attendance and the punctuality of school children. SRT facilities provide a hub for local sporting groups and help to develop a sense of community. They bring people together and often provide a support mechanism for many people. Many opportunities are created to help individuals to develop themselves in terms of achievement of leadership or coaching qualifications.

Healthier

For many years there has been growing evidence that in Scotland, and indeed in Shetland, we are sitting on a health "time bomb" of cardiovascular disease, cancer and obesity. However, participation in sport and other physical activities significantly reduces an individual's risk of heart disease, stroke, obesity, diabetes, osteoporosis and cancer. It can also benefit an individual's mental health treating clinical depression, anxiety, stress and schizophrenia and generally making people feel better.

In order to ensure the above benefits of physical activities are experienced by more people in Shetland a partnership of local service providers is working together to develop an "Active Lives" Strategy for Shetland. This strategy is currently under consultation and should be completed by the end of 2009.

This strategy seeks to provide a clear direction for all providers of services in Shetland, in order to get more people physically active so that they benefit from the positive outcomes of physical activity and are therefore less of a drain on local health care services.

SRT play a significant role in attracting and keeping many people physically active and will continue to have a major role in the delivery of the "Active Lives" Strategy. They provide many sporting activities for groups and individuals throughout Shetland and deliver classes and programmes of activity for those not interested in Sport e.g. Aerobics, Spinning etc. They also provide specialist programmes such as their GP Referral Scheme and "Get Fit" programme, which are targeted at people most in need of a lifestyle change.

Safer and Stronger

SRT and their staff are involved in a number of diversionary schemes such as the “Midnight Football” scheme, which is targeted at attracting young people away from crime and anti-social behavior. This scheme has been very successful and attracted approximately 20 young people per week, over a 16-week period.

SRT facilities not only bring people together and enhance the sense of community, they also provide the setting for many sporting and cultural events to take place, where locals can meet, spectate or participate in an event and gain a sense of pride in what’s being achieved. This type of experience was shared by the Shetland Community during the 2005 Natwest Island Games, which was a great success for Shetland and could not have been staged without the SRT facilities being in place.

Greener

SRT manage a number of outdoor sports facilities, recreational areas and the Clickimin Campsite.

It is acknowledged that participation in outdoor sports and recreation can increase an individuals respect for natural resources and promote sustainable use of them.

The ongoing promotion of physical activities by SRT also encourages more people to take up active transport options in their attempts to get active e.g. walking or cycling, rather than taking their cars. This has a positive impact on the environment in terms of CO2 emissions and fuel consumption.

Conclusion

From the above information it can be seen that SRT play a significant role in lives of many people throughout Shetland and make a substantial contribution towards the Council meeting its Corporate and Single Outcome Agreement Objectives. Therefore, any significant reduction in SRT services or opening hours would have a serious impact on the community at a time when we are aiming to encourage more people to become more active across Shetland.

At present there are very few time slots available for sporting groups seeking to develop their activities in Shetland, a good example being the Gymnastic Club, which has a waiting list of over 200 children and no further space available for their activities. Therefore, any decrease in opening hours would further exacerbate this problem and have a detrimental effect on the sporting community as events, competitions or training would have to be crammed into less time, with more competition for spaces.

Therefore, taking into account the wider social and economic benefits that are gained from SRT provision and our aspirations to get more people active then from a Council and Shetland wide perspective support should be offered SRT to maintain their core services and opening hours.

Sport and Leisure Services Manager
Education and Social Care Department



REPORT

To: Services Committee

3 September 2009

From: Head of Housing

Report No: HS-11-09

New Build Housing – Proposal to Increase Private Sector Development

1. Introduction

- 1.1 Services Committee have been advised that up to £20m could be made available for the provision of new build Council housing (Min ref 54/09). Services Committee also received an update on progress with additional housing provision (Min ref 57/09).
- 1.2 This report seeks to set out proposals to increase private sector development. If successful, this can then be applied to all proposed new build sites in both Lerwick and Landward areas. This includes any land not currently in SIC ownership where SIC is undertaking a role as lead agency.
- 1.3 The report also seeks to determine the methodology to be used to maximise income and so make best use of the remaining funds for SIC capital investment in new housing.
- 1.4 This activity will be in parallel to the SIC development programme and this report seeks authority at this moment to ensure the integration of both private and public funding streams.
- 1.5 This report is asking Services Committee to consider how the Council might promote the supply of additional housing across Shetland. This is with the clear aim of preserving the Council's available funding and increasing the overall supply of housing by supplementing SIC activity with private sector activity.
- 1.6 The proposals within this report are to operate in parallel to the activity of public sector housing supply to which the Council is already committed and working towards.

2. Links to Corporate Priorities

- 2.1 Sustainable Organisation - Help us to make sure that we are making best use of our resources and delivering services as effectively as possible. The Council has through its Local Housing Strategy (LHS), a stated aspiration for more affordable housing.
- 2.2 The 2009/10 Housing Service plan identifies that SIC Housing services will, *“Work in partnership with others to enable everyone in Shetland to have access to a choice of affordable housing options, across **all tenures** that are warm and safe, energy efficient and in keeping with the Shetland environment, of good quality and in good repair, able to meet demand and the particular needs of households in inclusive and vibrant communities”*.
- 2.3 The 2009/10 Housing Service action plan requires the Head of Housing to, *“Continue to investigate options for increasing housing supply in Shetland”*.
- 2.4 The Sustaining Shetland document endorsed by the Community Planning Board states that, *“We will increase the population of Shetland to 25,000 by 2025. We will increase the supply of housing to 12,000 by 2025”*.
- 2.5 The Shetland Targets & Priorities document states that, *“We will place more effort on stimulating demand for living in the remote areas of Shetland by ensuring that the ratio of jobs to people and housing is the same”*.

3. Background

- 3.1 This report is predicated on a presumption that, if the Council is to meet its overall corporate responsibilities, it must look at a multi tenure approach moving away from the conventional role of the Council building homes for anyone and everyone on its lists. In simple terms, the resources available are insufficient to adopt “a council house for everyone” approach. Therefore, all other avenues must be explored and where practicable developed to increase the overall supply of housing.
- 3.2 This report is also based on a presumption that in a housing market of short supply, some people will look towards Council housing as their only realistic option for finding a home, at a time when the Councils traditional waiting lists are already under unprecedented pressure. Therefore, by increasing supply the demand for conventional council housing might be reduced.
- 3.3 It is also clear that Council waiting lists are getting longer and the incidence of homeless referrals is steadily increasing year on year. Without the direct action to increase the provision of Social housing (SIC & Hjalmland in partnership), the Council will not meet its 2012 homelessness targets
- 3.4 It is also presumed that as far as practicable, the Council would wish to retain its own cash resources to house those that genuinely cannot house themselves for whatever reason or for those to which the Council has a statutory duty. Thus, the proposals within this report are geared towards promoting and enhancing the potential of those able to house themselves by increasing the overall supply of building plots and affordable houses.

- 3.5 The proposals within this report are solely and specifically intended to encourage and stimulate private sector development allowing an overall increase in housing supply.
- 3.6 Services Committee were advised (Min ref 54/09) that £20m may be made available with a combination of Housing Revenue Account (HRA) borrowing, rent increases and use of reserves. This will be in addition to any income generated by the proposals set out in section 4.0 below. The exact ratio of each funding component is still to be determined and will be the subject of a further more detailed report to Services Committee as part of the Council's wider financial planning exercises due later this year.
- 3.7 The unknown and currently unmeasured component that will assist the provision of affordable housing generally is the income that can be raised selling sites, new houses or shares in new housing.
- 3.8 In my view, with a £20m limit and an ever increasing demand for social housing, the more private sector finance that can be attracted to the provision of new housing, the better. Similarly, in line with corporate strategies, the Council would want to see the maximum number of affordable houses (not just SIC houses) for any investment made.
- 3.9 Also in my view, the aim must be to secure private sector funding where practicable to do so and, then use up to the £20m available to SIC for the filling of any gaps in affordable housing provision. In other words and in my view, SIC must in the first instance facilitate the use of private sector funding to make the public money go as far as possible. These proposals would happen in parallel to the SIC development programme and so be an integral part of any developments.
- 3.10 In setting out the proposals below, members are asked to recognise that there will be a wide range of individuals with varying levels of skill, confidence, knowledge and resources to acquire their own home. If the Council does not exploit those opportunities to attract additional resources to their full potential, the burden will fall on the Council to directly fund council housing in its place. In short, if we fail to attract private funding, there will be less houses built in Shetland for a given amount of public funding
- 3.11 Indications from our colleagues with Hjaltland Housing Association (HHA), is that up to 25% (possibly more) of a development site might be taken up by those seeking to purchase sites. The proposals within this report are set in that context and seek to ensure that the opportunities for private investment are fully utilised.
- 3.12 The proposals set out below seek to capture and open up possibilities for all those seeking to acquire a new home. This will include those on lower incomes. This will also require recognition that the Council can alleviate, but not completely resolve the current housing crisis with Council housing on its own.

4 Private Sector Development Proposals

- 4.1 As a first principle, housing schemes will be designed to make a positive contribution towards achieving quality of life by using the principles of design set out in the Scottish Government guidance “*Designing Streets*”. The “*Designing Streets*” principle re-focuses on the place making functions, giving clear guidance on how to achieve well designed streets and spaces that serve a community in a range of ways.
- 4.2 Once the preliminary road layouts and site boundaries for each site are determined, using the principles set out in 4.1. above, advertisements will be placed for expressions of interest, offering the following options to the wider public:
- 4.2.1 An opportunity to purchase a serviced site and build a house of their own design subject to a satisfactory planning and building warrant approval. This leaves the prospective owner free to build a house of their own design using any resources they have available;
- 4.2.2 An opportunity to purchase a serviced site and build a house themselves using a variant of a SIC design bringing with it planning and building warrant approval. In this case, the Council has in any event, already incurred the cost of design but the purchaser will be able to save the cost of individual design fees and so make the house more affordable to them;
- 4.2.3 An opportunity to buy at cost a completed house built by SIC based on the SIC standard designs;
- 4.2.4 An opportunity to buy a share in a completed house built by SIC based on the SIC standard design. This would be similar to the shared ownership model operated by housing associations. A detailed example of how this might work is attached as *Appendix A*. The following criteria would apply:
- 4.2.4.1 In this scenario the purchaser/occupier will be allowed to purchase as large or as small a share as they can afford in multiples of thousand pounds;
- 4.2.4.2 Any rental due will be adjusted to take into account the percentage of the share/s. Sharing owners will be allowed to purchase an increase in their share at any point in time;
- 4.2.4.3 In the event that they wish to sell, this will be at a value decided by the district valuer. The Council will have the first option to buy the remaining share and acquire the whole of the asset. However, if the Council does not wish to purchase the house, the Council will receive any sale income in proportion to its share. Members should note that in a declining market there is a risk of selling at a loss in the short to medium term. However, most houses gain in value over a longer period;

- 4.2.4.4 The Council will be responsible for the maintenance of the property, as long as it has an interest. The sharing owner will be liable for maintenance costs at a rate proportional to their share. How this might be calculated is attached as *Appendix B*;
 - 4.2.4.5 In the event that the shared owner is unable to meet their financial commitments, their share will revert to the Council and their entitlement to occupation is converted to a standard SIC tenancy;
 - 4.2.4.6 In the event that banks are unwilling to lend in this scenario, the Council may wish to consider/reconsider the provisions of loans/mortgages for this purpose:
- 4.3 Subject to availability and eligibility of funding, anyone taking advantage of the offer/s set out in 4.2.1, 4.2.2 and 4.2.3 may also be able to claim a cash amount under the existing HHA assisted purchase scheme;
- 4.4 The value of sites and houses will be calculated and set to recover the return of all land acquisition costs, infrastructure, all administration (including any design work) and/or construction costs, but with no profit element, to encourage maximum take up of these options. Where land has been acquired in partnership with Shetland Leasing & Property (SLAP), the acquisition costs will include the necessary SLAP return on investment.
- 4.5 Any income received by SIC will be recycled back into the HRA housing investment framework to reduce the overall need for HRA borrowing. Thus, keeping the overall demand on rent to a minimum by allowing such income to be reinvested into further housing, without having to solely rely on rent increases for an equivalent amount of investment.
- 4.6 Contractors and Hjaltland Housing Association will be invited to purchase parcels of land for speculative housing or other compatible use development at a price calculated from the total development costs.
- 4.7 Further to 4.6 above and starting with the Horseshoe Close site at Virkie as a pilot, contractors will be invited to use their own expertise on a competitive basis to build new houses on parcels of land owned by the Council. The logic behind this approach is set out in further detail in *Appendix C* and 4.8 below. This process was discussed with the Dunrossness Community Council and their comments are attached as *Appendix D*. Using this process the Council's unit cost of direct capital investment per house completed, may be reduced.
- 4.8 Whether the houses are sold to persons on the waiting lists or persons from outside the area, or persons outside Shetland, the Council's corporate aims will still be met by increasing supply, encouraging settlement in rural areas and possibly increasing the population of Shetland in accordance with section 2 above. It is anticipated that this will work in the following way:
 - 4.8.1 The parcel of land will be identified, valued and awarded to the successful contractor, in exchange for new house/s received by the housing service. Thus, where the expected land value

exceeds the cost of building a new house/s, compensation will be in the form of land and not cash. However, where the land value is less than the construction cost of a single house, the Council would have to pay the difference, if it wanted a complete house;

- 4.8.2 Subject to planning and building warrant approval, the contractor will be free to design, build and sell as many houses as they think financially viable. The contractor can choose to use the existing SIC design/s if they so wish in order to save design costs and make any development more cost effective;
- 4.8.3 In return some of the houses sold should be at “affordable” prices. Affordable in this context will be defined by the Housing Needs Assessment Guidance (HNAG) and not the Scottish Planning Policy consultative draft. The HNAG contrasts the lowest 25% of incomes against the lowest 25% of property prices for a given year. This HNAG assesses the ability of first time buyers in the property market;
- 4.8.4 The expectation is that some of the houses built will be transferred to the Council’s housing service for use as Council housing. The compensation for these houses will be (in whole or in part), the land given over as a part of any transaction. In such cases the amount of cash required to secure the housing asset will be less than a compensation made up entirely of cash. Thus, making the cash go further. Or, put another way, any cash available can be supplemented by land value to secure more houses than the cash alone;
- 4.8.5 The Contractor will state any price difference between the value of the land and the cost of a new house/s that might be required to make the scheme work. Provided the value of the houses acquired by the Council, is equal or greater than the value of the land plus any payment, the project would remain viable;
- 4.8.6 The contractor winning the bid will be the one that is able to deliver the most housing units to the Council’s housing service, for the minimum amount of SIC investment. This investment calculation will take into account the land value and any other payment requirements;
- 4.8.7 There will also be a best value check to ensure that any payment required is less than the cost of SIC building such properties themselves. Any HRA capital funding unapplied under these proposals will be used in an alternative location to provide a housing asset for the money expended;
- 4.8.8 The end result of a successful pilot will be at least one house given over to the Council. SIC will be acquiring new houses and the consideration will principally be the land value instead of cash;

- 4.8.9 If this works, it should result in more houses for a given amount of capital outlay. While similar schemes have worked for other local authorities there are no guarantees it will work here. However, for a relatively small investment of staff time, the principle can be tested;
- 4.8.10 If the pilot does not work development can take place in a conventional manner:
- 4.9 The pilot in 4.8 will be reviewed by members on the Housing Policy Group. If the pilot in 4.8 is considered successful, it will be modified where required, replicated and repeated for other areas.
- 4.10 In all cases of sales, offers from SIC and/or contractors (see 4.8) will be made in the following priority order:
 - 4.10.1 Firstly, to existing SIC or HHA tenants from an area designated by SIC allocation policy as a high demand area. Thus freeing up a social housing asset for someone else in that high demand area;
 - 4.10.2 Secondly, to someone already on the SIC waiting list for the area offered with effect from today;
 - 4.10.3 Thirdly, to someone already on the SIC waiting list for another area with effect from today;
 - 4.10.4 Fourthly, to someone not on any waiting lists but able to demonstrate a local connection;
 - 4.10.5 Finally, to all others expressing an interest from within and outwith Shetland:
- 4.11 The Council will proceed with its plans to build new houses on all other remaining Lerwick and Landward sites, up to the residual value from the suggested £20m investment. Members should note that this £20m figure is used for planning purposes only and may change in the future as details are brought to Service Committee.
- 4.12 These proposals would supersede any earlier funding commitments to new build housing. However, it does not supersede the Council's commitment to the Strategic Housing Investment Partnership (SHIP).
- 4.13 Members should note that, any or all of these proposals may be unsuccessful or limited in their application. However, the extent of any such success cannot be measured by modelling and so it is my recommendation that we try these methodologies in the early stages of any development, before committing larger amounts of public funds towards the relief of the housing crisis.
- 4.14 Members should also note that if any of these proposals are taken up there will be some staff time deployed with the development of the detail for

administration, financial, legal and contractual elements. These cost will have to be at risk.

- 4.15 The initial cost of implementing these proposals will be met from existing HRA reserves currently identified for the provision of additional social housing. However, it should be noted that scheme design and some detailed design will be required in any event. Advance costs will be to cover the administration of these proposals in the preparation, advertisement and tender stages.
- 4.16 SIC will utilise its own staff where practicable to do so, to reduce the requirement for external consultants and associated cost.

5. Financial Implications

- 5.1 It is expected that the final cost to SIC of implementing the actions set out in this report will eventually be recovered from future sales and/or land transactions. It is further anticipated that, the actions set out in this report will generate some supplemental income that can be used in the future, to further alleviate the current housing crisis. However, some of this activity (e.g preparatory design work, preparation of advertisements and tenders) will have to be funded in advance and in anticipation of future income. This cost will only be recovered if / when there are private investors willing to purchase in whole or in part. Therefore, there is an element of risk in agreeing to the approach set out in this report. As stated in 4.15, the cost of implementing this approach will be met from the Housing Repair and Renewal Fund. As the detail of any offers is not yet known and cannot be calculated at this stage, this information will be reported back to services Committee at the earliest possible date. Any proposal to increase the Council's financial commitment to housing will involve making a judgement on the level of reserves to hold, the impact on rent levels of current tenants and the potential impact on other council services and plans. The £20m figure used in this report is for planning purposes only and is still to be determined and set by the Council in future financial planning reports. Individual schemes and the financial impact of each will be assessed as they progress.

6. Policy and Delegated Authority

- 6.1 All matters relating to Housing stand referred to the Services Committee in accordance with Section 13 of the Council's Scheme of Delegations. The Committee has delegated authority to make decision on matters within its remit for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

7 Conclusions

If the Council is able to stimulate the overall supply of housing in general and affordable housing in particular, the money remaining available for the

construction of council owned “social” housing will be directly and purposefully applied. As a result and assuming some level of income through sales, for every pound of public money ultimately invested, more houses will be available utilising private and public funding than if the Council alone was meeting the provision with public money only. Therefore, I can only conclude and recommend that increasing the overall number of houses produced in Shetland for the same amount of public money must represent the best value option.

8. Recommendations

- 8.1 I recommend that Services Committee consider the proposals in section 4 of this report.
- 8.2 I further recommend that, Services Committee amend the proposals where they think necessary and authorise the Head of Housing to adopt these development proposals, reporting back to Services Committee as work proceeds.

Date: 3 September 2009
Our Ref: CM/LJ

Report No: HS-11-09

Appendix A

Calculation of rent in shared ownership

In this scenario:

1. The value of the property at the time of initial share purchase will be the total development cost. This will be to the nearest £000;
2. The rent for a similar sized property without any share ownership will be in accordance with the prevailing SIC rental policy;
3. The share purchased will be a percentage of the valuation (development cost). For example if a property is valued at £80k and a person can afford a share of £20k, they will have a 25% share. The £20k will be received as income to the Council;
4. Thus, the rent that they might have paid will be reduced by a corresponding £25%. For example, if the rent is £60 per week and the tenant has purchased a 25% share, the rent due will be reduced by 25% and so be £45 per week;
5. If at some point the tenant can afford to purchase a larger share, the level of rent payable will be reduced again by a proportional amount. For example, if the tenant can afford to purchase a further £10k share, the total share will be £30k which is 37.5% of the original valuation. The rent will be adjusted by a proportional amount. Thus, if the rent is £60 per week, it will be reduced by 37.5%. This will give a figure for rent due of £37.50 per week:

Appendix B

Maintenance calculation in shared ownership

1. In principle, this will be similar to leasehold charges used in England & Wales. The main aim is to ensure that the property remains in good order for the duration of its life cycle and as long as the council has an interest. As facilitator of this arrangement, the Council will take the lead in ensuring that the property is properly maintained to a standard expected by the Council to protect its own investment.
2. This will include the cost of replacing components such as bathrooms, windows, roofs etc as and when they become due for replacement. The replacement period and estimated cost (at base prices) will be made available to the shared owner in order that they can prepare for such costs as they become due. Prices due will be actual costs in the year of replacement and not a percentage of the original estimate.
3. If a share owner can procure the same specification of work for a lower price, they can advise the council and the council can pay its share to the share owner instead.
4. Responsive repairs will be provided for shared owners in the same way that repairs are carried out for tenants. The difference will be that the cost of such repairs will be calculated and passed to the share owner as a recharge.
5. As a part of the legal agreement between the parties, the person/s with the share will be contractually bound to pay a share of any maintenance costs. This includes both planned and responsive repairs. The amount will fall due as the expense is incurred by the Council. As in appendix A, the share due will be a reflection of the share owned. For an example, if a 25% share is owned, the share owner will be responsible for paying a 25% share of any maintenance costs. The remaining cost will be met from the residual rental income received.
6. Any money due to the Council will be recovered through the Council's debt recovery team. Naturally, those considering shared ownership should not enter into this contractual arrangement unless they can meet their legal requirements.
7. As stated in 4.2.4.5 of the main report, if a shared owner is unable to meet their financial commitments, their share will revert to the Council and their entitlement to occupation is converted to a standard SIC tenancy.

Appendix C

Stimulating supply of low cost homes (as set out in 4.6 of the main report)

1. It remains the case that, in some areas of Council house demand, there is a shortage of low cost houses available for everyone that might want one. This results in individuals capable of purchasing their own affordable home if there was any available. Instead, these same persons apply for a Council house as the only means available locally to secure a home of their own.
2. In these cases, where a low cost home appears on the market it is sold but there may be many others who would have bought the property. Thus, those unsuccessful prospective purchasers that want to continue living in a particular area might have their aspirations for home ownership frustrated. The alternative for them is to move to another area if there is something in their price range.
3. Those persons that might be able to afford the purchase of a property but are met with a short supply, or higher prices, may then apply to the council's waiting lists for an affordable house in their area of choice. This places a greater demand on Council waiting lists, than might be expected if more affordable housing was available for sale in a particular area. Thus creating an increased demand for council housing that might be avoided if there was enough affordable homes for sale. This increased demand might be avoided or mitigated by stimulating private sector development.
4. The purpose of this pilot approach is to remove the distinction between affordable houses provided by the private sector and affordable houses provided by the local authority. The method is to provide a target number of "affordable" houses in a particular area. In this way, in areas where the supply of affordable housing is low, the overall supply will increase. This means that houses will be made available that might otherwise not be available.
5. By stimulating housing supply in this way, the persons eventually occupying such houses will have no need for Council housing which might otherwise be their only opportunity of securing accommodation at a price they can afford, thus making it **affordable** to them. Affordable in the context of this approach is defined by the Housing Needs Assessment Guidance (HNAG) and not the Scottish Planning Policy consultative draft. The HNAG contrasts the lowest 25% of incomes against the lowest 25% of property prices for a given year. This HNAG assesses the ability of first time buyers in the property market.

6. So, how would this work? The thinking behind this approach is set out as follows:
- a. The Council (including the HRA) might be sat on unused land, achieving nothing;
 - b. The land will have some sort of commercial value and this will vary depending on the area;
 - c. The Council could use its capital resources to build houses on the land and rent them to waiting list applicants;
 - d. This means those same capital resources have an opportunity cost. In this case, reducing the amount available for housing in other areas where the demand and supply problem is not the same;
 - e. Alternatively, the council could invite contractors to bid and build “affordable” houses. Some of those houses might be used by the Council for renting, some might be sold.
 - f. A business case will have to be developed by bidding contractors to build houses and sell some of them at an affordable cost defined and set by the council (as set out in 5 above);
 - g. In some case a subsidy might be required as the difference between a viable project and an unviable project. This will be determined by analysis of the business case for each bidding contractor;
 - h. Successful contractors will find their own capital to build such houses and recover their outlay through sales;
 - i. The same business case will seek to supply as many houses as possible for the Council on a given site using the sales to support such activity;
 - j. To facilitate this process, the Council will transfer the land at no cost to the contractor;
 - k. This allows the contractor to keep the overall cost as low as possible as there will be no land acquisition costs for them;
 - l. In return and on completion of a successful transaction the Council will have acquired at least one property and possibly more;
 - m. Similarly, those purchasing the houses will either come off the existing waiting list or not need to come onto the waiting list at some point in the future;
 - n. Therefore, the Council will have acquired at least one property and facilitated the supply of genuinely affordable housing in the target area;
 - o. The cost to the council will be the value of the land plus any subsidy required.
 - p. Provided the cost of the Council building houses is equal or greater than the land value plus any subsidy, the Council will be realising some of its strategic housing objectives with a reduced capital outlay;
 - q. Naturally, any business case submission not meeting the criteria above will be considered not viable and not proceed:
7. In summary, the Council will be acquiring new houses and the consideration will principally be the land value instead of cash. The benefit to the community is people living in their area of choice at a price they can afford, leaving the council housing for those that need it and are unable to buy. Therefore, the remaining capital that is available can be used elsewhere and the Council might have more properties in total for a given capital expenditure.

09/25 PUBLIC HOUSING PROVISION

The Chairman welcomed Chris Medley, Head of SIC Housing, to the meeting. Mr Medley reported that the number of people on the housing waiting list has recently passed 1000 (12% of the Shetland population) and there is quite a sizeable waiting list for Virkie and the south end. It is believed, however, that there are a number of individuals on the housing list who are willing to buy a house or a plot of land to build their own if either of these options were to be available at an affordable price. Mrs Mainland enquired how many Council Houses there are in the Dunrossness area. Mr Medley stated that there are currently less than 2000 over the whole of Shetland but that he did not know the exact numbers for Dunrossness off hand. Very little money comes from central government for housing provision and this is unlikely to change in the near future, therefore, any solution to the lack of public housing in Shetland will have to be a local one.

09/25

09/25 PUBLIC HOUSING PROVISION (Continued)

The Council has stated that there could be up to £20 million set aside for housing provision although no decision has been made yet as to where this money will be found. Mr Medley reported that he is to 'take his thoughts' on the housing shortage problem to the Services Committee and that the aim would be to make more affordable housing available in Shetland without spending all the available Council money solely on houses for rent as this would restrict the number of houses that could be afforded to be built. Therefore, his thoughts on how to tackle this problem at present are as follows:

Option 1: SIC offers council owned building plots to those on the housing waiting list

Option 2: SIC builds houses and then makes them available for purchase, at cost, to those on the housing waiting list

Option 3: SIC builds houses at a cost of £80,000, for example, with the option for those on the housing waiting list to buy a half share with a further option to buy a bigger share when they can afford to.

Option 4: All three of the above but offered at a discount to give current council house tenants an incentive to buy and therefore free up a council house.

Option 5: A pilot project building houses behind Horseshoe Close. It is anticipated that the plot, already owned by SIC, could accommodate 10 to 12 houses although only 4 would be built at present due to financial constraints. This plot should be able to be developed at a reasonable cost as it is within a suitable zone and all the necessary services are in close proximity. Mr Medley suggested that incomes and house prices in the area could be considered to ascertain what would be a reasonable price for a first time buyer to pay for a house. Contractors would then be consulted as to whether they could provide houses at this price with the land being provided by the Council. The provision of the land would therefore pay for the contractor to provide a few houses (probably in the region of 2) for the Council. The contractor who could offer the best value for money would be awarded the contract and land. It would be proposed that the houses would be a mix of rental/shared ownership/bought.

Mr Mainland enquired if the houses would be offered to the open market or to people on the housing waiting list. Mr Medley stated that this was still open for discussion but that he would prefer if they were offered to those on the waiting list, and in particular locals, although this would have to be considered carefully in case of any legal implications.

Mr Medley stressed that these options are still only 'thoughts' on how to relieve the current housing problem and would have to be put to both the Legal and Finance departments for their approval.



REPORT

To: Services Committee

3 September 2009

From: Head of Housing

Report No: HS-13-09

Consultation on Forthcoming Housing (Scotland) Bill

1. Introduction

- 1.1 On 27th April 2009, the Scottish Government published a consultation paper on the forthcoming Housing (Scotland) Bill. The closing date for submission of comments was set for the 14th August 2009.
- 1.2 This report asks Services Committee to note the content of the draft consultation document and ratify the draft response given in August 2009.

2. Links to Corporate Priorities

- 2.1 Increasing housing supply is highlighted in the Corporate Plan under the Sustainable Society section. The Council has set priorities and targets for increasing housing supply and have agreed indicators for this in the Single Outcome Agreement. The proposals within the Housing (Scotland) Bill may increase overall housing supply.

3. Background

- 3.1 The documents issued by the Scottish Government for consultation on the Housing (Scotland) Bill are attached as *Appendix A*.
- 3.2 This consultation was issued on the 27th April 2009 and a closing date set for the 14th August 2009.
- 3.3 The main points of the Housing (Scotland) Bill are, reform of Right To Buy (RTB) for new tenants, devolved authority for designation of pressured area status, changes to the housing regulation regime and other matters relating to Registered Social Landlords (RSL's).
- 3.4 The Head of Housing was unable to prepare a draft response before the last Services Committee. As a result, the Chairperson of Services Committee was consulted and it was decided to take the following actions:

3.4.1 Head of Housing to prepare a draft response;

3.4.2 The draft response to be circulated to all Council members for comment;

3.4.3 Subject to comment following 3.4.2, the draft response to be issued to the Scottish Government to meet their 14th August 2009 deadline. This is to include comment to confirm that the response document is still to be ratified by Services Committee.

3.5 A copy of the draft response is attached as *Appendix B*. In consultation with the Chairperson of Services Committee, this draft response was sent to the Scottish Government on the 14th August.

3.6 The Services Committee is asked to consider and ratify the draft response submitted earlier to the Scottish Government.

4. Financial Implications

4.1 There are no direct financial implications arising from this report. However, if enacted the proposed changes to RTB will change the cash flow of the HRA and the HRA capital programme. This will required detailed planning and reporting into the future.

5. Policy and Delegated Authority

5.1 All matters relating to Housing stand referred to the Services Committee in accordance with Section 13 of the Council's Scheme of Delegations. The Committee has delegated authority to make decision on matters within its remit for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

6 Conclusion

6.1 The proposed changes to RTB will have a longer term impact on overall housing supply. However under current proposals, the vast majority of existing tenants will retain RTB and so there is unlikely to be a short and medium term improvement in housing availability. Proposed changes to designation of pressured areas might suspend RTB for some tenants and have a short term effect. Changes to future regulation of Housing Services as proposed should be an improvement over current arrangements.

7 Recommendations

7.1 I recommend that Services Committee note the content of the proposed Housing (Scotland) Bill and ratify the draft response submitted in August 2009.

Date: 3 September 2009

Our Ref: LJ/CM

Report No: HS-13-09

Draft Housing (Scotland) Bill: a consultation

Draft Housing (Scotland) Bill: a consultation

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Foreword



The deepening economic downturn has shown the importance of social housing in providing families with a secure and sustainable alternative to home ownership. It also threatens to add to the already high levels of demand for that housing. So it is more important than ever that the social housing sector can thrive and meet the housing needs of existing and future tenants.

From the outset, this Government has worked to reinvigorate social housing. **Firm Foundations**, our consultation paper on the future of Scotland's housing, recognised that only communities with a proper mix of tenures can be genuinely sustainable. It included proposals for a reinvigorated social housing sector to be part of that mix.

We have made good progress in implementing these proposals and in responding to the impact of the economic downturn on our ambitions for social housing:

- We are investing a record £1.5 billion in affordable housing over three years, most of it targeted on social housing.
- We have brought forward £120 million from the affordable housing budget to speed up provision of affordable family homes, including social housing, and to support activity and employment in the construction industry.
- We have broken with the policies of previous administrations by providing £50 million to kick-start a new generation of council-house building.
- Last December, we published proposals to increase the supply of new social housing through investment reform.

In this consultation paper, we explain how we plan to make further progress through introducing in the Scottish Parliament a Housing (Scotland) Bill that will secure the future of social housing by:

Draft Housing (Scotland) Bill: a consultation

- safeguarding social housing for the use of future generations through reforms to the Right to Buy social housing; and
- improving value for tenants and taxpayers by modernising the regulation of social housing.

We use the term ‘social housing’ throughout this paper. It is a widely recognised shorthand for the housing provided by councils and registered social landlords. But to many it has divisive undertones that are at odds with our vision of sustainable communities comprising a mix of tenures, all of which are valid and valued means of meeting housing need. To help reinvigorate social housing, we want to find a new term for it, and as part of this consultation we invite suggestions for such a term.

In line with the Concordat between the Scottish Government and the Convention of Scottish Local Authorities (COSLA), we have discussed with COSLA the proposals in this paper.

In recent months, we have shown our determination to use in full the powers of the Scottish Government to tackle the immediate problems arising from the current difficult economic climate. In bringing forward a draft Housing Bill now, we are showing our commitment to the future of social housing and acting on our belief that a reinvigorated sector will be able to serve the needs of families well beyond the current crisis. We are also considering whether to include in the Bill a range of provisions about private housing. We will consult stakeholders separately on these during the summer before deciding whether it is appropriate to include them in the Bill.



Nicola Sturgeon MSP
Deputy First Minister and Cabinet Secretary for Health and Wellbeing

Contents

	Page
Executive summary	4
Introduction	8
Part 1 – Reforming Right to Buy	
1.1 Background	12
1.2 The need for change	12
1.3 Progress since Firm Foundations	13
1.4 Ending the Right to Buy for new supply social housing	15
1.5 Ending the Right to Buy for new tenants	17
1.6 Reforming pressured-area designations	18
1.7 Developing guidance for RSL applications to extend the ten-year suspension	20
1.8 Revising guidance on landlords' continuous occupation discretionary powers	21
Part 2 – Modernising regulation	
2.1 Introduction	23
2.2 Purpose of a modernised regime	25
2.3 Modernising regulation – overview	28
2.4 Streamlining regulation of social landlords	29
2.5 Finding another term for 'social housing'	30
2.6 The Scottish Social Housing Charter	31
2.7 Status of the Scottish Housing Regulator	33
2.8 Regulator's objective to safeguard and promote tenants' interests	34
2.9 Scottish Housing Regulator and other housing services	35
2.10 Measuring performance and value and encouraging improvement	35
2.11 Inquiries and information	37
2.12 Scottish Housing Regulator's intervention powers	39
2.13 Securing the financial viability and good governance of RSLs	39
2.14 Setting and applying regulatory criteria for those seeking to become RSLs	43
2.15 Constitution, rule changes, amalgamation and dissolution of RSLs	44
2.16 Disposal of land by RSLs	45
Part 3 – draft Housing (Scotland) Bill	
Annex A – draft equalities impact assessment	
Annex B – partial regulatory impact assessment	

Executive summary

This consultation paper sets out, and seeks your views on, proposals for a Housing (Scotland) Bill that we plan to introduce in the Scottish Parliament in 2010. To help inform your views we have included at Part 3 of this paper a draft Housing (Scotland) Bill which would give effect to most of our proposals.

Our proposals aim to help reinvigorate social housing by safeguarding it for future generations and improving the value that tenants and taxpayers get from it. Part 1 of the paper describes how we propose to achieve the former aim by reforming the Right to Buy social housing. Part 2 describes how we would achieve the latter aim by modernising the way social housing is regulated. Subject to the outcome of separate consultations on other aspects of housing policy, the Bill that we introduce in the Scottish Parliament might be expanded to include other matters.

Part 1

In this part of the paper, we outline a package of reforms to the Right to Buy (RTB). If implemented in full, we estimate that between 2012 and 2022 the reforms would retain in the social housing sector between 10,000 and 18,000 houses that otherwise would be lost through RTB.

At the heart of the reforms is our proposal to end RTB on new supply social housing. This featured in **Firm Foundations**, our discussion document on the future of housing in Scotland. In view of the near-universal support for this reform, we promised to propose legislation for it. Part 10 of the draft Bill shows how we propose to do so through an amendment to the existing law on RTB, so that housing which section 109 defines as ‘new supply social housing’ would not qualify for RTB.

Many respondents to **Firm Foundations** also argued for farther-reaching reforms. So we have discussed with stakeholders the scope to introduce such further reforms and have identified several, some of which would not require legislation. We will decide whether to proceed with each of them, introducing legislation as necessary, in light of your responses to this consultation. The other reforms would be as follows:

- **Ending RTB for new tenants.** While not affecting the entitlements of existing tenants, this would mean that in general those becoming tenants for the first time, and those returning to social housing from other tenures, would no longer be entitled to RTB on any social housing. Were we to proceed with this, we would do so through provisions in the Housing Bill.

Draft Housing (Scotland) Bill: a consultation

- **Reforming pressured-area designations.** This would extend the scope of the pressured-area designation process by increasing the maximum period of a designation from five to ten years and by allowing particular types of housing, as well as areas, to be designated. It would also have the effect of making local councils responsible for designating pressured areas. We would proceed with these reforms by amending existing legislation on pressured areas.
- **Developing guidance for RSLs seeking extensions to the ten-year suspension on RTB.** RSLs are able to apply to Ministers to extend beyond 2012 the current suspension of RTB on their properties. We propose to develop new guidance for RSLs to use if they wish to make such applications. This guidance would be underpinned by criteria that reflect the importance of meeting housing need and safeguarding stock and take account of the effect of RTB on a landlord's ability to pay for other policy priorities. This would not need more legislation.
- **Revising guidance on landlords' continuous occupation discretionary powers.** This would encourage landlords to use their discretionary powers more widely to disregard short breaks between tenancies when the breaks are outwith the tenant's control. This should enable ex-service personnel to count the time they spent in armed forces tenancies towards their RTB qualifying period and their discount entitlement once they enter the social rented sector. This would not need more legislation.

Part 2

In this part of the paper we outline proposals for modernising the regulation of social housing to focus the efforts of social landlords on:

- **meeting tenants' priorities;**
- **continually improving performance and value; and**
- **commanding the confidence of public and private investors in social housing.**

The modernised regime would be based on our principles for improving and streamlining scrutiny in general. It would provide clarity of purpose for social landlords and would continue to provide independent assurance that landlords were giving their tenants good service. It would also continue the move away from inspection-based regulation towards greater use of other regulatory tools such as the Best Value regime and self evaluation. The changes would require a new legislative framework to replace the one for regulating local authority landlords and RSLs in the Housing (Scotland) Act

Draft Housing (Scotland) Bill: a consultation

2001. However, some of that Act's provisions, either in their current form or amended, would be part of the new legislative framework.

The draft Bill shows how the new legislative framework could include provisions for a modernised Scottish Housing Regulator (SHR) to be responsible for regulating the performance of local authority landlords and RSLs on the basis of a risk-based and proportionate approach. We invite views on whether there is scope to take this approach further. We note also that the term 'social housing', though widely recognised, has negative connotations for many and we wish to invite suggestions for a new term.

Under the draft Bill, these would be the key features of the new legislative framework:

- **The Scottish Social Housing Charter.** Sections 29-31 would enable the Scottish Parliament to approve a Scottish Social Housing Charter. We propose that the Charter would state the value – in terms of the outcomes and standards – that social landlords and homelessness services should be delivering for their tenants and other service users. Some of these outcomes and standards could be national requirements on all social landlords, but the Charter could also require individual landlords to set local outcomes or standards after consulting their tenants and in light of local circumstances and priorities (and, in the case of council landlords, in line with their Single Outcome Agreements). We would develop the Charter's requirements in consultation with tenants, landlords, lenders and other stakeholders. We would then submit the Charter to the Scottish Parliament for its approval. If approved, the Charter would have legal effect.
- **A modernised Scottish Housing Regulator.** Taken together, parts 1, 3, 4 and 5 of the draft Bill would modernise the SHR by giving it (a) statutory operational independence under its own Board; and (b) the objective of safeguarding and promoting the interests of tenants and future tenants of council landlords and RSLs and of people using homelessness and other housing services. The modernised SHR would have a range of functions which would enable it to achieve its objective proportionately, accountably and transparently. Its main functions would be to:
 - o assess and report on landlords' performance against the Scottish Social Housing Charter and if necessary enforce compliance with the Charter;
 - o undertake a range of inquiries, including planned inquiries (for example into individual landlords, councils' homelessness services, groups of landlords, or particular themes) and unannounced inquiries;

Draft Housing (Scotland) Bill: a consultation

- o require improvements in the performance and value that landlords give their tenants and that councils give homeless applicants;
 - o intervene where individual landlords perform poorly;
 - o monitor and safeguard the financial health and good governance of RSLs.
- **Safeguards for RSLs and their tenants.** Part 1 of the draft Bill includes the functions of monitoring and safeguarding the financial health and good governance of RSLs. Parts 2 and 5-9 of the draft Bill would give the SHR a range of additional specific functions in relation to RSLs only. Part 2 would require the SHR to continue registering RSLs against criteria that it would set. It would also give Ministers a new power to specify which types of body the SHR could register, so that if they thought it would help to improve the supply of social housing, they could permit bodies not currently eligible for registration to become eligible. We recognise that many of the rules relating specifically to RSLs are complex and technical. We want to make sure they will serve their purpose of safeguarding the viability and good governance of RSLs. So we propose to convene a working group, whose members will include representatives of RSLs and their lenders, to consider how to improve these parts of the Bill before it is introduced in the Scottish Parliament.

Conclusion

The consultation on the draft Housing (Scotland) Bill is your opportunity to influence our plans for legislating to support and encourage a reinvigorated social housing sector. You can contribute by responding to the questions that follow the descriptions of our proposals at Parts 1 and 2 of this paper and are listed in the questionnaire that comes with the paper. The questionnaire also tells you how you can respond. The deadline for responses is Friday, 14 August 2009.

Introduction

Housing and the current economic climate

At this time of economic difficulty and uncertainty governments must move quickly and decisively to protect jobs and investment. The Scottish Government is pulling all the levers at our disposal to protect families, businesses and employment in Scotland.

Action on housing policy has been at the heart of our response. We have acted swiftly and decisively to help the housing market, house-building, homeowners and households. We recognise the importance of meeting housing need and demand, preventing homelessness, and the contribution that the construction industry makes to Scotland's economic prosperity.

As a key part of that action we, with our local government partners, have brought forward £120m of our investment in affordable housing, speeding up the provision of much-needed homes and helping to maintain activity and employment in the construction industry. We have already announced the allocation of the full £40m for 2008-09 and have built the £80m accelerated spending into our announced programme for 2009-10.

We have extended the Open Market Shared Equity Scheme across all of Scotland, with a £60m budget next year to help more families to buy and so help to stimulate the lower end of the housing market. And we have made great progress with our plans to kick-start a new generation of council-house building.

We have also taken several important decisions to support those at risk of losing their homes as a result of the economic downturn. Our new Home Owners' Support Fund, backed by £35m of funding, will help people at risk of repossession to stay in their homes. And we have made an extra £3m available over two years to expand our In-Court Advice and other services, provided a further £1m to expand Citizens Advice services, and amended the legal aid criteria to ensure that a million more people will be eligible to access legal aid this year to protect their rights.

That represents just some of the action that we are taking at this difficult time. In the context of the tightest financial settlement since devolution, and the limits of our powers, this Government is doing everything it can to make a difference for the people and businesses of Scotland.

However, in addressing the immediate pressures of the downturn, we keep sight of the need to press ahead with the reforms necessary to reinvigorate social housing and make sure it can continue meeting the housing needs of

Draft Housing (Scotland) Bill: a consultation

a quarter of Scottish households in the long term. These reforms are the subject of this paper.

Overview of proposed reforms

In **Firm Foundations** we outlined how reforming the law on Right to Buy (RTB) and modernising regulation could help to reinvigorate social housing. We set out now our proposals to introduce legislation that delivers these reforms.

To illustrate how we might implement our proposals, we have prepared a draft Bill that would achieve our original commitment to end RTB on new social housing and create a modernised regime of regulation.

We are also responding to the groundswell of opinion pressing for further amendments to RTB by outlining other changes we might include in the Bill when it is introduced in the Parliament:

- ending RTB for new tenants; and
- extending and devolving the process of designating pressured areas.

In addition, we outline proposals for:

- developing new guidance to support RSLs in applying to extend the current Right to Buy suspension beyond 2012; and
- revising existing guidance on landlords' continuous occupation discretionary powers, particularly as they affect ex-service personnel.

Our proposals for modernising regulation rest on two pillars:

- a Scottish Social Housing Charter that will set out the standards, levels of service and other outcomes that social landlords must deliver for their tenants; and
- a modernised Scottish Housing Regulator with statutory operational independence and the objective of safeguarding and promoting the interests of current and future tenants.

Relationship to the Government's purpose and national outcome

Social housing provides a secure and sustainable alternative to home ownership for over 600,000 households across the country. Our proposals would safeguard this valuable national asset for the use of current and

Draft Housing (Scotland) Bill: a consultation

future generations and ensure that it is managed and maintained efficiently for their benefit and that of taxpayers.

This would contribute towards the Government's purpose in the following ways:

- Reforming RTB would help to build strong, resilient and supportive communities by safeguarding and improving the supply of rented housing for those who need it. In particular, it would encourage councils to build new houses, so supporting our £50m initiative to encourage a new generation of house-building.
- Modernising regulation would help to provide public services that are high quality, continually improving, efficient and responsive to local people's needs. It would do this by focusing social landlords' efforts on meeting the priorities of tenants; continually improving performance and value; and commanding the confidence of public and private investors in the sector.

The consultation

The draft Bill contains provisions to end RTB on new social housing and create a modernised regulatory regime. The provisions are set out below to inform your responses to this consultation. We want to know whether you agree with what we are trying to achieve through them and also whether you think they will achieve what we claim for them. We will amend them to take account of your responses before introducing the Bill in the Scottish Parliament. These amendments will take account of your comments on our proposals for further reform of RTB, which are not included in the draft Bill at present.

Certain issues about private housing – both rented and owner-occupied – may also be worth addressing in primary legislation. These relate to:

- the policy implications of the Scottish Government Review of the Private Rented Sector, which was published on 24 March;
- the possibility of strengthening and clarifying the powers councils already have to deal with bad private-landlord practice; and
- matters that have emerged in preparing to implement local council powers in the Housing (Scotland) Act 2006 to deal with sub-standard private housing.

We are considering the possibility of covering these issues in the Bill and, during the summer, will consult relevant stakeholders separately on possible policy proposals. That consultation will help us to decide which, if

Draft Housing (Scotland) Bill: a consultation

any, of the proposals to include in the Bill. Some issues may be dealt with by guidance, for example, rather than primary legislation.

If we decide to include any of the proposals in the Bill, we will consult key stakeholders on drafting proposals before introducing the Bill.

Part 1 – Reforming Right to Buy

1.1 Background

Right to Buy (RTB) dates back almost 30 years, but in its current form derives from the Housing (Scotland) Act 1987 ('the 1987 Act'), which was later amended by the Housing (Scotland) Act 2001 ('the 2001 Act'). In general terms, the 2001 Act 'preserved' the RTB entitlements of existing tenants and introduced 'modernised' RTB entitlements for new tenancies that started on or after 30 September 2002. To help set our proposals for reform in context, we offer a brief summary of the main elements of the current arrangements.

'Preserved' Right to Buy entitlements

Tenants who have RTB entitlements over their current house that date from before 30 September 2002 can buy after a two-year qualifying period with relevant landlords. For houses their discount starts at 32 percent of the market value, rising by 1 percent a year up to a maximum of 60 percent. For flats their discount starts at 44 percent of the market value, rising by 2 percent a year up to a maximum of 70 percent.

'Modernised' Right to Buy Entitlements

Tenants who gained the right to buy on or after 30 September 2002 can buy after a five-year qualifying period with relevant landlords. Their discount starts at 20 percent of the market value after those five years and rises by one percent a year for all house types, up to a maximum of 35 percent or £15,000, whichever is the lower.

Under current arrangements some tenants of social landlords have no RTB entitlements (for instance if they live in group housing or their landlord has charitable status) or have had their RTB entitlements suspended (for instance by the ten-year suspension or a pressured-area designation). All possible factors that may affect a tenant's RTB entitlement can be found in sections 61 to 84A of the 1987 Act. Existing exemptions and limitations will continue to remain in force as they currently stand unless any of our proposals to reform them are adopted.

1.2 The need for change

Since its introduction RTB has resulted in the sale of about half a million properties. It has been a key reason for the marked change in the tenure mix of housing in Scotland in that period. More than 67 percent of Scottish households are now owner-occupiers - almost double the proportion of owner-occupation before RTB came in.

Draft Housing (Scotland) Bill: a consultation

We recognise that RTB has brought certain advantages. It has extended the benefits of home ownership to many families. And in many cases it has helped to create communities that are more mixed. However, it has also had disadvantages, chiefly that of removing properties from the social rented sector and so reducing the number of homes available for social rent. As a result, prospective tenants, many of whom are homeless, must wait longer for properties to become available.

We want to reform RTB to strike a better and fairer balance between tenants who wish to own their own home and the needs of prospective tenants for social rented accommodation.

In **Firm Foundations** we proposed

- exempting new build social housing from RTB; and
- varying RTB discounts by (a) locality or (b) type of property, or both.

The proposals aimed to safeguard newly-built social housing from purchase and to bring more local flexibility to RTB policy.

There was a strongly positive response to the proposal to exempt new social housing from RTB. Our analysis of responses showed that most people saw exemption as important in keeping good quality stock within the social rented sector and in removing an existing barrier to the development of new social housing. However many people believed this measure would have only a limited impact in safeguarding the stock of social housing, and that we should introduce a wider range of exemptions, or even a complete end to RTB.

1.3 Progress since Firm Foundations

In light of the clear response to **Firm Foundations**, we confirmed that we would legislate to exempt new social housing from RTB. We also announced that we would examine further options for using reform of RTB to safeguard social housing, but not at the expense of removing existing RTB entitlements.

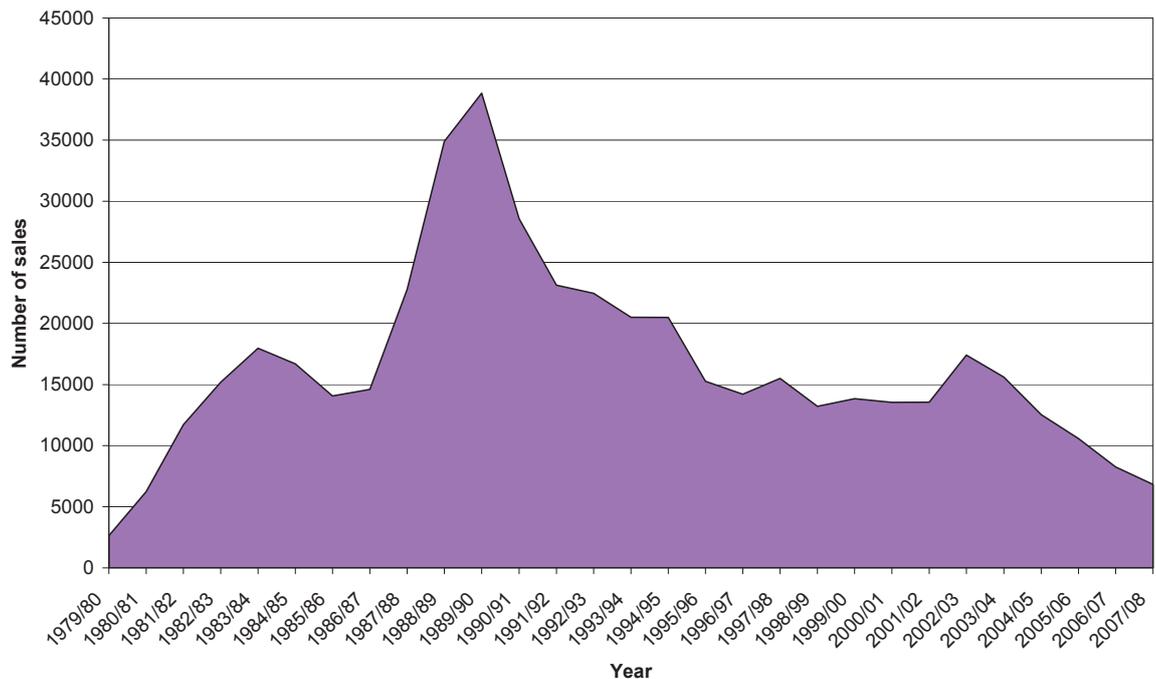
As part of this process we sought the views of key stakeholders - COSLA, the Scottish Federation of Housing Associations (SFHA), Shelter and tenants' groups. The key messages from stakeholders were that we should further restrict RTB and should explore the possibility of devolving policy decision-making to the local level.

We also assessed how possible changes to the RTB might affect the number of sales in the future. Chart 1 shows the number of houses sold under RTB since 1979-80. Sales fell from their peak in 1990, with a slight

Draft Housing (Scotland) Bill: a consultation

rise in 2003, marking a surge before modernised RTB entitlements were introduced. Sales have been falling mainly because most tenants who want and are able to buy have already done so. The shortage of mortgages resulting from the current credit crunch and the less generous modernised RTB entitlements are likely to further depress sales levels over the short term.

Chart 1. RTB sales in Scotland between 1979-80 and 2007-08



Source: Housing Statistics Branch, Scottish Government.

Against that background, we estimate there would be between 46,000 and 84,000 sales in the period 2012-2022 were the current RTB policy to remain unchanged. The range of our estimate reflects uncertainties about how the current economic downturn may affect future housing market conditions and sales. Bearing in mind these uncertainties, we estimate that the full package of the reforms that we outline below could reduce sales by about 20 percent. Therefore, depending on how the economy fares and its impact on future housing conditions, our reforms could mean we retain an extra 10,000 to 18,000 homes for social rent between 2012 and 2022. Also, RTB has in the past discouraged councils from building houses. Reforming RTB represents an important part of our initiative to encourage new council-house building and retain these properties for future generations of tenants.

We recognise that our proposed reforms would affect social landlords' (particularly councils') financial position. The main effect over the short term would be a fall in income from sales receipts. However that would be offset over the longer term by the continuing rental income from properties that might otherwise have been sold.

Draft Housing (Scotland) Bill: a consultation

We know that social landlords use some of the income from RTB sales receipts to fund improvements to existing stock, often to bring properties up to the Scottish Housing Quality Standard by the target year of 2015. Our modelling indicates that these reforms will not greatly affect social landlords' capacity to invest and that uncertainty associated with current economic conditions is likely to have much more effect. However, because investment capacity varies considerably between social landlords, we are keen to hear their views on how our proposed reforms would affect them, and invite them to answer the following **question**:

1.1 What financial impact would our proposed reforms to RTB have on social landlords, particularly over the longer term? And what steps could landlords take to mitigate this?

1.4 Ending the Right to Buy for new supply social housing

Section 109 of the draft Bill would achieve our aim of ending RTB on new social housing by amending how the existing law on RTB applies to housing let under a Scottish secure tenancy (SST) (the form of tenancy under which councils and RSLs rent out most social housing).

For section 109 to work fairly and effectively, it must include a clear definition of what we mean by 'new supply social housing'. It would work in two ways to identify houses let under an SST that are to be considered 'new' and therefore not eligible for RTB.

Principally, it would end RTB on housing let under an SST for the first time after the date on which the section comes into force (the start date). In effect, we are proposing that the primary definition of new supply social housing should be housing first let as social housing (that is, under an SST) once section 109 has come into force.

This would mean that people becoming tenants in such housing after the start date would not be entitled to RTB for such housing. It would ensure that housing being rented as social housing for the first time once the section came into force would always remain available for renting as social housing. This would include newly built houses and also newly acquired houses being rented as social housing for the first time.

We also propose, in some circumstances, to safeguard social housing first let on an SST after 25 June 2008 (the date of the Parliamentary announcement that we would legislate to end RTB on new social housing). This would mean that people who took up tenancies in new social housing after 25 June 2008, but before the start date for section 109, would keep their RTB entitlement over those properties. However, if they move without

Draft Housing (Scotland) Bill: a consultation

exercising their RTB and the house is let again after the start date, the new tenant would have no RTB entitlement over that property. So, after the start date people who became tenants of housing that was first let under an SST after 25 June 2008 would have no RTB over those properties.

We believe that this approach to defining new supply social housing in these two ways would increase the amount of social housing that could be safeguarded for future generations without infringing the entitlements of existing tenants.

Adding to the safeguards for existing tenants, section 109 also provides that a tenant of a new supply social house would be entitled to buy it if:

- their landlord has required them to move to a new supply social house under any of the circumstances listed in paragraphs 9 to 15 of schedule 2 of the 2001 Act (one example is if their current house is to be demolished); or
- the landlord did not inform them within the set timescale that they would not have RTB over the new house they have been offered for rental.

Also, where a tenant who was entitled to RTB moves first to new supply social housing (over which they would not have any RTB entitlements) and later moves to a second property that is not new supply social housing, they would generally still have the RTB over the second property. They would also be able to count their period in occupation of the new housing towards the minimum qualifying period and for discount entitlement purposes.

Section 109 would ensure that the social housing it defines as 'new supply' would no longer be eligible for RTB. Social landlords would still be able to sell properties if they wanted but, in certain circumstances, councils would require Ministerial consent and RSLs would require the SHR's consent to do this.

Our proposals for ending RTB on new social housing are designed to create a fair and effective way to identify new social housing where RTB should not apply, while respecting the rights of existing tenants. We would welcome your views on whether we have got the balance right and invite your answers to the following **questions**:

1.2 Do you agree with the definition of new supply social housing provided at section 109 of the draft Bill?

1.3 If not, what definition do you propose?

1.4 Do you agree with the safeguards we are proposing for existing tenants?

1.5 If not, which safeguards do you propose?

1.5 Ending the Right to Buy for new tenants entering the social rented sector

We propose to add a new section to the draft Bill that would end RTB entitlements for new tenants entering the social rented sector after the date on which the section comes into force. This reform would mean that new tenants who enter the social rented sector for the first time or who return to the sector after a break would not be entitled to the RTB on the property they move into or any property they move to later.

Over time this reform should significantly reduce the number of social rented homes that are sold through RTB and so help to maintain the supply of social rented stock, while not affecting existing tenants' entitlements. The reforms should make social rented accommodation more easily available, which should benefit future tenants as they should get a rented home sooner than they otherwise would.

We do not intend to make any changes to the RTB entitlements of existing tenants. In general this will mean that:

- tenants who remain in their current tenancies would continue to have their existing RTB entitlement over that property - either on preserved or modernised terms;
- tenants who transfer voluntarily to a new tenancy would get modernised RTB entitlements over that property; and
- tenants who are required to move by their landlord (for example, if their current property is to be demolished) would keep their existing RTB entitlement over the property to which they transfer.

We also propose to include provisions for tenants of other relevant landlords (listed in section 61(11) of the 1987 Act, as amended), such as those employed and housed by the regular armed forces, police, or fire authorities. These provisions would ensure that they continue to get modernised RTB entitlements (unless any other RTB exemptions or limitations prevail) if they transfer directly to the social rented sector without a break between tenancies. This would mean that tenants who started their current tenancy with a relevant landlord before the date on which the section comes into force and who transfer directly to the social rented sector after that date would continue to get modernised RTB entitlements.

Draft Housing (Scotland) Bill: a consultation

We would welcome your views on these proposed reforms and invite you to answer the following **questions**:

1.6 Do you agree that new tenants entering the social rented sector after the date on which the section comes into force should no longer have the RTB?

1.7 Do you agree that tenants of other relevant landlords should continue to be given modernised RTB entitlements if they transfer directly to the social rented sector?

1.6 Reforming pressured-area designations

We propose to amend existing rules on pressured areas (sections 61B and 61C of the 1987 Act) to extend and devolve the process for designating pressured areas. Specifically, our proposals would involve:

- extending the timeframe of pressured-area designations to increase the maximum designation period from five to ten years;
- extending the scope of pressured-area designations by allowing particular housing types, as well as areas, to be designated as pressured; and
- devolving decision-making on pressured areas to councils.

Under current arrangements a council may ask Ministers to designate any part of its area as a 'pressured area' for a period of up to five years. Ministers may decide to designate the area as pressured if a great deal more social rented housing is (or is likely to be) needed than is available; and if the RTB would worsen the situation. The effect of a designation is to suspend all modernised RTB entitlements in the designated area. Those tenants with preserved RTB entitlements are unaffected. Fourteen pressured-area designations are now in force across 12 local authority areas.

Our aim in proposing these reforms is to:

- make pressured-area designations more effective in safeguarding social rented accommodation; and
- let councils match RTB to local housing need more easily.

Draft Housing (Scotland) Bill: a consultation

Extending the maximum designation period from five to ten years would stop more RTB sales going ahead in each pressured area, which would make it more worthwhile for a council to apply for designation. We also recognise however that a ten-year designation period could be too inflexible to adjust to changing local circumstances. We would welcome views from stakeholders on this issue.

Extending the scope of pressured-area designations to include particular housing types would allow councils to better meet demand for certain types of social rented accommodation in particular areas. For example, it could make it easier to house families in areas where demand for larger houses is high.

Our proposal to devolve decision-making on pressured area designations to councils is in keeping with the Concordat's broad aim of promoting accountability of local partners in achieving policy outcomes. In so doing we need to develop a decision-making process which would ensure that councils adequately justify pressured area designations for all areas included in their applications.

We believe that the reformed housing and planning delivery framework would help councils see pressured-area applications in a clearer strategic context. They would consider the pressure within the affordable rented stock in terms of geographic areas and house types as part of their Housing Need and Demand Assessment and will say how they will deal with this in their Local Housing Strategy.

We would welcome your views on these proposals and invite you to answer the following **questions**:

1.8 Is the scope of proposed reforms to pressured-area designations appropriate?

1.9 Do you agree that the maximum designation period should be increased from five to ten years?

1.10 Do you agree with our proposal to allow particular housing types to be designated as pressured?

1.11 Should Ministers devolve pressured area decision-making to councils?

1.12 If so, what would be the best way to implement devolved decision-making in practice to deliver a transparent, balanced and soundly-evidenced process?

1.7 Developing guidance for RSL applications to extend the ten-year suspension

We propose to develop guidance to support RSLs that apply to extend the ten-year suspension of RTB entitlements for some tenants beyond 2012. Under current arrangements (section 61A of the 1987 Act) RSLs may apply to Scottish Ministers to extend the current ten-year suspension of the RTB, which is due to expire in September 2012, for up to another ten years; that is, to September 2022. This arrangement generally applies to tenants of non-charitable RSLs who have modernised RTB entitlements. There is no limit set on the number of exemption periods that may be sought by RSLs.

The ten-year suspension was intended to give RSLs time to adjust to the new arrangements (that is, the introduction of the modernised RTB). The basis on which an RSL might apply for an extension is not set out in legislation. Existing guidance on the modernised RTB (SEDD Circular 5/2002) states that RSLs should have assessed how extending the RTB might affect their organisation and that there should be evidence of continuing problems of financial viability.

The advantage of RSLs applying to extend the suspension beyond 2012 would be to further safeguard social rented stock for the benefit of prospective tenants and local communities. Forecasts indicate that if the suspension came to an end in 2012, 2,800 RSL properties would probably be sold under the RTB over the ten years from 2012 to 2022. Although relatively few RTB sales would be prevented, we recognise that this would help some communities, where even losing a few properties to RTB could be damaging.

We also recognise that extending the current suspension may disappoint tenants who want to own. Therefore the criteria for assessing requests for extensions need to challenge the RSL to justify its continuing suspension of RTB entitlements in each case. We think that the criteria ought to include:

- meeting housing need;
- safeguarding stock; and
- financial impact on other policy priorities (such as meeting the Scottish Housing Quality Standard (SHQS) by 2015).

Such an approach, if adopted, is likely to be based on the current pressured-area application process. We are keen to seek views from

stakeholders on how best to develop the approach and we invite your responses to the following **questions**:

1.13 Do you agree with the criteria/approach set out above?

1.14 If not, what alternative criteria/approaches would you suggest?

1.8 Revising guidance on landlords' continuous occupation discretionary powers

We propose to revise existing guidance on landlords' discretionary powers in relation to the continuous occupation rule (section 61(10)(iv) of the 1987 Act) to encourage landlords to use these powers where warranted. The continuous-occupation rule effectively 'resets the clock' on a tenant's RTB qualifying period and discount entitlement if there is a break of more than one day between ending one tenancy and taking up another.

We support this provision's broad aim because it is consistent with our general policy aim of safeguarding social rented accommodation. However, we recognise that although this rule applies to all tenants, it disproportionately affects certain groups who experience a break in tenancies.

Landlords may choose to disregard a short interruption in occupation when calculating the RTB qualifying period and discount, if they consider that the interruption resulted from circumstances outwith the tenant's control. Current guidance on the modernised RTB (SEDD Circular 5/2002) suggests that the effect of 'fire, flood and the need to escape domestic abuse' could all be regarded as 'outwith the control of the tenant'. However these examples are not intended to be exhaustive and landlords should consider each case on its merits.

Ex-service personnel can face particular difficulties in bridging their tenancies. Sometimes no social rented accommodation is available when they leave the armed forces, which means that they must try to find other accommodation for the period between leaving the armed forces and starting a Scottish secure tenancy (SST). This break in continuity puts them at risk of losing the opportunity to use their years in the armed forces to meet RTB qualifying conditions and get the best possible discount.

We think that the problems that ex-service personnel experience when exercising their RTB are not the result of the legislation itself, but rather the way it is being implemented. This is why we propose to specifically amend

Draft Housing (Scotland) Bill: a consultation

guidance to encourage landlords to use their discretion and disregard breaks in occupancy that arise from circumstances similar to those outlined above. This is intended to help ex-service personnel while maintaining our overall drive to safeguard social housing.

The main benefit to ex-service personnel of landlords using their discretion in such instances would be that once they transferred to a social landlord they would be eligible to make a RTB application straight away (provided that they had already served the minimum five year qualifying period).

Other groups of tenants who are housed by their employers (that is, in tied housing) may have been similarly affected by this rule. These include janitors, sheltered housing wardens and some police and fire service personnel. However, we understand that these tenants are generally less likely to experience a break between ending the tenancy with their employer and starting a Scottish secure tenancy (SST).

We would welcome your views on these points and invite you to answer the following **questions**:

1.15 Do you agree that landlords should be encouraged to use their discretionary powers on the continuous occupation rule for ex-service personnel transferring to social housing?

1.16 Do you think this should apply in other circumstances or to other groups of tenants?

Part 2 – Modernising regulation

2.1 Introduction

In part 1 we discussed how changes to the law on Right to Buy could help to safeguard our stock of social housing for future generations. In this part of the paper, we describe our plans for modernising and streamlining how social housing is regulated, so that tenants and taxpayers get better value from past and current investment in social housing.

Social housing is a valuable national asset. It needs to be managed and maintained efficiently for the benefit of current and future generations of tenants and taxpayers.

Government plays a role in securing these benefits, mainly by setting national standards for the sector, such as the Scottish Housing Quality Standard (SHQS). But council housing and homelessness services and registered social landlords (RSLs) are the key players. They have a contractual relationship with their tenants through the rents that the tenants pay for their homes. This is defined in the tenancy agreement between landlord and tenant. Working with their tenants to identify local priorities, they are responsible for managing their stock to deliver services that meet the needs of their tenants and of the communities in which they operate.

Regulation ensures that social landlords meet these obligations, helping to compensate for the lack of choice for tenants that is the result of demand for social housing outstripping supply. At present, it is based on powers in the Housing (Scotland) Act 2001, which created a single regulatory framework for RSLs and council housing and homelessness services. The Act gives Scottish Ministers powers to:

- register and de-register RSLs;
- inspect RSLs and council housing and homelessness services;
- regulate RSL governance and financial viability; and
- intervene to improve services following inspections.

Scottish Ministers exercise the regulatory powers in the 2001 Act through an executive agency - the Scottish Housing Regulator (SHR). The SHR operates independently of Ministers but is accountable to them for its performance and use of public funds. Ministers in turn are accountable to the Scottish Parliament for the work of the SHR.

Draft Housing (Scotland) Bill: a consultation

At the heart of the regulatory framework are Performance Standards for all social landlords and homelessness functions¹. These national standards have been agreed and published jointly by the SHR, SFHA and COSLA. They are a common set of standards for both RSLs and local authorities and let all social tenants know what they can expect from their landlords. Performance Standards are issued by Scottish Ministers as statutory guidance under the 2001 Act. They provide a framework for the regulator to assess performance and for landlords to self-assess their own performance.

The Act places great emphasis on inspection as the means of understanding the quality of landlords' services. Clearly, the ability to inspect is an important means of gaining such an understanding. Over the years, inspections have helped raise expectations and drive up standards of service across the sector. Tenants in particular have welcomed the assurance that independent, external inspections of services provide.

However, relying too heavily on a planned programme of inspections can place a disproportionate burden on landlords that are performing well and delivering high-quality services, and can divert staff time from frontline services. It may also divert the regulator's attention from landlords that are most at risk of failing their tenants and can be an expensive use of the regulator's time and efforts.

In view of this, the SHR has been changing how it operates. It has been moving from an approach based on inspecting every landlord once every five years towards one that is more targeted on risk, with interventions that are proportionate to the kind and level of risk identified. Inspection remains one of the SHR's tools, but others include requiring landlords to provide information; self-assessment submissions; business plan reviews; or independent investigations².

In the case of local authority landlords, the SHR has been working closely with the Accounts Commission and other scrutiny bodies to develop a co-ordinated, risk-based approach to the scrutiny of local authorities, including their housing services. This approach will continue to be developed over the next few years. Key to this is the SHR's participation in the shared scrutiny risk assessment process led by Audit Scotland on behalf of the Accounts Commission³. This risk assessment process will be used to plan proportionate and risk-based scrutiny activity in the local government sector. The approach will take greater account of Single Outcome Agreements and the role of the Accounts Commission Local Government Scrutiny Co-ordination Strategic Group. The diagram on the next page illustrates how this shared risk assessment would operate. (Chart 2)

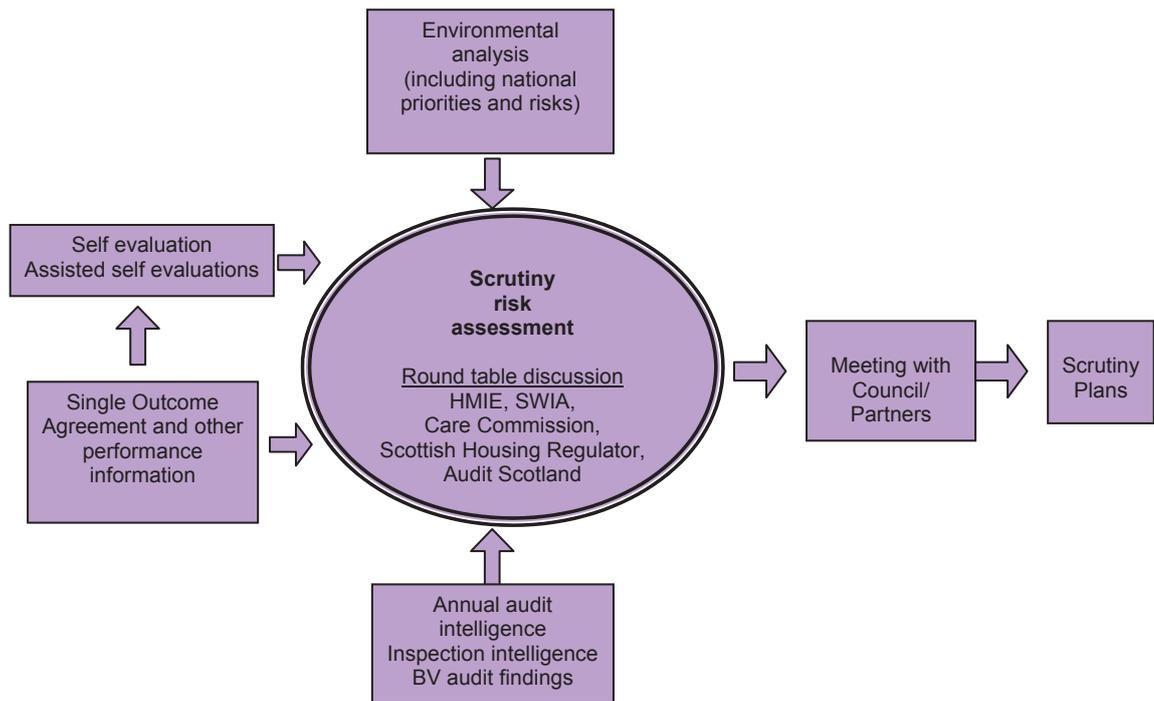
¹ Communities Scotland, COSLA and SFHA (2006), [Performance standards for social landlords and homelessness functions](http://www.scottishhousingregulator.gov.uk) (www.scottishhousingregulator.gov.uk)

² The Scottish Housing Regulator (2008), [A guide to how we regulate](#)

³ Audit Scotland (2009), [Best Value 2 - proposals for consultation](#)

We believe that these changes in operational practice that SHR has been making should be developed further. But the powers in the 2001 Act, geared so closely to inspection and subsequent interventions, do not provide a basis for doing so. That is why **Firm Foundations** proposed that we should legislate to modernise the whole regulatory regime.

Chart 2 – the framework for shared scrutiny risk assessment⁴



2.2 Purpose of a modernised regime

Firm Foundations noted that the SHR's current powers are relatively severe and intrusive and are not balanced by powers that enable it to adopt lighter-touch interventions where these might be required. So the SHR has limited ability to operate as flexibly as it should on behalf of tenants. More generally, we recognised the need to revise and update the regime of regulation as a whole, not least to bring it into line with the principles for scrutiny that we have accepted in our response to the independent Crerar Review of regulation, audit, inspection and complaints handling of public services⁵.

⁴ Scottish Government (2008) [Reducing Burdens Action Group Final Report](#)

⁵ Professor Lorne Crerar (2007), **Report of the Independent Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland**, published at www.scotland.gov.uk : [The Crerar Review](#) [Government Response to Crerar Review](#)

Draft Housing (Scotland) Bill: a consultation

Thus, **Firm Foundations** suggested the following objectives for modernising the SHR and the regulatory regime as a whole:

- The modernised SHR should have an explicit duty to promote and protect the interests of current and future tenants of all social landlords.
- The modernised SHR should be independent of Ministers.
- Standard setting and assessment of performance should be separate, with Ministers setting standards and the SHR assessing performance. Responsibility for meeting standards, improving performance and achieving value for money should rest with housing providers.
- The burden of regulation and inspection should be reduced, with self-evaluation by landlords the starting point for scrutiny; an end to routine inspections; and lighter-touch regulation for better performers.
- The regulator should gather consistent, reliable performance information from housing providers to support sound risk assessments and enable tenants, RSL governing bodies and elected council members to be well informed about services and performance.
- The modernisation of regulation should be set within broader developments in performance management and evaluation frameworks for local government as they develop.
- There should be a wider range of enforcement and intervention measures that can be used in a more flexible way than the SHR's existing powers.

Responses to **Firm Foundations** generally supported this approach. In light of this, we undertook to consult stakeholders on the development of detailed proposals for creating a modernised system of regulation for 'ensuring that tenants and taxpayers receive the value they have a right to expect'.⁶

We started this process in July 2008 in a workshop at a Registered Tenant Organisation (RTO) Regional Network event. During the autumn we attended other events where we outlined the Government's proposals and

⁶ Statement by Nicola Sturgeon, Cabinet Secretary for Health and Wellbeing (25 June 2008), [The Scottish Parliament - Official Report](#)

Draft Housing (Scotland) Bill: a consultation

listened to tenants' views. Over recent months we have had discussions with COSLA and the Association of Local Authority Chief Housing Officers (ALACHO), the Equality and Human Rights Commission, the Council of Mortgage Lenders, Consumer Focus Scotland, the Chartered Institute of Housing (CIH) and the Scottish Federation of Housing Associations (SFHA).

Stakeholders expressed particular views on and priorities for the new regime that reflected their own perspectives, experiences and interests. Nevertheless, they generally agreed that the broad purpose of a modernised regime should be to focus the efforts of social landlords on the three main objectives of:

- **meeting tenants' priorities;**
- **continually improving performance and value; and**
- **commanding the confidence of public and private investors in social housing.**

A regime based on these objectives would fit well with our wider vision for scrutiny, confirmed in the Scottish Government response to the Scrutiny Improvement Action Group recommendations⁷. This vision is that scrutiny should provide independent assurance that services are well managed, safe and fit for purpose; and that public money is being used properly within a framework where:

- public services are focused on and contributing to the Government's Purpose and Strategic Objectives⁸;
- public services are performing well – they are responsive, efficient, continually improving and achieving outcomes;
- service users are given assurance about the standards of services they receive and, where appropriate, given protection; and
- organisations are able to evidence continuous improvement through robust self-evaluation, and scrutiny is targeted at those organisations where performance is poor.

We would welcome your views on whether our proposed purpose for the modernised regime is right and invite your response to the following **questions:**

⁷ Scottish Government (2009), **Scrutiny improvement: Government response to action group reports**

[Government Response to Action Groups](#)

⁸ [www.scotland.gov.uk/Scottish Government Purpose and Objectives](http://www.scotland.gov.uk/Scottish-Government-Purpose-and-Objectives)

2.1 Do you agree that the purpose of the modernised regime of regulation should be to focus social landlords' efforts on:

- meeting tenants' priorities;
- continually improving performance and value; and
- commanding the confidence of public and private investors in social housing?

2.2 If not, what should be the purpose and why?

2.3 Modernising regulation – overview

We set out in the draft Bill provisions intended to create a regulatory regime capable of achieving the purpose we describe in section 2.2 above. We include them here to inform your responses to this consultation. We will amend them to take account of your responses before introducing the Bill in the Scottish Parliament.

To make the legislation as comprehensive as possible, we propose that the Bill should contain all provisions relating to the regulation of social landlords. So, as well as several new provisions, the draft Bill includes many that appear at present in the 2001 Act, along with provisions from that Act that have been revised to make them better fit for purpose. The provisions have two main purposes:

- Creating a transparent process of co-operation, by which the Scottish Parliament, the Scottish Government and all stakeholders can work together to define clearly the outcomes social landlords should be achieving for tenants and taxpayers. This would involve introducing a Scottish Social Housing Charter, prepared by Ministers in consultation with stakeholders, which would require the approval of the Scottish Parliament before it could take effect. It would secure our objective of separating the setting of standards from the assessment of performance against the standards, demonstrating both operational independence and the transparency of scrutiny.
- Ensuring the right mix of powers to achieve proportionate and risk-based regulation in the interests of tenants. This would mean giving the SHR statutory independence with the objective of promoting the interests of existing and future tenants and a range of modernised functions to enable it achieve that objective. Statutory operational independence and modernised functions would enable the SHR to build on its work of raising standards of practice and standards of service across the sector, ensuring that landlords continue to provide

good-quality housing, operate efficiently and – in the case of RSLs – continue to be well governed and financially sustainable.

2.4 Streamlining regulation of social landlords

Our proposals are for a modernised regime of regulation that is risk-based, proportionate and targeted at the poorer performers. They would build on the significant changes made by the SHR over recent years to create a streamlined regime that would place self-evaluation by landlords at its heart. Having completed its shift away from cyclical inspections, the SHR would focus on poorly performing organisations and adopt a lighter-touch approach to those that perform well.

This approach would apply to and benefit council landlords and RSLs, but would recognise that they have different financial and governance arrangements. It reflects the key principles for scrutiny of public services that we have adopted. These follow from the recommendations of the independent Crerar Review and of the action groups established to consider how to implement them. They also reflect shifts in regulation and scrutiny in the private sector.

In particular, the proposals recognise the place of the Accounts Commission as the lead scrutiny body for councils and the partnership that exists between the Commission and the SHR (and the other scrutiny bodies for particular services). They would enable the SHR to build on its participation in the joint scrutiny planning exercises to deliver better co-ordinated and more streamlined scrutiny of local government.

The SHR's role in scrutinising services to council tenants would sit within the Accounts Commission's joint scrutiny planning framework (see chart on page 25). This framework will inform decisions about what scrutiny is required in each council and how it would be carried out. In this model the Accounts Commission's next phase of Best Value audits (BV2)⁹ will become the single corporate assessment framework for local government, delivered in partnership with, and relying on evidence provided by other local government scrutiny bodies such as SHR, the education inspectorate (HMIE), social work inspectorate (SWIA) and the Care Commission. The Accounts Commission would continue to rely on the SHR's detailed knowledge and expertise of housing service delivery to feed into those corporate and service performance assessments. The SHR would only undertake scrutiny of a council following agreement through the Accounts Commission-led shared risk assessment.

Reducing the regulatory burden on social landlords and fitting within the broader aim of streamlining the scrutiny of public services are important elements of our approach to modernising regulation. We would welcome

⁹ Audit Scotland (2009), [Best Value 2 - proposals for consultation](#)

Draft Housing (Scotland) Bill: a consultation

your views on whether there is further scope for doing so while ensuring that the interests of tenants are safeguarded and promoted, for example, by the SHR withdrawing from any role in respect of local authorities. We invite you to answer the following **questions**.

2.3 Do you agree in principle with the risk-based and proportionate approach to regulating social landlords that we outline above?

2.4 Do you have any proposals that would streamline further the regulation of social landlords?

2.5 Finding another term for ‘social housing’

As well as introducing the idea of a Scottish Social Housing Charter, the draft Bill introduces the term ‘social landlord’, which it defines as including an RSL or a local authority landlord. This reflects the common purpose of council landlords and RSLs in providing accommodation on the basis of a Scottish secure tenancy. It acknowledges that the term is used widely in practice and is understood by tenants, landlords and stakeholders.

We believe that the common nature of the service that RSLs and council landlords provide justifies having a common term to define it. Despite their different status and governance arrangements, council landlords and RSLs provide a unique form of housing that is distinct from that provided by landlords in the private sector.

We are concerned, however, that the term tends to stigmatise council and RSL housing and those living in it and contributes to the sense that this housing is set apart from the mainstream. In reinvigorating social housing, we want to find a term for it that reflects its potential to play a full and equal part in meeting housing need alongside other tenures. We would welcome your views on the merits of having a single term to describe council and RSL housing, and invite your response to the following **questions**:

2.5 Should we continue to use the term ‘social landlord’ to describe local authority landlords and RSLs?

2.6 If not, what term should we use?

2.6 The Scottish Social Housing Charter

Sections 29-31 of the draft Bill provide for a Scottish Social Housing Charter that would define the outcomes that landlords should be aiming to achieve. The Charter is intended to provide a statement of the main purposes of social landlords and the value that they should give existing and future tenants.

Section 31 places on Ministers the duty to prepare and consult on a draft Charter and to submit it to Parliament for approval. This would ensure that the contents of the Charter are developed through the process that we outline below.

We plan to begin with a series of informal discussions between the Scottish Government, the SHR and other stakeholders, including the RTO regional networks, social landlords and their representatives, private lenders and housing charities. These discussions would help Ministers to prepare the draft Charter as a starting point for the subsequent formal statutory consultation.

In practice, Ministers would be initiating and leading a public debate, or national conversation, about the role and purpose of social housing, what it should be delivering for current and future tenants, and how it can contribute towards wider policy objectives. This would provide a transparent and inclusive means of identifying and ordering the priorities for social housing on matters such as those identified at section 30(1).

Section 79 of the 2001 Act already enables Ministers to issue guidance on these matters. Performance Standards, referred to above in Section 2.1, are published under these powers. By repealing that section and replacing it with those on the Charter we would be able to create a more systematic and unified approach to setting outcomes.

The conversation between the Scottish Government and stakeholders should result in a challenging but realistic set of outcomes that reflect tenants' priorities and landlords' capabilities. The outcomes would also need to take account of other relevant factors, such as public expenditure plans and assumptions; any targets for building new social housing – and their cost implications for Government and landlords; the state of the capital markets; and the financial strength and performance of the social landlords.

Section 30(2) allows flexibility in how the Charter sets outcomes in respect of different matters or different landlords. For example, outcomes may be more or less detailed, depending on their nature. It may also set different outcomes for different classes of landlords and different target dates for achieving different outcomes.

Draft Housing (Scotland) Bill: a consultation

This flexibility would enable the Charter to identify national outcomes that all landlords should be achieving and also areas where landlords should be setting local outcomes after consultation with their tenants.

The ability of the Charter to identify areas that should be the subject of local outcomes is vital. It recognises the importance of the relationship between landlords and their tenants and of not stifling or inhibiting the development of services tailored to meet local needs and circumstances. So we propose that the Charter would be set in terms of the outcomes that social landlords should be achieving. It would not specify how landlords should organise themselves or deploy their financial and other resources to achieve the outcomes. These would be matters for landlords to decide in consultation as necessary with their tenants.

The Charter would not be the means of setting or allocating the resources, whether public or private, available to landlords to achieve the outcomes. Public spending levels would continue to be decided in the normal way through spending reviews and the Budget Bill; and investment in new stock would be distributed under the arrangements to be decided following the recent consultation on investment reform.

As the Charter would focus on the outcomes that landlords achieve for their tenants and not the means by which the outcomes are achieved, we propose that it should not be used to address matters relating to RSLs' financial management and governance. We recognise the importance that RSLs, their tenants and their lenders attach to these matters. That is why section 3(1)(b)(ii) gives the SHR specific functions in respect of financial management and governance, which are separate from its functions in monitoring performance against the Charter.

The process of discussion and consultation involved in preparing the Charter are intended to give tenants, social landlords and others a stake in the final version of the Charter that Parliament approves. To ensure that it does not become simply a statement of aspirations, the Charter as approved by Parliament would have the same effect as a legal direction, and a landlord that failed to comply with any of the Charter's requirements that applied to them could face enforcement action by the SHR.

In proposing a highly consultative and inclusive process for developing the Charter, we recognise landlords' independence, status and values – whether as local authorities or as private bodies with strong roots in the charitable and voluntary sectors. In proposing that the Charter should have legal force, we aim to give tenants, Registered Tenant Organisations, landlords and other stakeholders clarity and certainty about the direction of social housing.

The Charter would be a new departure in social housing policy in Scotland. It would provide for the first time a single statement of the value that all tenants should be receiving from their landlords. We would welcome your

Draft Housing (Scotland) Bill: a consultation

views on whether it would contribute towards the purpose we have proposed for the modernised regulatory regime and invite your response to the following **questions**:

2.7 Do you agree in principle with the proposal to set outcomes for social housing in a Scottish Social Housing Charter?

2.8 If you agree, do you wish to suggest changes to any aspect of the proposal? If you disagree, how would you identify the outcomes and value that social landlords should be achieving for their tenants?

2.7 Status of the Scottish Housing Regulator

To put the regulation of social housing on a footing of statutory independence, we propose establishing the SHR as a non-Ministerial department with its own Board. Part 1 of the draft Bill makes the SHR a separate body independent of Ministers with its own Board.

We propose that the Board should comprise at least three non-executive members, one of whom would chair it, and the Chief Executive. Ministers would appoint the non-executive members through the public appointments process. Ministers would have other limited powers over the SHR, in matters such as remuneration, staffing, pay and fees. But section 4 provides that in all other respects, they would have no power to direct or control how the SHR performs its functions.

These arrangements, in making the regulator independent, would meet the key governance principles recommended by the Accountability and Governance Action Group¹⁰ that have been accepted by the Government. We believe that they would give tenants, landlords, lenders and other stakeholders confidence that the SHR would exercise its new functions without fear or favour. We would welcome your views on our plans for giving SHR full statutory independence and invite you to answer the following **questions**:

2.9 Do you agree that the modernised SHR should be established as a non-Ministerial department under its own Board?

2.10 If not, how would you ensure that the SHR was independent enough?

¹⁰ Scottish Government (2008), [Accountability and Governance Action Group Report to Ministers](#)

2.8 Scottish Housing Regulator's objective to safeguard and promote tenants' interests

The SHR, when established as a non-Ministerial department, would have a range of modernised regulatory functions. Many of the regulatory and inspection powers under the 2001 Act that SHR exercises at present on behalf of Ministers would transfer to the SHR. But some of these powers would be revised and supplemented with new powers. Taken as a whole these changes would put into law many of the developments in regulatory practice that SHR has applied over several years.

To ensure that modernised regulation follows best practice and complies with the Government's wider policies for scrutiny bodies, section 3(2) states that the SHR must carry out its functions in a proportionate, accountable and transparent way and target its actions only where action is needed. Among other things this would mean that the SHR would take a lead from the Accounts Commission in terms of how the relationship with local government would evolve. The Bill would assist this by allowing the SHR to rely less on potentially burdensome powers of inspection and more on self-evaluation by landlords. It would also provide an explicit statutory basis for the SHR to focus its efforts on areas of greatest risk and on driving up landlords' performance by measuring and reporting on performance and through target setting.

Above all we want the SHR to have a clear remit to work and act in the interests of existing and prospective tenants. Therefore, section 2(1) gives the SHR the statutory objective of safeguarding and promoting the interests of tenants and future tenants and of others using, or likely to use, the services of social landlords.

The effect of this objective would be to ensure that the SHR would always work in a way that best served the interests of tenants. This would apply not just to the individual functions that we are proposing for the SHR, such as reporting on landlords' performance or safeguarding RSLs' financial strength. It would also influence more general activities, such as ensuring that its response to the consultation on the Scottish Social Housing Charter was calculated to promote the interests of tenants.

We would welcome your views on the objective for the SHR set out at section 2 of the Bill, and invite you to answer the following **questions**:

2.11 Should the modernised SHR have the statutory objective of promoting the interests of tenants and future tenants?

2.12 If not, what objective do you think the SHR should be given?

2.9 Scottish Housing Regulator and other housing services

At present, the SHR carries out Scottish Ministers' regulatory responsibilities for homelessness services provided by councils and services for Gypsies/Travellers and the owners of factored properties. We propose that the modernised SHR should assume responsibility for these duties. We would welcome your views on this point and invite you to answer the following **question**:

2.13 Should the modernised SHR assume responsibility for regulating services in respect of homelessness, Gypsies/Travellers, and factored owners?

2.10 Measuring performance and value and encouraging improvement

The purpose of the Scottish Social Housing Charter would be to describe through a set of outcomes the value that tenants should be receiving from their landlords. Landlords would be responsible for delivering that value. In the case of local outcomes landlords, in consultation with their tenants and RTOs, would be responsible for identifying the value they should be delivering in terms of local circumstances and tenants' priorities. The SHR would be responsible for assessing landlords' performance against the Charter.

Section 35 would give the SHR the function of assessing the performance of all social landlords. This includes assessing the value of a landlord's performance in terms of the quality of the services they provide weighed against the level of the rents that they charge and their performance in achieving the outcomes set in the Scottish Social Housing Charter. The SHR would do this mainly by collecting, analysing and publishing information based on landlords' self-evaluation of their performance against the outcomes specified in the Charter.

We recognise that social landlords already provide a wealth of information to a range of different bodies. RSLs submit an annual performance and statistical return to the SHR but councils do not report their performance on housing or homelessness services to the SHR in the same way. We envisage that the SHR would negotiate with other information collectors about what its information requirements are, who is best placed to collect that information from councils in future, and how this fits in with the Single Outcome Agreement performance monitoring framework.

This data collection and reporting role would be central to the modernised regulatory system. The SHR would use self-evaluation by social landlords

Draft Housing (Scotland) Bill: a consultation

as an important means of assessing and reporting on the value – in terms of the standards of service delivered weighed against the rents charged – that landlords provide for their tenants.

Section 36 would place a duty on the SHR to report annually on its assessment of landlords' performance. Under this duty, the SHR would make available information and analysis on the performance of all social landlords. In addition to reporting on landlords' performance the SHR would be able, under the power at section 15, to conduct studies across all landlords into matters such as tenants' perception of the quality and costs of the services they receive. This would assist the SHR in measuring the value being given by different landlords.

Putting such information into the public domain is intended to help drive improvements in performance by helping tenants, governing body members, councillors and management to compare performance among peers. This would be the first step in understanding how to improve the performance of individual landlords in ways that meet the priorities and aspirations of their tenants and communities.

An important part of the modernised SHR's role would be to analyse and communicate information so that tenants, landlords and other stakeholders could identify the improvements they wanted to see.

It would undermine the relationship between tenants and landlords, and stifle local innovation, if the SHR were to intervene at every turn with targets for local improvements. However, tenants of landlords who persistently underperform need to know that the SHR will be able to act on their behalf where this is justified. So section 46 would enable the SHR to require landlords failing, or at risk of failing, to achieve the outcomes required in the Scottish Social Housing Charter to prepare performance improvement plans setting out an approach and timescale for complying with the Charter.

Section 46 would also enable the SHR to require an improvement plan for a landlord whose performance in respect of anything not covered by the Charter was harming tenants' interests. The SHR would be able to monitor performance against those plans and – under section 47 – enforce compliance with them if necessary.

We also want to see performance across the sector improve over time, so that tenants benefit from constant improvement. Therefore, section 32 provides a separate power for the SHR to set performance improvement targets. As its understanding of landlords' performance against the Charter develops the SHR would be able to set targets for those landlords whose performance did not match the best being achieved by their peers.

Taken together the powers for the SHR to assess, report on and as necessary enforce performance standards will enable it to work over time to improve the value that tenants and taxpayers receive from social housing.

Draft Housing (Scotland) Bill: a consultation

We would welcome your views on this approach and invite you to answer the following **questions**:

2.14 Should SHR work to improve value for tenants and taxpayers through powers to assess, report on and, if necessary, enforce performance improvement?

2.15 If so, would the powers and duties that the draft Bill gives the SHR enable it to do that work?

2.16 If not, what role should the SHR have in improving performance and what powers would it need to carry out that role?

2.11 Inquiries and information

The shift to assessment by the SHR on the basis of annual reporting and self-evaluation by landlords is central to creating a regulatory regime that minimises the burden on good landlords and concentrates efforts on improving performance. Another aspect of modernisation is ensuring that the SHR has the right set of powers, and the flexibility to use them, to collect information and undertake various forms of inquiries into landlords. In this section, we outline our proposals for such powers.

We propose that Ministers' powers under the 2001 Act to inspect RSLs and council housing and homelessness services should be repealed and replaced by sections 37–40 of the draft Bill. These would give the modernised SHR new powers to carry out a range of inquiries and to decide the extent of those inquiries. They would allow the SHR to shape the scale and scope of the inquiry so that it could target areas of concern.

We propose that the SHR should use these powers to carry out a range of inquiries, of different scale, depending on its assessment of risk or its need to capture information about practice across the sector. These inquiries would range from lower-level requests for specific information, through validation of self-assessment performance information, to higher-level inquiries such as targeted investigations into a service delivery area, analysis of a business plan, or a wider inquiry into the organisation's activities. The types of inquiry might include:

- planned inquiries;
- unannounced inquiries to check aspects of an individual landlord's performance and management;

Draft Housing (Scotland) Bill: a consultation

- inquiries into the governance and financial management of RSLs; and
- thematic studies and inquiries into performance by a number of landlords against a particular outcome in the Charter or across a specific geographical area.

To ensure that the SHR's exercise of these powers is transparent and proportionate, the Bill would require the SHR to consult on, and then publish guidance about, how it would use its powers of inquiry.

Sections 41 and 42 would give the SHR the power to request information from a landlord to:

- enable it to assess the landlords' performance;
- meet SHR's objective of safeguarding and promoting tenants' interests; or
- ensure the good governance and continued financial viability of the RSL sector.

This would include requests for self-evaluation of performance to enable the SHR to assess landlords' performance against the Scottish Social Housing Charter. The SHR would also be able to require an RSL to provide information on its financial management, its governance, and the relationship between it and its parent or subsidiary bodies.

We propose to repeal the powers in part 4 of Schedule 7 to the 2001 Act that allow Ministers to appoint a person to conduct a statutory inquiry into an RSL's affairs. This very broad-ranging power would not sit well alongside the modernised powers of inquiry in sections 37 to 40. Section 37(3)(b) would allow the SHR to take more targeted and proportionate action to tackle financial viability and governance issues. These are discussed in more detail in section 2.12 of this paper.

The new powers for the SHR to conduct inquiries and collect information are intended to replace the current inspection powers with a more flexible and proportionate set of powers. We would welcome your views on the nature and scope of the proposed powers and invite your answers to the following **questions**:

2.17 Do you agree that the current inspection powers should be replaced?

2.18 If so, would the new provisions that we are proposing in respect of inquiries and information provide a satisfactory replacement?

2.19 If not, what approach would you suggest?

2.12 Scottish Housing Regulator's intervention powers

As part of a more proportionate approach to regulation, we propose that the modernised SHR should have a broader range of enforcement and intervention powers to enable it to protect and promote the interests of tenants and future tenants.

Sections 43 to 50 incorporate the existing intervention powers under the 2001 Act and supplement them with powers that would enable the SHR to take enforcement action requiring a landlord to:

- comply with the Scottish Social Housing Charter;
- meet a performance improvement target; or
- implement a performance improvement plan.

To enable the SHR to respond to risk effectively and to operate in a targeted and proportionate way, it would not have to follow a set sequence or escalation of enforcement powers. Instead, it would have practical discretion to decide how it would use its powers of intervention in light of the circumstances of any particular case. It would be important to do this openly and transparently. So the SHR would be required to consult on, and then publish guidance on, its criteria for deciding how to use its intervention powers.

For councils this would mean that the SHR no longer had to carry out an inspection before it took enforcement action.

The power at section 46 to require a social landlord to submit a performance improvement plan would replace the existing power to require a council to produce a remedial plan.

2.13 Securing the financial viability and good governance of RSLs

The financial viability and good governance of RSLs are of critical importance to RSL tenants. Any weakness in these matters undermines the sustainability of the business, the confidence of its lenders and ultimately its ability to continue delivering services for its tenants. So it is essential that the SHR continues to have specific powers to address any risks to RSL finances or governance.

Draft Housing (Scotland) Bill: a consultation

We propose that the SHR should be able to monitor, assess and report on the financial viability and governance of RSLs and to satisfy itself that each RSL has the financial strength to continue the delivery of its social landlord services to current and future tenants.

Section 51 of the draft Bill onwards contains a series of suggested provisions that aim fully to equip the SHR to safeguard the viability and good governance of RSLs. Given the technical and complex nature of these provisions, we will establish a small working group, whose members will include representatives of the RSLs and their private lenders, to discuss and identify means of improving the provisions before the Bill is introduced in the Parliament. Meantime, we offer the following summary.

Part 6 of the Bill covers the accounting and audit requirements for RSLs. The provisions of the 2001 Act would be repealed and the SHR would have the power to set accounting requirements. RSLs would have to comply with these requirements and their auditors' reports would have to state whether or not they did comply.

Where the SHR identified a risk to an RSL's financial strength, or problems with governance that might create such a risk, it would be able to intervene in various ways. The existing provisions in the 2001 Act would be repealed and replaced by a modernised set of powers that would enable the SHR to take proportionate and targeted action to protect tenants' interests and safeguard an RSL's social housing assets for future use. Central to these would be the power to carry out an inquiry into an RSL's financial or other affairs. As noted above, this falls within the section 37(3)(b) powers to make inquiries about social landlords.

Once it had conducted an inquiry under section 37(3)(b), the SHR would have discretion to take the following action:

- Section 49 – where it had established that there had been misconduct or mismanagement, it would be able to appoint, or require the RSL to appoint, a manager for financial or other affairs to the RSL.
- Section 52 – suspend an officer of an RSL (a committee member of an Industrial and Provident Society or a director of a company limited by guarantee).
- Section 53 – remove an officer where it considered that there has been misconduct or mismanagement of the RSL's financial or other affairs.
- Section 56 – appoint a new officer, or an additional officer, to ensure the proper management of the RSL's financial or other affairs.

Draft Housing (Scotland) Bill: a consultation

- Section 58 – transfer the RSL’s land and assets to another RSL.

Schedule 8 of the 2001 Act deals with the insolvency of RSLs. Its provisions are imported into the Bill by the provisions at part 7, which would give the SHR the power to develop proposals to rescue an insolvent RSL.

Following the collapse of Ujima, a social landlord registered by the Housing Corporation, we reviewed the powers and duties in Schedule 8. These are similar to the powers available to the Housing Corporation under the comparable English legislation when dealing with Ujima. We believe it is essential in the current financial climate to ensure that the powers in the Bill would allow the SHR to deal promptly and effectively with an insolvent RSL so that it can protect tenants’ interests.

In light of that review we propose making several changes to the existing powers. These do not appear in the draft Bill, but, subject to views expressed through the consultation and in our technical working group, they would be included in the version of the Bill that we introduce in the Scottish Parliament.

Our proposals are for the following provisions:

- triggering the SHR’s powers earlier in the winding-up process (SHR would be able to take action either when the RSL’s governing body takes the decision to present, or another party presents, a winding-up petition. At present the powers are triggered when the Court grants a winding-up order);
- Streamlining the requirements to trigger a moratorium on the winding up of an RSL so that a creditor or lender would only have to submit one notice to the SHR; and
- only those creditors who can be identified, rather than all creditors, need to agree to the SHR’s proposals for rescuing a failing RSL.

The overall purpose of the insolvency process is to allow the SHR to put a rescue package in place to protect tenants’ interests and to secure and safeguard the social housing assets for the future. This process is important, but where the SHR knows that an RSL is facing insolvency it should be able to act in the tenants’ interests without going through a cumbersome and complex process. We consider that in these circumstances the SHR should have the power to direct a transfer of assets and engagements to an RSL willing to receive them without using the complex inquiry process set out in Schedule 8 of the 2001 Act.

Governance describes the arrangements for the leadership, direction and control of an RSL. Strong governance in an organisation will allow it to deal effectively in an open and accountable way with any problems, while poor

Draft Housing (Scotland) Bill: a consultation

governance can lead to problems in service delivery and financial management.

Part 1 of Schedule 7 of the Housing (Scotland) Act 2001 sets out certain legal restrictions that apply only to RSLs on payments and benefits to governing body members and employees. The rules seek to prevent governing body and staff members benefiting from their positions. The SHR can moderate the restrictions by setting classes of exemptions.

In 2006 the SHR consulted on proposals to consider the repeal of Part 1 of Schedule 7 and to replace it with an ethical code of conduct. It pointed out that the legal restrictions in Schedule 7 had been in place in earlier forms of law for over 20 years. It also noted that they were at odds with a proportionate and risk-based regulatory framework and did not always promote a culture of self-reliant, self-reflective, high ethical standards. There was some support for abolishing the restrictions.

We recognise the importance of ensuring that the law continues to protect the good name of the RSL sector. The Bill would provide an opportunity to replace existing law with law that would permit a more proportionate approach. Section 34 of the Bill would require the Regulator to issue a principles-based, ethical code of conduct following consultation with the sector. RSLs would be required to comply with the code of conduct and the SHR would be able to use its intervention and enforcement powers to take action against an RSL that breached this code.

We would welcome your views on the provisions for safeguarding the financial viability and governance of RSLs and your response to the following **questions**:

2.20 Do you think that the powers in the draft Bill provide the right balance and would allow the Scottish Housing Regulator to take prompt and effective action to tackle problems in financial viability and governance?

2.21 If not, what powers would you suggest?

2.22 Do you agree with the proposal to abolish the requirements in Part 1 of Schedule 7 on payments and benefits, and replace them with a code of conduct setting out standards of financial management and governance?

2.23 If not, what would you suggest?

2.14 Setting and applying regulatory criteria for those seeking to become RSLs

At present only companies limited by guarantee and industrial and provident societies are eligible for registration as a social landlord. We want to allow for the possibility of a wider range of bodies being eligible to become registered as social landlords, including profit-distributing organisations. We also want to enable bodies to be registered that will carry out only some of the activities generally associated with RSLs.

The provisions in the draft Bill for registration of RSLs would allow for these changes by introducing a new approach. Section 22 would allow Ministers, through regulations, to specify which types of body are eligible for registration – the **legislative registration criteria**. Ministers would have to consult on the regulations before they laid them before Parliament. Ministers would have to review the eligibility criteria for registration from time to time and, following such a review, they could amend or add to the types of body that can apply for registration. This should allow greater flexibility in the governance arrangements and objects of the bodies that might be eligible for registration by the SHR.

Separately, section 23 would enable the SHR to set **regulatory registration criteria** for eligible bodies based on their financial situation, their management arrangements and the housing services that they provide. This would give the SHR, with its knowledge and understanding of RSLs' finances, business operations and governance, the power to assess the fitness and competence of eligible bodies through its registration process.

The SHR would have to consult stakeholders on the proposed criteria and to publish these along with guidance on how it will assess applicants against the criteria. Using its knowledge and understanding of RSLs' finances, business operations, service delivery and governance, the SHR would then consider whether or not applicants that are eligible under the legislative registration criteria meet the published regulatory criteria.

At present the draft Bill does not allow for specific intervention powers for the SHR to deal with profit-distributing bodies that have problems or fail. The types of powers that we would consider introducing are:

- a power to fine the profit-distributing body; and
- a power to transfer the social housing assets in the control of a profit-distributing body to another RSL.

When setting the purposes and classes of bodies that are eligible for registration Ministers would have to take account of the European Union Services Directive. The Directive aims to reduce barriers to businesses

Draft Housing (Scotland) Bill: a consultation

operating across the EU and is regarded as applying to RSLs because they do not solely provide housing for people in need. The practical implications of this are that Ministers would not be able to specify that organisations eligible to register must have a registered office in Scotland. Decisions on compliance with European legislation are reserved to the UK government.

Section 19 allows for landlords that are on the register when the Bill is enacted to remain on the register for a period of 24 months after that section of the Bill takes effect. During that period all RSLs would have to satisfy the SHR that they meet the regulatory registration criteria if they wish to remain a registered social landlord.

Sections 25 to 27 deal with de-registration. Section 25 sets out the criteria that the SHR must consider before it de-registers a body. Section 26 allows the SHR to set criteria for the voluntary de-registration of a social landlord. Section 27 gives a registered body a right to appeal to the Court of Session against a decision by the Regulator either not to register the body or to remove it from the register.

We would welcome your views on the proposals to introduce legislative and regulatory criteria for the registration of RSLs and your response to the following **questions**:

2.24 Do you agree that Ministers should set the criteria for eligibility to seek registration as an RSL and that the SHR should set the criteria against which it tests applications?

2.25 If not, what approach would you suggest?

2.26 Do you agree that this power should extend to allowing profit-distributing bodies to become eligible for registration?

2.27 If so, do you think it is right to have specific enforcement powers for profit-distributing RSLs?

2.28 Are the enforcement powers that we have set out for profit-distributing registered landlords the right ones?

2.29 If not, what enforcement powers do you think would be right?

2.15 Constitution, rule changes, amalgamation and dissolution of RSLs

Part 8 imports the existing requirements in part 2 of Schedule 7 of the 2001 Act. These deal with the constitution, change of rules, amalgamation and

Draft Housing (Scotland) Bill: a consultation

dissolution of RSLs. We propose making these requirements more streamlined and proportionate for RSLs by reducing the administrative requirements around rule changes. These do not appear in the draft Bill, but, subject to views expressed through the consultation and in our technical working group, they would be included in the version of the Bill that we introduce to Parliament.

Our proposals are for the following provisions.

The Housing Bill should set out three areas where consent for rule changes would be required. These would be changes that:

- alter the objects of the RSL;
- concern the distribution of assets to an RSL's members; or
- enable the society or company to become, or cease to be a subsidiary or associate of, another body.

Otherwise, RSLs would simply have to notify the SHR of any rule changes within 28 working days.

We would welcome your views on this proposal and invite you to answer the following **questions**:

2.30 Do you agree that RSLs should only have to seek consent for these three areas of rule changes?

2.31 If not, what approach would you suggest?

2.16 Disposal of land by RSLs

Part 9 of the draft Bill provides for the disposal of land by RSLs. A disposal means the sale, lease, security, charge or any other disposal of an RSL's land or assets. Ministers' powers to grant consent to disposals by RSLs in Sections 65 and 66 of the 2001 Act would be repealed. These powers would be transferred to the SHR under sections 96 to 107 of the Bill. Ministers would retain the power to grant consent for councils to dispose of land.

We will discuss these proposals in more detail in our technical working group during the consultation period, but we would welcome your views on any aspect of this matter.

Housing (Scotland) Bill

[CONSULTATION DRAFT]

CONTENTS

Section

PART 1

THE SCOTTISH HOUSING REGULATOR

The Regulator

- 1 The Scottish Housing Regulator
- 2 The Regulator's objective
- 3 The Regulator's functions
- 4 Independence from Ministers

Membership

- 5 The Regulator's membership
- 6 Disqualification and removal from office
- 7 Expenses of ordinary members

Chairing and proceedings

- 8 Chairing
- 9 The Regulator's proceedings

Staff and property

- 10 The Regulator's chief executive
- 11 The Regulator's other staff and property

Powers

- 12 The Regulator's general powers
- 13 Delegation of powers

Fees, studies, co-operation and annual reports

- 14 Fees
- 15 Studies
- 16 Co-operation with other regulators
- 17 Annual reports

PART 2

REGISTERED SOCIAL LANDLORDS

The register

- 18 Registered social landlords
- 19 Population of the register

- 20 Application
- 21 Entry in the register

Registration criteria

- 22 Legislative registration criteria
- 23 Regulatory registration criteria
- 24 Guidance on registration criteria

Removal from register

- 25 Compulsory de-registration
- 26 Voluntary de-registration

Appeals

- 27 Appeal against decision on registration or removal

Communication with other regulators

- 28 Communication with other regulators

PART 3

PERFORMANCE OF SOCIAL LANDLORDS

Scottish Social Housing Charter

- 29 Scottish Social Housing Charter
- 30 Outcomes
- 31 Scottish Social Housing Charter: supplemental

Targets, guidance and code of conduct

- 32 Performance improvement targets
- 33 Guidance: housing activities
- 34 Code of conduct: governance and financial accountability

Assessing and reporting

- 35 Performance assessment
- 36 Performance reports

PART 4

INQUIRIES AND INFORMATION

Inquiries

- 37 Inquiries about social landlords
- 38 Inquiries: general powers
- 39 Exceptional audit
- 40 Reports on inquiries

Information

- 41 Power to obtain information
- 42 Failure to provide information etc.

PART 5

REGULATORY INTERVENTION

Introductory

- 43 Regulatory intervention
- 44 Exercise of regulatory intervention powers
- 45 Code of practice

Remedial action

- 46 Performance improvement plans
- 47 Enforcement notices

Managerial appointment

- 48 Appointment of manager for housing activities
- 49 Appointment of manager for financial or other affairs
- 50 Appointment of manager: supplementary

Removal, suspension and appointment of officers etc.

- 51 General power to remove officers
- 52 Suspension of officers etc. during or following inquiries
- 53 Removal of officers etc. following inquiries
- 54 Responsible individuals
- 55 Appeals against suspension or removal
- 56 Appointment of new officers

Asset protection

- 57 Restrictions on dealings during or following inquiries
- 58 Transfer of assets following inquiries

PART 6

ACCOUNTS AND AUDIT

- 59 Determination of accounting requirements
- 60 Compliance with accounting requirements
- 61 Delivery of accounts and audit
- 62 Failure to deliver compliant accounts

PART 7

INSOLVENCY ETC.

Introductory

- 63 Application of Part 7

Moratorium

- 64 Notification of step towards insolvency etc.
- 65 Effect of failure to notify
- 66 Moratorium
- 67 Further moratorium
- 68 Effect of moratorium
- 69 Interim manager

Making proposals

- 70 Proposals: formulation
- 71 Proposals: submission
- 72 Proposals: agreement
- 73 Modifying proposals

Implementing proposals

- 74 Implementation of agreed proposals
- 75 Appointment of manager to implement proposals
- 76 Manager: powers
- 77 Manager of industrial and provident society: extra
- 78 Regulator assistance
- 79 Failure by manager to implement agreed proposals
- 80 Other failure to implement agreed proposals
- 81 Meaning of “land”

PART 8

REGISTERED SOCIAL LANDLORDS: ORGANISATIONAL CHANGE ETC.

Change of name, office or constitution

- 82 Change of name or office
- 83 Change of constitution
- 84 Change of industrial and provident society’s rules: supplementary

Industrial and provident societies: restructuring, winding up and dissolution

- 85 Restructuring, winding up and dissolution of industrial and provident societies
- 86 Restructuring of society
- 87 Voluntary winding up of society
- 88 Dissolution of society

Companies: restructuring and winding up

- 89 Restructuring and winding up of companies
- 90 Restructuring of company
- 91 Conversion of company into industrial and provident society
- 92 Company voluntary arrangement
- 93 Voluntary winding up of company

Winding up petition

- 94 Regulator’s power to petition for winding up

Asset transfer on dissolution or winding up

- 95 Asset transfer on dissolution or winding up

PART 9

DISPOSAL OF LAND BY REGISTERED SOCIAL LANDLORDS

CHAPTER 1

REGULATION OF DISPOSALS

- 96 Power to dispose of land
- 97 Disposals not requiring consent

- 98 Notification where disposal consent not required
- 99 Disposals resulting in change of landlord: tenant consultation and ballot
- 100 Tenant consultation: other disposals
- 101 Effect of disposals without consent
- 102 De-registered bodies

CHAPTER 2

SPECIAL PROCEDURE FOR DISPOSALS RESULTING IN CHANGE OF LANDLORD

- 103 Special procedure for disposals resulting in change of landlord
- 104 Consultation with tenants
- 105 Further information
- 106 Ballot
- 107 Unaffected tenants
- 108 Purchaser protection

PART 10

RIGHT TO BUY

- 109 Limitation from right to buy: new supply social housing

PART 11

SUPPLEMENTARY AND FINAL PROVISIONS

- 110 Offences by bodies corporate etc.
- 111 Formal communications
- 112 Orders
- 113 Minor and consequential amendments and repeals
- 114 Ancillary provision
- 115 Connected bodies
- 116 Interpretation
- 117 Commencement
- 118 Short title

Schedule 1—Transitional provisions

Schedule 2—Modifications of enactments

Housing (Scotland) Bill

[CONSULTATION DRAFT]

An Act of the Scottish Parliament to establish the Scottish Housing Regulator; to provide for a register of social landlords; to make provision about the performance and regulation of social landlords; to limit the right to buy new supply social housing; and for connected purposes.

PART 1

THE SCOTTISH HOUSING REGULATOR

The Regulator

1 The Scottish Housing Regulator

There is established a body corporate to be known as the Scottish Housing Regulator.

2 The Regulator's objective

- (1) The Regulator's objective is to safeguard and promote the interests of persons who are or who may become—
 - (a) tenants of social landlords, or
 - (b) recipients of housing services provided by social landlords.
- (2) The Regulator must, so far as is reasonably practicable, perform its functions in a way—
 - (a) which is compatible with its objective, and
 - (b) which it considers most appropriate for the purpose of meeting that objective.

3 The Regulator's functions

- (1) The Regulator's general functions are—
 - (a) to keep a publicly available register of social landlords, and
 - (b) to monitor, assess and report regularly on (and, where appropriate, to make regulatory interventions relating to)—
 - (i) social landlords' performance of housing activities, and
 - (ii) registered social landlord's financial well-being and standards of governance.
- (2) The Regulator must perform its functions in a way which is—

- (a) proportionate, accountable and transparent,
- (b) targeted only where action is needed, and
- (c) consistent with any other principle which appears to it to represent best regulatory practice.

4 Independence from Ministers

Ministers must not—

- (a) give directions relating to, or
- (b) otherwise seek to control,

the performance of the Regulator's functions.

This section is subject to any contrary provision in this or any other enactment.

Membership

5 The Regulator's membership

- (1) The Regulator consists of the following members—
 - (a) the person holding the post of chief executive (see section 10), and
 - (b) such number of ordinary members (but not fewer than 3) as Ministers think fit.
- (2) Each ordinary member—
 - (a) is to be appointed by Ministers from among those persons appearing to them to have knowledge and skills relevant to the functions of the Regulator,
 - (b) is to be appointed for such period as is specified in the appointment,
 - (c) may, by notice to Ministers, resign as a member,
 - (d) in other respects holds and vacates office on such terms and conditions as Ministers may determine, and
 - (e) after ceasing to hold office, may be reappointed as a member.

6 Disqualification and removal from office

- (1) A person is disqualified from appointment, and from holding office, as a member of the Regulator if that person is—
 - (a) a member of the Scottish Parliament,
 - (b) a member of the House of Commons,
 - (c) a member of the European Parliament,
 - (d) an office-holder in the Scottish Administration,
 - (e) a councillor of any local authority, or
 - (f) an officer of any registered social landlord (other than by virtue of this Act).
- (2) Ministers may remove an ordinary member from office if satisfied that—
 - (a) the member is an undischarged bankrupt, or
 - (b) the member—

- (i) has been absent from meetings of the Regulator for a period longer than 6 consecutive months without the permission of the Regulator, or
 - (ii) is unable to discharge the member's functions as a member or is unsuitable to continue as a member.
- (3) In this section, “undischarged bankrupt” means an individual—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force),
 - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it),
 - (c) who is the subject of—
 - (i) a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985 (c.66) or the Insolvency Act 1986 (c.45), or
 - (ii) a bankruptcy restrictions undertaking entered into under either of those Acts, or
 - (d) who has been adjudged bankrupt (and has not been discharged), or is subject to any other kind of order, arrangement or undertaking analogous to those described above, anywhere in the world.

7 Expenses of ordinary members

The Regulator may pay to its ordinary members such sums as it may determine by way of reimbursement of expenses in respect of the carrying out of their functions.

Chairing and proceedings

8 Chairing

- (1) Ministers—
 - (a) must appoint one of the ordinary members to chair meetings of the Regulator, and
 - (b) may appoint another ordinary member to act as deputy to that member.
- (2) A member so appointed vacates office on ceasing to be a member of the Regulator.
- (3) The member appointed to chair the meetings and any member appointed to act as deputy to that member otherwise hold and vacate office as such in accordance with the terms of their appointments.
- (4) A member so appointed may, by notice to Ministers, resign from office as such.
- (5) Where a member—
 - (a) is appointed to chair meetings or to act as deputy, or
 - (b) ceases to hold office as such,

Ministers may vary the terms of the member's appointment so as to alter the date on which office as an ordinary member is to be vacated.

9 The Regulator's proceedings

- (1) The Regulator may regulate its own procedure (including any quorum) and that of any of its committees.
- (2) The validity of any proceedings or acts of the Regulator is not affected by any—
 - (a) vacancy in its membership, or
 - (b) defect in the appointment of a member.

*Staff and property***10 The Regulator's chief executive**

- (1) The Regulator is to employ, as a member of staff, a chief executive.
- (2) Ministers are to appoint the first chief executive of the Regulator on such terms as they may determine.
- (3) Before appointing the first chief executive, Ministers must consult the member of the Regulator appointed to chair meetings of the Regulator (if a person holds that office).
- (4) The Regulator may, with the approval of Ministers, appoint subsequent chief executive on such terms as it may, with the approval of Ministers, determine.
- (5) The chief executive is to be appointed from among persons who appear—
 - (a) as regards the first appointment, to Ministers, and
 - (b) as regards subsequent appointments, to the Regulator,
 to have knowledge and skills relevant to the functions of the Regulator.
- (6) The Regulator may, with the approval of Ministers—
 - (a) vary any terms of a person's appointment as chief executive, or
 - (b) terminate a person's appointment as chief executive if satisfied that the person is not performing the functions of that post adequately.

11 The Regulator's other staff and property

- (1) The Regulator may employ, on such terms as it may determine, other members of staff.
- (2) The Regulator must obtain the approval of Ministers for the terms of such staff.
- (3) Schedule 1 makes transitional provisions about the Regulator's staff and property.

*Powers***12 The Regulator's general powers**

- (1) The Regulator may do anything which appears necessary or expedient for the purpose of, or in connection with, the performance of its functions.
- (2) The Regulator may not however—
 - (a) acquire or dispose of land without the consent of Ministers,
 - (b) borrow money,
 - (c) give guarantees without the consent of Ministers, or
 - (d) determine the location of its office premises without the approval of Ministers.

13 Delegation of powers

Any function of the Regulator may be performed on its behalf—

- (a) by any person (whether or not a member of the Regulator or its staff) authorised by the Regulator to do so, and
- (b) to the extent so authorised.

This section does not affect the Regulator's responsibility for performance of, or its ability to perform, delegated functions.

Fees, studies, co-operation and annual reports

14 Fees

- (1) The Regulator is entitled to charge a fee in respect of performing any function in relation to a social landlord; and the social landlord is obliged to pay that fee.
- (2) Ministers may by order make provision about the charging or payment of such fees.
- (3) An order may, in particular—
 - (a) set the maximum amount of any such fee (but may not otherwise set the amount of a fee),
 - (b) set out how such fees are to be arrived at,
 - (c) specify circumstances in which any fee is payable, and
 - (d) specify circumstances in which fees are to be refunded.

15 Studies

- (1) The Regulator may carry out, or commission, studies or research to inform its approach towards meeting its objective.
- (2) The Regulator may publish a report on any study or research.

16 Co-operation with other regulators

- (1) The Regulator must, so far as consistent with the proper performance of its functions, seek to secure co-operation between it and other relevant regulators.
- (2) "Relevant regulators" are—
 - (a) the Office of the Scottish Charity Regulator,
 - (b) the Scottish Commission for the Regulation of Care,
 - (c) the Financial Services Authority,
 - (d) social work inspectors appointed under section 4 of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006 (asp 3),
 - (e) the registrar of companies,
 - (f) the Accounts Commission for Scotland, and
 - (g) the Office for Tenants and Social Landlords.
- (3) The Regulator may disclose any information to any relevant regulator—

- (a) for any purpose connected with the performance of the Regulator’s functions, or
- (b) for the purpose of enabling or assisting the relevant regulator to perform any functions.

17 Annual reports

- (1) As soon as practicable after 31 March in each year, the Regulator must—
 - (a) prepare and publish a general report on the exercise of its functions during the twelve month period ending on 31 March,
 - (b) lay a copy of it before the Scottish Parliament, and
 - (c) send a copy of it to Ministers.
- (2) A general report must include information about the use of the Regulator’s powers under Parts 4 and 5 of this Act.
- (3) It is otherwise for the Regulator to determine the form and content of a general report and by what means it is to be published.

PART 2

REGISTERED SOCIAL LANDLORDS

The register

18 Registered social landlords

- (1) The Regulator must keep a register of social landlords (“the register”).
- (2) Local authorities and local authority landlords are not to be included in the register.
- (3) The Regulator must—
 - (a) keep the register open for inspection at all reasonable times, and
 - (b) make the register available on a website, or by other electronic means, to members of the public.
- (4) The register must contain an entry for each body included in it setting out—
 - (a) the body’s name,
 - (b) details of how to contact the body,
 - (c) the body’s legal status,
 - (d) the body’s purposes or objects,
 - (e) whether the body is—
 - (i) a non-profit organisation, or
 - (ii) a profit-distributing organisation, and
 - (f) such other information relating to the body as the Regulator considers appropriate.

19 Population of the register

- (1) Each body which was immediately before the commencement of this section, registered in the register maintained by Ministers under section 57 of the Housing (Scotland) Act 2001 (asp 10) is to be included in the register.
- (2) Such a body is to be removed on the day following the period of 24 months after the commencement of this section unless, before that day, it satisfies the Regulator that it meets the registration criteria.
- (3) Subsection (1) does not affect the Regulator's power to remove the body from the register under section 25 or 26.

20 Application

An application for inclusion in the register must—

- (a) be made in such manner as the Regulator may determine,
- (b) include or be accompanied by such information as the Regulator may request, and
- (c) be accompanied by any fee as the Regulator may determine.

21 Entry in the register

- (1) The Regulator must include every applicant body which it considers meets the “registration criteria” in the register.
- (2) The “registration criteria” are—
 - (a) the legislative registration criteria, and
 - (b) the regulatory registration criteria.
- (3) A body entered in the register is presumed to be eligible for registration while the registration lasts, irrespective of whether and why the body is later removed from the register.

*Registration criteria***22 Legislative registration criteria**

- (1) The “legislative registration criteria” are such criteria as Ministers may by order prescribe about a body's—
 - (a) purposes or objects,
 - (b) legal status, and
 - (c) governance arrangements,and different criteria may be prescribed for different types of bodies or cases.
- (2) Before prescribing any such criteria, Ministers must consult—
 - (a) the Regulator,
 - (b) tenants of social landlords or their representatives, and
 - (c) social landlords or representatives of social landlords.
- (3) Ministers—

- (a) must review the legislative registration criteria from time to time with a view to deciding whether modifying the criteria would be likely to increase the level or quality of housing services provided by registered social landlords, and
- (b) may, following such a review, modify the criteria.

23 Regulatory registration criteria

- (1) The “regulatory registration criteria” are such criteria as the Regulator may set about—
 - (a) a body’s financial situation,
 - (b) the arrangements for a body’s governance and financial management,
 - (c) the manner in which the body provides housing services,
 and different criteria may be set for different types of bodies or cases.
- (2) Before setting, revising or withdrawing any criteria, the Regulator must consult—
 - (a) Ministers,
 - (b) tenants of social landlords or their representatives,
 - (c) social landlords or their representatives, and
 - (d) secured creditors of registered social landlords or their representatives.
- (3) The Regulator must make arrangements for bringing the regulatory registration criteria (and any revision or withdrawal) to the attention of those affected by it.

24 Guidance on registration criteria

- (1) The Regulator must issue guidance as to how it will assess whether a body meets the registration criteria.
- (2) The Regulator must make arrangements for bringing any issue, revision or withdrawal of guidance to the attention of those affected by it.
- (3) Before issuing, revising or withdrawing guidance, the Regulator must consult—
 - (a) Ministers,
 - (b) tenants of registered social landlords or their representatives,
 - (c) registered social landlords or their representatives, and
 - (d) secured creditors of registered social landlords or their representatives.

Removal from register

25 Compulsory de-registration

- (1) The Regulator may remove a body from the register only if it considers that the body—
 - (a) no longer meets the registration criteria,
 - (b) has ceased to carry out activities, or
 - (c) has ceased to exist.
- (2) In determining whether to remove a body from the register, the Regulator may require the body to provide information demonstrating that it meets any of the registration criteria.

- (3) Before removing a body from the register the Regulator must—
 - (a) take all reasonable steps to give the body at least 14 days' notice, and
 - (b) have regard to any views expressed by the body in that period.

26 Voluntary de-registration

- (1) The Regulator must set de-registration criteria (and may set different criteria for different types of bodies and cases).
- (2) A registered social landlord may ask the Regulator to remove it from the register on the ground that it meets the de-registration criteria.
- (3) The Regulator, if satisfied that the landlord meets the de-registration criteria, must remove the landlord from the register.
- (4) Before setting, revising or replacing de-registration criteria, the Regulator must consult—
 - (a) Ministers,
 - (b) tenants of registered social landlords or their representatives,
 - (c) registered social landlords or their representatives, and
 - (d) secured creditors of registered social landlords or their representatives.
- (5) The Regulator must make arrangements for bringing any issue, revision or replacement of de-registration criteria to the attention of those affected by it.

Appeals

27 Appeal against decision on registration or removal

- (1) A body may appeal to the Court of Session against a decision of the Regulator—
 - (a) not to register it,
 - (b) to remove it from the register, or
 - (c) not to remove it from the register.
- (2) Where the appeal is against a decision to remove a body from the register, the Regulator must not remove the body before the appeal has been finally determined or is withdrawn.

Communication with other regulators

28 Communication with other regulators

- (1) As soon as reasonably practicable after registering or de-registering a body, the Regulator must—
 - (a) in the case of a charity, notify the Office of the Scottish Charity Regulator,
 - (b) in the case of an industrial and provident society, notify the Financial Services Authority, and
 - (c) in the case of a registered company (whether or not also a charity), notify the Registrar of Companies.

- (2) As soon as reasonably practicable after an appeal is brought under section 27, the Regulator must give notice of the outcome of the appeal to—
 - (a) in the case of a charity, the Office of the Scottish Charity Regulator,
 - (b) in the case of an industrial and provident society, the Financial Services Authority, and
 - (c) in the case of a registered company (whether or not also a charity), the registrar of companies.
- (3) The Office of the Scottish Charity Regulator must keep a record of any notice it is given under this section.

PART 3

PERFORMANCE OF SOCIAL LANDLORDS

Scottish Social Housing Charter

29 **Scottish Social Housing Charter**

Ministers must set out standards and objectives which social landlords should aim to achieve when performing housing activities (“outcomes”).

The document in which those outcomes are set out is to be known as the “Scottish Social Housing Charter”.

30 **Outcomes**

- (1) Outcomes set out in the Scottish Social Housing Charter may, for example, relate to—
 - (a) the housing needs for which social landlords should provide,
 - (b) the prevention and alleviation of homelessness,
 - (c) the provision and management of sites for gypsies and travellers, whatever their race or origin,
 - (d) the acquisition and disposal of housing accommodation,
 - (e) the allocation of housing accommodation,
 - (f) the terms of tenancies and the principles upon which levels of rent should be determined,
 - (g) the condition and quality of housing accommodation,
 - (h) the maintenance and repair of housing accommodation,
 - (i) the contribution of registered social landlords and local authority landlords to the amenity of the areas in which housing accommodation is situated,
 - (j) the prevention of harassment or anti-social behaviour,
 - (k) the participation of tenants (and bodies representing tenants) in formulating social landlord’s proposals concerning the provision of housing services,
 - (l) the procedures for dealing with tenant’s complaints about social landlords and for resolving other disputes between social landlords and their tenants.
- (2) Different outcomes may be set out for different social landlords or for different areas or cases.

31 Scottish Social Housing Charter: supplemental

- (1) Ministers—
 - (a) must review the Scottish Social Housing Charter from time to time, and
 - (b) may, following such a review, revise or replace it.
- (2) Before preparing the Scottish Social Housing Charter (and when reviewing it), Ministers must consult—
 - (a) the Regulator,
 - (b) tenants of social landlords or their representatives,
 - (c) social landlords or their representatives, and
 - (d) secured creditors of registered social landlords or their representatives, and
 - (e) the Accounts Commission for Scotland.
- (3) The Scottish Social Housing Charter (and any revision or replacement) does not have effect unless a proposed Charter (or revision or replacement) has been laid before and approved by a resolution of the Scottish Parliament.
- (4) Ministers must—
 - (a) publish the Scottish Social Housing Charter (and any revision or replacement), and
 - (b) make arrangements for bringing the Scottish Social Housing Charter (and any revision or replacement) to the attention of—
 - (i) social landlords, and
 - (ii) registered tenant organisations associated with social landlords.

*Targets, guidance and code of conduct***32 Performance improvement targets**

- (1) The Regulator may set performance improvement targets specifying the level or quality of housing services which social landlords must aim to provide by a specified time.
 - (2) Different performance improvement targets, or different times, may be set for different social landlords or for different areas or cases.
 - (3) Before issuing, revising or withdrawing a performance improvement target, the Regulator must consult—
 - (a) Ministers,
 - (b) tenants of social landlords or their representatives,
 - (c) social landlords or their representatives,
 - (d) secured creditors of registered social landlords or their representatives, and
 - (e) the Accounts Commission for Scotland.
- This subsection does not apply where—
- (i) the performance improvement target affects only one social landlord, or

- (ii) the Regulator considers that there is an urgent need to set the performance improvement target.
- (4) The Regulator must make arrangements for bringing a performance improvement target (and any revision or withdrawal) to the attention of affected social landlords.

33 Guidance: housing activities

- (1) The Regulator must issue guidance setting out—
 - (a) indicators by reference to which it intends to measure progress towards achieving outcomes set out in the Scottish Social Housing Charter, and
 - (b) how it otherwise intends to assess whether a social landlord has achieved, or made progress towards achieving, those outcomes.
- (2) The Regulator may also issue guidance setting out—
 - (a) indicators by reference to which it intends to measure progress towards meeting any performance improvement target,
 - (b) how it otherwise intends to assess whether a social landlord has met, or made progress towards meeting, that target, and
 - (c) any other matter related to housing services provided by social landlords.
- (3) Guidance may be given generally or for particular purposes (and different guidance may be issued for different social landlords or for different areas or cases).
- (4) Before issuing, revising or withdrawing general guidance, the Regulator must consult—
 - (a) Ministers,
 - (b) tenants of social landlords or their representatives,
 - (c) social landlords or their representatives,
 - (d) secured creditors of registered social landlords or their representatives, and
 - (e) the Accounts Commission for Scotland.
- (5) The Regulator must make arrangements for bringing its guidance (and any revision or withdrawal) to the attention of affected social landlords.

34 Code of conduct: governance and financial accountability

- (1) The Regulator must issue a code of conduct setting out standards of financial management and governance for registered social landlords.
- (2) The code of conduct may make different provision for different social landlords or for different areas or cases.
- (3) Before issuing, revising or withdrawing the code of conduct, the Regulator must consult—
 - (a) tenants of registered social landlords or their representatives,
 - (b) registered social landlords or their representatives, and
 - (c) secured creditors of registered social landlords or their representatives.
- (4) The Regulator must make arrangements for bringing the code of conduct (and any revision or withdrawal) to the attention of registered social landlords.

*Assessing and reporting***35 Performance assessment**

- (1) When assessing a social landlord's performance of housing activities, the Regulator must consider—
 - (a) the level and quality of housing services provided by the social landlord (with particular regard to the level of rents and other service charges),
 - (b) the Scottish Social Housing Charter,
 - (c) any relevant performance improvement target, and
 - (d) any relevant guidance issued under section 33.
- (2) When assessing a registered social landlord's financial well-being or standards of governance, the Regulator must consider the code of conduct issued under section 34.

36 Performance reports

- (1) The Regulator must publish performance reports containing—
 - (a) an assessment of social landlords' performance in—
 - (i) achieving the outcomes set out in the Scottish Social Housing Charter, and
 - (ii) meeting any relevant performance improvement targets,
 - (b) the identity of any social landlord considered to have failed, or to be at risk of failing, to achieve those outcomes or meet those targets.
- (2) The Regulator may include in a performance report—
 - (a) information about regulatory interventions made by the Regulator,
 - (b) information about the financial well-being of registered social landlords generally,
 - (c) such other information about the performance of social landlords or the financial well-being or standards of governance of registered social landlords which the Regulator considers likely to be useful to—
 - (i) social landlords, or
 - (ii) persons who are, or who may become, tenants of social landlords or other recipients of housing services provided by social landlords.
- (3) The Regulator may publish performance reports as often as it considers appropriate but must do so at intervals of not more than 12 months.
- (4) As soon as practicable after publishing a performance report, the Regulator must—
 - (a) lay a copy of it before the Scottish Parliament, and
 - (b) send a copy of it to Ministers.

PART 4

INQUIRIES AND INFORMATION

*Inquiries***37 Inquiries about social landlords**

- (1) The Regulator may make inquiries about—
 - (a) a social landlord, or
 - (b) a body which at the material time is or was connected to a registered social landlord or a local authority landlord.
- (2) Inquiries may be made—
 - (a) at any time, and
 - (b) generally or for particular purposes.
- (3) Inquiries may relate to—
 - (a) a social landlord's housing activities, or
 - (b) a registered social landlord's financial or other affairs.
- (4) Inquiries may be carried out—
 - (a) by the Regulator, or
 - (b) by another person (an "inquirer") appointed by the Regulator,and, where carried out by an inquirer, references to the Regulator in sections 38 to 42 include references to the inquirer.
- (5) Where inquiries are made about a body connected to a registered social landlord or a local authority landlord, references to the social landlord in sections 38 and 40 are references to the social landlord and the connected body.

38 Inquiries: general powers

- (1) The Regulator, when making inquiries, has the following powers in addition to the powers conferred by section 41 and other provisions of this Act.
- (2) The Regulator has a right of access at all reasonable times to—
 - (a) any premises occupied by the social landlord concerned, and
 - (b) any document or other information relating to the social landlord concerned which the Regulator believes relevant to the inquiries.
- (3) The social landlord concerned and any person in premises accessed under subsection (2) must provide such facilities and assistance as the Regulator may reasonably request in connection with the inquiries.
- (4) The Regulator may inspect, copy, make extracts from or take away any document or other information found on premises accessed under subsection (2) (including any information accessible by computers on the premises but stored elsewhere).
- (5) It is an offence for a person, without reasonable excuse, to fail to comply with subsection (3) or to otherwise obstruct the Regulator from properly exercising its powers when making inquiries.

- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

39 Exceptional audit

- (1) The Regulator may, as part of inquiries about a registered social landlord's financial or other affairs, direct it to allow a qualified auditor (appointed by the Regulator) to—
 - (a) audit the registered social landlord's accounts and balance sheet, and
 - (b) report to the Regulator about matters specified by the Regulator.

“qualified auditor” means a person eligible for appointment as auditor of the registered social landlord's ordinary accounts.
- (2) It is for the Regulator to pay for the expenses of the audit (including the auditor's remuneration).
- (3) An audit done under this section is additional to, and does not affect, any other audit done or to be done under any other enactment.

40 Reports on inquiries

- (1) The Regulator may prepare and publish a report of any inquiries it makes.
- (2) The Regulator must—
 - (a) publish a statement setting out the types of inquiries on which it will publish reports,
 - (b) make arrangements for bringing its statement (and any revision or replacement) to the attention of social landlords.
- (3) The Regulator must send a copy of a report prepared under this section to—
 - (a) the social landlord concerned, and
 - (b) every registered tenant organisation associated with that social landlord.

Information

41 Power to obtain information

- (1) The Regulator may, when making inquiries or otherwise for a purpose connected with its functions, require any person to provide it with any document or other information relating to—
 - (a) a social landlord, or
 - (b) a body which at the material time is or was connected to a registered social landlord or a local authority landlord.
- (2) A requirement must specify—
 - (a) the document or other information which the person must provide, and
 - (b) where and by when the person must provide it.
- (3) A requirement must not be made of a person other than the social landlord or connected body concerned unless—
 - (a) the social landlord or connected body has already failed to comply with a requirement to provide the document or other information, or

- (b) the Regulator believes that the social landlord or connected body is unable to provide the document or other information.
- (4) This section does not authorise the Regulator to require—
 - (a) the disclosure of anything which a person would be entitled to refuse to disclose on grounds of confidentiality in the Court of Session, or
 - (b) a banker to disclose anything in breach of a duty of confidentiality owed to anyone other than the social landlord or connected body concerned (or any other body connected to the social landlord).
- (5) The Regulator may copy, or make extracts from, any document or other information it receives.

42 Failure to provide information etc.

- (1) It is an offence for a person to fail, without reasonable excuse, to comply with a requirement made under section 41.
- (2) It is an offence for a person, knowingly or recklessly, to provide information which is false or misleading in a material respect to the Regulator or any other person—
 - (a) in purported compliance with a requirement made under section 41, or
 - (b) otherwise if the person knows, or could reasonably be expected to know, that the information may be used by, or provided to, the Regulator.
- (3) It is an offence for a person intentionally to alter, suppress, conceal or destroy a document or other information which the person, or which the person knows another person, has been required to provide under section 41.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person guilty of an offence under subsection (2) or (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART 5

REGULATORY INTERVENTION

Introductory

43 Regulatory intervention

Regulatory intervention may consist of any combination of the Regulator—

- (a) requiring submission of a performance improvement plan (see section 46),
- (b) serving an enforcement notice (see section 47),
- (c) appointing, or requiring the appointment of, a manager (see sections 48 and 49),
- (d) removing, suspending or appointing a registered social landlord's officers, agents or employees (see sections 51 to 56),
- (e) acting to protect a registered social landlord's assets (see sections 57 and 58).

44 Exercise of regulatory intervention powers

- (1) This section applies where the Regulator is deciding—
 - (a) whether to make a regulatory intervention,
 - (b) which regulatory intervention to make, or
 - (c) how to make a regulatory intervention.
- (2) The Regulator must consider—
 - (a) the desirability of social landlords being free to choose how to provide housing services and manage their financial and other affairs,
 - (b) whether the failure or other problem concerned is serious or trivial,
 - (c) whether the failure or other problem is a recurrent or isolated incident,
 - (d) the speed with which the failure or other problem needs to be dealt with, and
 - (e) its code of practice issued under section 45.

45 Code of practice

- (1) The Regulator must issue a code of practice setting out further information about how it will make decisions referred to in section 44(1).
- (2) The code of practice may, in particular, set out examples of situations in which it may make a regulatory intervention.
- (3) The code of practice must be kept under review and must be re-issued at least once every 5 years.
- (4) The Regulator must make arrangements for bringing the code of practice to the attention of social landlords.
- (5) Before issuing a code of practice, the Regulator must consult—
 - (a) tenants of social landlords or their representatives,
 - (b) social landlords or their representatives,
 - (c) secured creditors of registered social landlords or their representatives, and
 - (d) the Accounts Commission for Scotland.

*Remedial action***46 Performance improvement plans**

- (1) This section applies where the Regulator, having made inquiries or otherwise, considers—
 - (a) that a social landlord is, or is at risk of, failing—
 - (i) to achieve an outcome set out in the Scottish Social Housing Charter, or
 - (ii) to meet a performance improvement target,
 - (b) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs, or
 - (c) that any other conduct by a social landlord justifies requiring it to submit and implement a performance improvement plan.

- (2) The Regulator may require the social landlord to submit, by such time as the Regulator may specify, a performance improvement plan setting out how and by when the social landlord proposes to rectify or avoid the failure or other problem.
- (3) The Regulator may approve (with or without modifications or additional conditions) or reject a performance improvement plan submitted to it.
- (4) The Regulator must not—
 - (a) approve a performance improvement plan submitted by a social landlord with modifications or additional conditions, or
 - (b) reject a performance improvement plan submitted by a social landlord,
 unless it has given the social landlord notice of its intention to do so and has had regard to any views expressed by the social landlord within such period as the Regulator may specify.
- (5) An approved performance improvement plan must be implemented by the social landlord concerned.
- (6) The social landlord must—
 - (a) publish the approved performance improvement plan, and
 - (b) send a copy of it to any registered tenant organisation associated with the social landlord.
- (7) Where a performance improvement plan is rejected, the social landlord must submit a revised plan to the Regulator by such time as the Regulator may specify.

47 Enforcement notices

- (1) The Regulator may serve an enforcement notice if, having made inquiries or otherwise, it considers—
 - (a) that a social landlord is, or is at risk of, failing—
 - (i) to achieve an outcome set out in the Scottish Social Housing Charter,
 - (ii) to meet a performance improvement target,
 - (iii) to implement an approved performance improvement plan, or
 - (iv) to comply with an earlier enforcement notice,
 - (b) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs,
 - (c) that the interests of a social landlord's tenants need protection,
 - (d) that a registered social landlord's assets need protection,
 - (e) that a registered social landlord's financial viability is in jeopardy, or
 - (f) that any other conduct by a social landlord justifies serving an enforcement notice.
- (2) An enforcement notice is a notice requiring the social landlord concerned to take action—
 - (a) to rectify or avoid a failure or other problem, or
 - (b) to protect its tenants or assets.
- (3) An enforcement notice must—

- (a) say why it has been served, and
 - (b) state by when the social landlord must take action.
- (4) The Regulator must—
- (a) publish an enforcement notice, and
 - (b) send a copy of it to every registered tenant organisation associated with the social landlord concerned.

Managerial appointment

48 Appointment of manager for housing activities

- (1) This section applies where the Regulator, having made inquiries or otherwise, considers—
- (a) that a social landlord is, or is at risk of, failing—
 - (i) to achieve an outcome set out in the Scottish Social Housing Charter,
 - (ii) to meet a performance improvement target,
 - (iii) to implement an approved performance improvement plan, or
 - (iv) to comply with an enforcement notice, and
 - (b) that a person needs to be appointed in order to ensure that the social landlord provides housing services to an appropriate standard.
- (2) The Regulator may appoint, or require the social landlord to appoint, a manager—
- (a) to manage the social landlord's housing activities generally, or
 - (b) to manage particular aspects of those activities.
- (3) Before appointing or requiring appointment of a manager of a local authority or a local authority landlord, the Regulator must—
- (a) consult—
 - (i) the local authority or local authority landlord,
 - (ii) such bodies representing local authorities as it thinks fits, and
 - (iii) the Accounts Commission for Scotland, and
 - (b) have regard to views expressed by those consulted by such time as the Regulator may specify.

49 Appointment of manager for financial or other affairs

- (1) This section applies where the Regulator, having made inquiries or otherwise, considers—
- (a) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs, and
 - (b) that a person needs to be appointed in order to ensure that the registered social landlord manages its financial or other affairs to an appropriate standard.
- (2) The Regulator may appoint, or require the registered social landlord to appoint, a manager—

- (a) to manage the landlord's financial and other affairs generally, or
- (b) to manage particular aspects of those affairs.

50 Appointment of manager: supplementary

- (1) It is for the Regulator to determine the terms on which a manager is to be appointed under section 48 or 49 (including as to period of appointment and remuneration and expenses).
- (2) It is for the social landlord to pay the manager's remuneration and expenses.
- (3) A manager has—
 - (a) general powers to do anything required to perform the manager's functions (including power to enter into agreements or do anything else which the social landlord has power to do), and
 - (b) such specific powers as the Regulator may specify.

But a manager must comply with any direction by the Regulator about the performance of the manager's functions (and may be removed on failure to so comply).

- (4) A manager acts as the social landlord's agent and is accordingly not personally liable on an agreement entered into as manager.
- (5) Anyone dealing with a manager in good faith and for value need not inquire whether the manager is acting within the powers conferred by virtue of this section.

Removal, suspension and appointment of officers etc.

51 General power to remove officers

- (1) The Regulator may remove an officer of a registered social landlord if the officer—
 - (a) is an undischarged bankrupt or is otherwise apparently insolvent,
 - (b) is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 (c.46) or equivalent legislation in Northern Ireland,
 - (c) is disqualified from being a charity trustee (see section 69 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)),
 - (d) is, because of a mental disorder, incapable of acting, or
 - (e) is impeding the proper management of the registered social landlord because of absence or other failure to act.
- (2) Before removing an officer, the Regulator must give at least 14 days' notice of its intention to do so to—
 - (a) the officer, and
 - (b) the registered social landlord.
- (3) In this section—
 - (a) "apparently insolvent" has the meaning given by the Bankruptcy (Scotland) Act 1985 (c.66),
 - (b) "undischarged bankrupt" means an individual—

- (i) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force),
- (ii) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it), or
- (iii) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under (or a bankruptcy restrictions undertaking entered into under) the Bankruptcy (Scotland) Act 1985 (c.66) or the Insolvency Act 1986 (c.45).

52 Suspension of officers etc. during or following inquiries

- (1) The Regulator, when making or having made inquiries, may suspend a responsible individual (pending decision on removal or otherwise) where it considers—
 - (a) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs,
 - (b) that the interests of a registered social landlord's tenants need protection, or
 - (c) that a registered social landlord's assets need protection.
- (2) Before suspending a responsible individual, the Regulator must give at least 14 days' notice of its intention to do so—
 - (a) the responsible individual, and
 - (b) the registered social landlord.
- (3) A suspension ceases to have effect—
 - (a) if the Regulator removes the individual or lifts the suspension, or
 - (b) where the Regulator does not so act, on the day falling 6 months after the inquiries concerned are concluded.
- (4) The Regulator may give the registered social landlord directions about—
 - (a) the performance of a suspended individual's functions,
 - (b) any other matter arising from the suspension,and may appoint an individual, on such terms as it thinks fit, to perform the suspended individual's functions.
- (5) It is an offence for a suspended individual to take any action in relation to the management or control of—
 - (a) the registered social landlord concerned, or
 - (b) any other registered social landlord,without the Regulator's consent.
- (6) An individual guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

53 Removal of officers etc. following inquiries

- (1) The Regulator may remove a responsible individual where, having made inquiries, it considers—

- (a) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs,
 - (b) that the interests of a registered social landlord's tenants need protection, or
 - (c) that a registered social landlord's assets need protection.
- (2) Before removing a responsible individual, the Regulator must give at least 14 days' notice of its intention to do so to—
- (a) the responsible individual, and
 - (b) the registered social landlord.
- (3) It is an offence for a removed individual to take any action in relation to the management or control of—
- (a) the registered social landlord concerned, or
 - (b) any other registered social landlord,
- without the Regulator's consent.
- (4) An individual guilty of such an offence is liable, on summary conviction, to—
- (a) imprisonment for a term not exceeding 3 months,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.

54 Responsible individuals

“Responsible individual” (used in sections 52 and 53) means an officer, agent or employee of a registered social landlord who appears to the Regulator—

- (a) to have been responsible for,
 - (b) to have facilitated or otherwise contributed to, or
 - (c) to have been privy to,
- the misconduct, mismanagement, failure or other problem concerned.

55 Appeals against suspension or removal

- (1) An individual may appeal to the Court of Session against the Regulator's decision to—
- (a) remove the individual under section 51 or 53, or
 - (b) suspend the individual under section 52.
- (2) The Court may decide an appeal by—
- (a) confirming the removal or suspension,
 - (b) quashing the removal or suspension,
 - (c) remitting the case to the Regulator for reconsideration,
- and the Court's decision on the matter is final.

56 Appointment of new officers

- (1) The Regulator may appoint an individual as an officer of a registered social landlord—

- (a) in place of an officer it removes under section 51 or 52,
 - (b) where there are no officers, or
 - (c) if the Regulator considers that an additional officer is needed for the proper management of the registered social landlord's financial or other affairs.
- (2) It is for the Regulator to determine the terms on which an officer is appointed (including as to period of appointment and remuneration and expenses).
- (3) The Regulator may renew the appointment of an officer on expiry of any period of appointment so determined.
- (4) It is for the registered social landlord to pay the appointed officer's remuneration and expenses.
- (5) An appointed officer is entitled—
 - (a) to require a general meeting of the registered social landlord to be convened within 21 days of giving notice to the landlord's officers of a request to that effect,
 - (b) to attend, speak and vote at such a general meeting (whether or not convened in pursuance of paragraph (a)),
 - (c) to move a resolution at such a general meeting (whether or not so convened), and
 - (d) to resign or retire in accordance with the registered social landlord's constitution.
- (6) An appointment may be made despite any contrary restriction in the registered social landlord's constitution (and any such restriction contrary to anything done by virtue of this section is accordingly overridden in relation to the appointment concerned).

Asset protection

57 Restrictions on dealings during or following inquiries

- (1) This section applies if the Regulator, when making or having made inquiries, considers—
 - (a) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs,
 - (b) that the interests of a registered social landlord's tenants need protection,
 - (c) that a registered social landlord's assets need protection, or
 - (d) that a registered social landlord's financial viability is in jeopardy.
- (2) The Regulator may—
 - (a) direct the registered social landlord not to—
 - (i) undertake particular transactions, or
 - (ii) make payments of a particular nature or amount,without the Regulator's consent, or
 - (b) direct a bank or other person not to part with any money, securities or other assets it holds for the registered social landlord without the Regulator's consent.
- (3) It is an offence for a person to fail to comply with a direction.
- (4) A person guilty of such an offence is liable on summary conviction to—
 - (a) imprisonment for a term not exceeding 3 months,

- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

58 Transfer of assets following inquiries

- (1) This section applies if the Regulator, having made inquiries, considers—
 - (a) that there has been misconduct or mismanagement in a registered social landlord's financial or other affairs, or
 - (b) that a transfer of some or all of a registered social landlord's assets would improve the management of the assets.
- (2) The Regulator may direct the registered social landlord to transfer assets to another registered social landlord.
- (3) The Regulator must—
 - (a) before making a direction, consult the tenants of any houses it proposes to transfer, and
 - (b) when making a direction, have regard to any views expressed by those consulted by such time as the Regulator may specify.
- (4) A transfer of assets under a direction must be made on terms specified in, or determined in accordance with, the direction.
- (5) Those terms must however—
 - (a) set the price at not less than the amount which the Regulator, having obtained an independent valuation, considers the assets would fetch if sold by a willing seller to a willing registered social landlord, and
 - (b) provide for the settlement or transfer of all the transferor's proper debts and liabilities in respect of the assets (whether secured or not).

PART 6

ACCOUNTS AND AUDIT

59 Determination of accounting requirements

- (1) The Regulator may determine accounting requirements with a view to ensuring that the accounts of each registered social landlord which is a non-profit organisation—
 - (a) are prepared in a proper form, and
 - (b) give a true and fair view of —
 - (i) its state of affairs in relation to its housing activities, and
 - (ii) the disposition of funds and assets which it holds, or has held, in connection with its housing activities.
- (2) A determination may be made generally or for particular purposes (and different determinations may be made for different registered social landlords or different cases).
- (3) The Regulator may revise or withdraw a determination.
- (4) The Regulator must make arrangements for bringing a determination to the attention of affected registered social landlords.

- (5) A determination must not relate to a period beginning before it is published.

60 Compliance with accounting requirements

- (1) The accounts of a registered social landlord which is a non-profit organisation must comply with accounting requirements determined by the Regulator.
- (2) The auditor's report must state the auditor's opinion on whether the accounts so comply.

61 Delivery of accounts and audit

A registered social landlord must provide the Regulator with a copy of its accounts and auditor's report within 6 months of the end of the period to which they relate.

62 Failure to deliver compliant accounts

- (1) It is an offence for a registered social landlord to fail to comply with section 60 or 61.
- (2) A registered social landlord guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 7

INSOLVENCY ETC.

Introductory

63 Application of Part 7

This Part applies only to a registered social landlord which is a non-profit organisation.

Moratorium

64 Notification of step towards insolvency etc.

A person specified in the following table must notify the Regulator—

- (a) before taking a step so specified, and
- (b) as soon as reasonably practicable after such a step is taken.

<i>Person</i>	<i>Step</i>
The person taking the step	A step to enforce a security over a registered social landlord's land
The petitioner	Presenting a petition for the winding up of a registered social landlord
The registered social landlord	Passing a resolution for the winding up of a registered social landlord

<i>Person</i>	<i>Step</i>
The person who applied for the order	Applying for, or making, an administration order in respect of a registered social landlord which is a registered company
The person making the appointment	Appointing an administrator in respect of a registered social landlord which is a registered company

65 Effect of failure to notify

- (1) A step specified in the table in section 64 has no effect if the person so specified fails to give notice under paragraph (a) of that section.
- (2) Failure to give notice of such a step under paragraph (b) of that section does not invalidate the step.

66 Moratorium

- (1) A moratorium on the disposal of a registered social landlord's land begins when a step specified in the table in section 64 is taken in respect of the registered social landlord.
- (2) The taking of another such step during the moratorium does not trigger a new moratorium or affect the duration of the existing one.
- (3) The moratorium ends (unless extended or cancelled) 56 days after the notice of the step is given under paragraph (b) of section 64.
- (4) The Regulator may extend the moratorium from time to time (but may do so only with the consent of all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries).
- (5) The Regulator must give notice of any extension to—
 - (a) the registered social landlord, and
 - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land.
- (6) The Regulator may, after consulting the person whose step triggered a moratorium, cancel the moratorium where it considers that the proper management of the registered social landlord's land can be secured without making proposals under section 70.
- (7) The Regulator must give notice of a moratorium ending to—
 - (a) the registered social landlord, and
 - (b) all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries.
- (8) Such a notice must (except where the moratorium has been cancelled) include an explanation of section 67.

67 Further moratorium

- (1) If a moratorium ends (other than by cancellation), taking a step specified in the table in section 64 in respect of the registered social landlord concerned within 3 years of the moratorium ending does not trigger another moratorium.

- (2) But the Regulator may, in such circumstances, renew the original moratorium for a specified period if all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries consent to the renewal.
- (3) The Regulator must give notice of a renewal of a moratorium to—
 - (a) the registered social landlord, and
 - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land.

68 Effect of moratorium

- (1) A registered social landlord's land may not be disposed of during a moratorium without the Regulator's consent.

This subsection—

- (a) applies to disposals by the registered social landlord and by any other person having power to dispose of the registered social landlord's land, but
 - (b) does not apply to a disposal for which the Regulator's consent is not required because of section 97.
- (2) The Regulator's consent to a disposal may be given—
 - (a) before the moratorium begins,
 - (b) subject to such conditions as the Regulator considers appropriate.
- (3) A purported disposal during a moratorium without consent is void.

69 Interim manager

- (1) During a moratorium the Regulator may appoint, or require the registered social landlord to appoint, an interim manager—
 - (a) to manage the landlord's affairs generally, or
 - (b) to manage particular aspects of those affairs.
- (2) It is for the Regulator to determine the terms on which a manager is to be appointed under this section (including as to period of appointment and remuneration and expenses).
- (3) An appointment under this section ends with the earliest of the following—
 - (a) any date specified in the appointment,
 - (b) the end of the moratorium, or
 - (c) the agreement of proposals under section 72.
- (4) An interim manager has—
 - (a) general powers to do anything required to perform the interim manager's functions (including power to enter into agreements or do anything else which the registered social landlord has power to do), and
 - (b) such specific powers as the Regulator may specify.
- (5) But an interim manager—

- (a) must comply with any direction by the Regulator about the performance of the interim manager's functions (and may be removed on failure to so comply),
 - (b) may not dispose of land or grant security over land.
- (6) An interim manager acts as the social landlord's agent and is accordingly not personally liable on an agreement entered into as interim manager.
- (7) Anyone dealing with a manager in good faith and for value need not inquire whether the interim manager is acting within the powers conferred by virtue of this section.

Making proposals

70 Proposals: formulation

- (1) The Regulator may, during a moratorium, make proposals about the future ownership and management of the registered social landlord's land with a view to ensuring that land is managed properly in the future by a registered social landlord.
- (2) The Regulator must, before making proposals, consult—
- (a) the registered social landlord,
 - (b) the registered social landlord's secured creditors,
 - (c) the registered social landlord's tenants (so far as practicable),
 - (d) where the registered social landlord is an industrial and provident society, the Financial Services Authority, and
 - (e) where the registered social landlord is a charity, the Office of the Scottish Charity Regulator.
- (3) The Regulator must, when formulating proposals—
- (a) have regard to the interests of the registered social landlord's creditors as a whole (both secured and unsecured), and
 - (b) so far as practicable, aim to avoid worsening the position of the registered social landlord's unsecured creditors.
- (4) Proposals may provide for the appointment of a manager to implement the proposals (and proposals which do so must provide for the payment of the manager's remuneration and expenses).
- (5) Proposals must not include anything which would result in—
- (a) non-preferential debts being paid before preferential debts,
 - (b) preferential creditors being paid different proportions of preferential debts (except where affected preferential creditors agree to be paid a smaller proportion),
- “preferential debt” and “preferential creditor” have the same meaning as in the Insolvency Act 1986 (c. 45).

71 Proposals: submission

- (1) The Regulator must submit its proposals to all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries.
- (2) The Regulator must give notice of submitted proposals to—

- (a) the registered social landlord and its officers, and
 - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land.
- (3) The Regulator must also make arrangements for bringing submitted proposals to the attention of the registered social landlord's members, tenants and unsecured creditors.

72 Proposals: agreement

- (1) Secured creditors to whom proposals are submitted under section 71 may—
- (a) agree to the proposals (with or without modification), or
 - (b) reject the proposals.
- (2) Proposals agreed with modifications have effect only if the Regulator agrees to the modifications.
- (3) The Regulator must give notice of agreed proposals to—
- (a) the registered social landlord and its officers,
 - (b) all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries,
 - (c) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land,
 - (d) where the registered social landlord is an industrial and provident society, the Financial Services Authority, and
 - (e) where the registered social landlord is a charity, the Office of the Scottish Charity Regulator.
- (4) The Regulator must also make arrangements for bringing agreed proposals to the attention of the registered social landlord's members, tenants and unsecured creditors.

73 Modifying proposals

Agreed proposals may be modified from time to time with the agreement of—

- (a) the Regulator, and
- (b) all of the registered social landlord's secured creditors to whom the original proposals were submitted.

Sections 70 and 72(3) apply to modified proposals as to the original proposals (and references in sections 74 to 80 to agreed proposals include references to modified proposals)

Implementing proposals

74 Implementation of agreed proposals

- (1) Agreed proposals are binding on and accordingly must be implemented by—
- (a) the Regulator,
 - (b) the registered social landlord,
 - (c) the registered social landlord's creditors (both secured and unsecured), and

- (d) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land.
- (2) The registered social landlord's officers must co-operate in the implementation of agreed proposals.

But this subsection does not require or allow officers to do anything in breach of a fiduciary or other duty owed by them.

75 Appointment of manager to implement proposals

- (1) The Regulator must appoint a manager to implement agreed proposals (where the proposals so provide).
- (2) A manager must comply with any direction by the Regulator about the performance of the manager's functions (and may be removed on failure to so comply).
- (3) A manager may apply to the Court of Session for directions about the performance of the manager's functions (and a direction by the court supersedes any contrary direction by the Regulator).
- (4) The Regulator may appoint another manager in place of a person who for any reason ceases to be manager.

76 Manager: powers

- (1) A manager appointed to implement agreed proposals may do anything necessary to secure that implementation.
- (2) A manager may, in particular—
 - (a) take possession of land (and raise legal proceedings for that purpose),
 - (b) sell or other dispose of land by public auction or private contract,
 - (c) raise or borrow money,
 - (d) grant security over land,
 - (e) grant or enter into, or accept a renunciation of, a lease or tenancy,
 - (f) carry on the registered social landlord's business (in so far as relating to management and transfer of land),
 - (g) carry out works, or do anything else, in connection with the management or transfer of land,
 - (h) execute deeds or other documents on behalf of the registered social landlord,
 - (i) use the registered social landlord's seal (if it has one),
 - (j) make any arrangement or compromise on behalf of the registered social landlord,
 - (k) appoint (and dismiss) agents and staff,
 - (l) appoint a solicitor, accountant or other professional to assist the manager,
 - (m) make payments,
 - (n) take out insurance,
 - (o) raise or defend legal proceedings,
 - (p) refer a dispute to arbitration,

- (q) do anything incidental to the exercise of the above powers.
- (3) A manager acts as the registered social landlord's agent and is accordingly not personally liable on an agreement entered into as manager.
- (4) Anyone dealing with a manager in good faith and for value need not inquire whether the manager is acting within the powers conferred by virtue of this section.
- (5) A manager must, so far as practicable—
 - (a) consult the registered social landlord's tenants before doing anything likely to affect them, and
 - (b) inform them of the effect of any such action.

77 Manager of industrial and provident society: extra

- (1) This section applies where a manager is appointed to implement proposals relating to a registered social landlord which is an industrial and provident society.
- (2) The manager may make and execute, on behalf of the society—
 - (a) an instrument providing for the amalgamation of the society with another industrial and provident society (“amalgamation instrument”), or
 - (b) an instrument transferring the society's engagements.
- (3) An amalgamation instrument executed by a manager has the same effect as a resolution by the society under section 50 of the Industrial and Provident Societies Act 1965 (c. 12) (amalgamation of societies by special resolution).
- (4) An instrument transferring the engagements has the same effect as a transfer of engagements under section 51 or 52 of the Industrial and Provident Societies Act 1965 (c.12) (and, in particular, has effect subject to section 54 of that Act).
- (5) The manager must send a copy of the instrument (signed by the manager) to the Financial Services Authority.
- (6) The copy instrument must be registered by that Authority and the instrument does not take effect until the copy is so registered.
- (7) A copy instrument registered must be sent within 14 days of execution (but a copy registered after that period is valid).

78 Regulator assistance

- (1) The Regulator may give financial or other assistance to a registered social landlord in order to—
 - (a) preserve its position pending the making or agreement of proposals, or
 - (b) facilitate implementation of agreed proposals.
- (2) In order to facilitate implementation of the proposals, the Regulator may give financial or other assistance to—
 - (a) a manager appointed to implement agreed proposals,
 - (b) an officer of the registered social landlord.
- (3) The Regulator may, in particular—
 - (a) lend staff,

- (b) arrange payment of a manager's remuneration and expenses.
- (4) But the Regulator may not—
 - (a) pay grants,
 - (b) make loans,
 - (c) indemnify a manager or officer, or
 - (d) make payments, or give guarantees, connected with loans (whether secured or otherwise),
 without the consent of Ministers.

79 Failure by manager to implement agreed proposals

- (1) This section applies where a registered social landlord, or any of its creditors, applies to the Court of Session on the ground that a manager has acted otherwise than in accordance with agreed proposals.
- (2) The Court of Session may—
 - (a) confirm, modify or reduce any decision or other act of the manager,
 - (b) give the manager directions,
 - (c) make such order as the court thinks fit.

80 Other failure to implement agreed proposals

- (1) This section applies where any person bound by agreed proposals applies to the Court of Session on the ground that another person so bound has acted, or proposes to act, otherwise than in accordance with the proposals.
- (2) The Court of Session may—
 - (a) confirm or modify the act,
 - (b) declare the act to be of no effect,
 - (c) make such order (by way of interdict, award of damages or otherwise) as the court thinks fit.

81 Meaning of "land"

References in this Part to a registered social landlord's land include references to any existing or future interest of the landlord in rent or other receipts arising from land.

PART 8

REGISTERED SOCIAL LANDLORDS: ORGANISATIONAL CHANGE ETC.

Change of name, office or constitution

82 Change of name or office

A registered social landlord must give the Regulator notice of any change to—

- (a) its name, or
- (b) its registered or principal office,

within 28 days of the change being made.

83 Change of constitution

An amendment to a registered social landlord's constitution (other than a change of name or office) is valid only if the Regulator consents to the amendment.

84 Change of industrial and provident society's rules: supplementary

- (1) This section applies where a registered social landlord which is an industrial and provident society obtains the Regulator's consent under section 83 to an amendment of its rules.
- (2) A copy of the consent must accompany the copies of the amendment sent to the Financial Services Authority in accordance with section 10(1) of the Industrial and Provident Societies Act 1965 (c. 12).
- (3) The Industrial and Provident Societies Act 1965 (c. 12) applies in relation to sections 82 and 83 and subsection (2) of this section as if those provisions were contained in section 10 of that Act.

Industrial and provident societies: restructuring, winding up and dissolution

85 Restructuring, winding up and dissolution of industrial and provident societies

- (1) This group of sections applies to a registered social landlord—
 - (a) which is an industrial and provident society, and
 - (b) whose inclusion in the register has been recorded by the Financial Services Authority.
- (2) The Regulator must not give any consent for the purposes of this group of sections unless satisfied that the society has consulted its tenants about the matter for which consent is needed.

86 Restructuring of society

- (1) The Financial Services Authority may register a special resolution passed by the society for the purposes of a restructuring provision only if—
 - (a) the Regulator consents to the special resolution, and
 - (b) a copy of the consent accompanies the copy special resolution sent to the Financial Services Authority for the purposes of the Industrial and Provident Societies Act 1965 (c. 12).

“restructuring provision” means any of the following provisions of the Industrial and Provident Societies Act 1965 (c. 12)—

- (i) section 50 (amalgamation),
 - (ii) section 51 (transfer of engagements),
 - (iii) section 52 (conversion into or amalgamation with registered company).
- (2) Any new body created, or to whom engagements are transferred, in pursuance of the special resolution is to be included in the register (and is to be treated as so included pending such inclusion).

87 Voluntary winding up of society

A resolution for the voluntary winding up of the society under the Insolvency Act 1986 (c.45) is valid only if—

- (a) the Regulator consents to the resolution before it is passed, and
- (b) a copy of the consent accompanies the copy resolution sent to the Financial Services Authority for the purposes of section 30 of the Companies Act 2006 (c.46) (as applied by virtue of section 55 of the Industrial and Provident Societies Act 1965 (c.12) and section 84(3) of the Insolvency Act 1986 (c. 45)).

88 Dissolution of society

The Financial Services Authority may register an instrument of dissolution of the society under section 58 of the Industrial and Provident Societies Act 1965 (c. 12), or cause notice of the dissolution to be advertised under that section, only if—

- (a) the Regulator consents to the dissolution, and
- (b) a copy of the consent accompanies the instrument sent to the Financial Services Authority for the purposes of that section.

Companies: restructuring and winding up

89 Restructuring and winding up of companies

- (1) This group of sections applies to a registered social landlord which is a registered company.
- (2) The Regulator must not give any consent for the purposes of this group of sections unless satisfied that the company has consulted its tenants about the matter for which consent is needed.

90 Restructuring of company

- (1) A court order made in respect of the company under section 899 or 900 of the Companies Act 2006 (c.46) has effect only if the Regulator consents to the order before it is made.
- (2) Where the whole or any part of the undertaking and property and liabilities of the company are transferred to another company in pursuance of an order under section 900 of the Companies Act 2006 (c.46), that other company is to be included in the register (and is to be treated as so included pending such inclusion).

91 Conversion of company into industrial and provident society

- (1) A special resolution by the company under section 53 of the Industrial and Provident Societies Act 1965 (c. 12) has effect only if the Regulator consents to the special resolution before it is passed.
- (2) The new industrial and provident society created in pursuance of that resolution is to be included in the register (and is to be treated as so included pending such inclusion).

92 Company voluntary arrangement

A voluntary arrangement under Part 1 of the Insolvency Act 1986 (c. 45) in relation to the company does not take effect under section 5 of that Act unless the Regulator consents to the voluntary arrangement.

93 Voluntary winding up of company

A special resolution for the voluntary winding up of the company under the Insolvency Act 1986 (c.45) is valid only if the Regulator consents to the special resolution before it is passed.

*Winding up petition***94 Regulator's power to petition for winding up**

- (1) This section applies to a registered social landlord which is—
 - (a) an industrial and provident society, or
 - (b) a registered company.
- (2) The Regulator may present a petition for the winding up of the registered social landlord under the Insolvency Act 1986 (c. 45) on the ground—
 - (a) that the registered social landlord is failing properly to carry out its objects,
 - (b) that the registered social landlord is unable to pay its debts within the meaning of section 123 of that Act, or
 - (c) the Regulator has directed the registered social landlord under section 58 to transfer all its assets to another registered social landlord.

*Asset transfer on dissolution or winding up***95 Asset transfer on dissolution or winding up**

- (1) This section applies to a registered social landlord—
 - (a) which is an industrial and provident society dissolved as mentioned in section 55(a) or (b) of the Industrial and Provident Societies Act 1965 (c.12), or
 - (b) which is a registered company wound up under the Insolvency Act 1986 (c. 45).
- (2) Any surplus assets available after the registered social landlord's liabilities have been discharged are to be transferred to such other registered social landlord as the Regulator directs.
- (3) The Regulator must—
 - (a) before making a direction, consult the tenants of any houses to be included in the transfer, and
 - (b) when making a direction, have regard to any views expressed by those consulted by such time as the Regulator may specify.
- (4) The Regulator may discharge any liability of the registered social landlord in order to ensure that assets which would otherwise need to be sold to discharge that liability are instead transferred under subsection (2).
- (5) This section has effect despite anything in—

- (a) the Industrial and Provident Societies Act 1965 (c. 12),
- (b) the Insolvency Act 1986 (c. 45),
- (c) the Companies Act 2006 (c. 46), or
- (d) the registered social landlord's constitution.

PART 9

DISPOSAL OF LAND BY REGISTERED SOCIAL LANDLORDS

CHAPTER 1

REGULATION OF DISPOSALS

96 Power to dispose of land

- (1) A registered social landlord has power to dispose of land but may do so only if—
 - (a) the Regulator consents to the disposal, or
 - (b) the Regulator's consent is not required because of section 97.
- (2) The Regulator may—
 - (a) give general consent to certain disposals, or
 - (b) give consent for particular purposes (for example, for particular registered social landlords, particular land or particular disposals).
- (3) The Regulator's consent may be conditional.

97 Disposals not requiring consent

- (1) The Regulator's consent is not required for a disposal made by way of—
 - (a) a lease under a Scottish secure tenancy (or what would be such a tenancy but for schedule 1 to the Housing (Scotland) Act 2001 (asp 10),
 - (b) a lease under a short Scottish secure tenancy,
 - (c) a lease under an assured tenancy or an assured agricultural occupancy,
 - (d) a lease under what would be an assured tenancy but for any of paragraphs 3 to 8 and 12 of schedule 4 to the Housing (Scotland) Act 1988 (c.43),
 - (e) a disposal in pursuance of the right to buy conferred by under Part 3 of the Housing (Scotland) Act 1987 (c. 26), or
 - (f) a disposal of such other type as the Regulator may determine.
- (2) The Regulator must—
 - (a) before making, revising or withdrawing a determination under subsection (1)(f), consult—
 - (i) Ministers,
 - (ii) social landlords or their representatives, and
 - (iii) secured creditors of registered social landlords or their representatives, and
 - (b) make arrangements for bringing a determination, revision or withdrawal to the attention of those affected by it.

98 Notification where disposal consent not required

- (1) If a registered social landlord—
 - (a) is a non-profit organisation, and
 - (b) makes a disposal which does not require the Regulator's consent,it must notify the Regulator as soon as reasonably practicable.
- (2) The Regulator may give a direction dispensing with the notification requirement.
- (3) A direction may be given generally or for particular purposes (and different directions may be issued for different social landlords or for different areas or properties).
- (4) Before issuing, revising or withdrawing guidance, the Regulator must consult—
 - (a) Ministers,
 - (b) tenants of social landlords or their representatives,
 - (c) social landlords or their representatives, and
 - (d) secured creditors of registered social landlords or their representatives.
- (5) The Regulator need not consult on a specific direction relating only to one or more particular registered social landlords or properties.

99 Disposals resulting in change of landlord: tenant consultation and ballot

- (1) Chapter 2 of this Part applies to a disposal of land by a registered social landlord—
 - (a) for which the Regulator's consent is required, and
 - (b) as a result of which a tenant under a Scottish secure tenancy will cease to be a tenant of the registered social landlord making the disposal.
- (2) Where Chapter 2 of this Part applies to only a part of a disposal of land, that Chapter applies to that part as to a separate disposal.

100 Tenant consultation: other disposals

- (1) This section applies where—
 - (a) a registered social landlord proposes to make a disposal of land for which the Regulator's consent is required, and
 - (b) Chapter 2 of this Part does not apply in relation to the proposed disposal.
- (2) The registered social landlord must—
 - (a) consult—
 - (i) tenants of houses included in the disposal, and
 - (ii) any other person whom the Regulator requires the landlord to consult, and
 - (b) inform the Regulator of the views expressed by those consulted.

101 Effect of disposals without consent

- (1) This section applies where the Regulator has not consented to a disposal of land by a registered social landlord for which consent is required.

- (2) The disposal is valid in favour of a person claiming under the registered social landlord.
- (3) Anyone dealing with a registered social landlord, or a person claiming under the landlord, need not see or inquire whether any such consent has been given.

102 De-registered bodies

This Part applies in relation to a disposal of land by a body removed from the register of social landlords as if that body was still registered.

But it only so applies in relation to land held by the body before it was so removed.

CHAPTER 2

SPECIAL PROCEDURE FOR DISPOSALS RESULTING IN CHANGE OF LANDLORD

103 Special procedure for disposals resulting in change of landlord

- (1) The Regulator must not consent to a disposal to which this Chapter applies unless—
 - (a) the registered social landlord certifies to the Regulator that it has complied with sections 104, 105 and 107, and
 - (b) the Regulator is satisfied—
 - (i) that a majority of tenants voting in a ballot conducted under section 106 wish the disposal to proceed, and
 - (ii) where the disposal is to a person other than a registered social landlord, that a disposal to a registered social landlord is not appropriate.
- (2) The Regulator may have regard to any information available to it when deciding whether to consent.
- (3) Subsection (1)(b) does not affect the Regulator's general discretion to refuse consent—
 - (a) on grounds relating to whether a disposal is supported by tenants, or
 - (b) on any other grounds.

104 Consultation with tenants

- (1) A registered social landlord proposing to make a disposal to which this Chapter applies must serve a notice on the tenants of each house included in the proposed disposal —
 - (a) specifying to whom the proposed disposal is to be made,
 - (b) explaining the likely consequences of the disposal for the tenants,
 - (c) informing them of their right to make representations to the registered social landlord within such reasonable period (of not less than 28 days) as may be specified, and
 - (d) including such other details about the proposed disposal as the landlord considers appropriate.
- (2) The registered social landlord must, after considering any timeous representations made in pursuance of the notice served under subsection (1), serve a further notice on the tenants concerned—
 - (a) informing them—
 - (i) of any significant changes to the proposed disposal, and

- (ii) of their right to object to the proposed disposal within such reasonable period (of not less than 28 days) specified in the notice, and
- (b) explaining—
 - (i) that the disposal requires the Regulator’s consent, and
 - (ii) that the Regulator is not permitted to give consent unless satisfied that a majority of tenants voting in a ballot conducted under section 106 wish the disposal to proceed.

105 Further information

- (1) The Regulator may, before deciding whether to consent to a disposal to which this Chapter applies—
 - (a) direct the registered social landlord concerned—
 - (i) to carry out further consultation with tenants in addition to that carried out under section 104 (either before or after the ballot conducted under section 106), and
 - (ii) to give the Regulator such information about that consultation as it may require,
 - (b) require the registered social landlord concerned to provide any information—
 - (i) about representations and objections made by tenants and others in relation to the proposed disposal,
 - (ii) about the ballot conducted under section 106, or
 - (iii) otherwise relating to the proposed disposal,which the Regulator considers relevant.

106 Ballot

- (1) A registered social landlord proposing to make a disposal to which this Chapter applies must conduct a ballot of tenants of houses included in the proposed disposal on the question of whether the tenants wish the disposal to proceed.
- (2) The registered social landlord must inform the Regulator of the results of the ballot.
- (3) The registered social landlord must, when conducting the ballot or informing the Regulator of the results of the ballot, have regard to any guidance issued by Ministers about such matters.

107 Unaffected tenants

- (1) In this section, “unaffected tenant” means a tenant of a house included in a proposed disposal of land who the registered social landlord expects to have vacated the house before the disposal is made.
- (2) The registered social landlord—
 - (a) need not give notice (or further notice) under section 104 to an unaffected tenant, and
 - (b) may exclude an unaffected tenant from the ballot conducted under section 106.

- (3) But, where a registered social landlord does not give such a notice, or so excludes a tenant, the Regulator must not decide whether to consent to the disposal unless the registered social landlord has served notice on the Regulator confirming that the tenants concerned have all vacated the houses concerned.

108 Purchaser protection

Failure by the Regulator or by a registered social landlord to comply with any provision of this Chapter in relation to a disposal does not invalidate the Regulator’s consent to the disposal.

PART 10

RIGHT TO BUY

109 Limitation from right to buy: new supply social housing

After section 61E of the Housing (Scotland) 1987 Act (c.26) insert—

“61F Limitation on right to buy: new supply social housing

- (1) Section 61(1) does not apply to new supply social houses.
- (2) Subsection (1) does not affect the rights of a tenant of a new supply social house if—
 - (a) the tenant moved to the house from another house as a result of an order for recovery of possession of that other house having been made under section 16(2) of the Housing (Scotland) Act 2001 (asp 10) on any of the grounds set out in paragraphs 9 to 15 of schedule 2 to that Act, or
 - (b) the landlord failed to give the tenant notice (in the prescribed form) of the effect of subsection (1) at least 28 days before letting the house to the tenant.
- (3) A “new supply social house” is a house let under a Scottish secure tenancy after the day on which section 109 of the Housing (Scotland) Act 2010 (asp 00) comes into force which was not so let on or before 25 June 2008.

PART 11

SUPPLEMENTARY AND FINAL PROVISIONS

110 Offences by bodies corporate etc.

- (1) Where—
 - (a) an offence under this Act has been committed by—
 - (i) a social landlord, or
 - (ii) a body corporate, or a Scottish partnership or other unincorporated association, other than a social landlord, and
 - (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual, or

(ii) an individual purporting to act in the capacity of a relevant individual, that individual as well as the offender is guilty of the offence and is liable to be proceeded against and punished accordingly.

- (2) In subsection (1), “relevant individual” means—
- (a) in relation to a registered social landlord, an officer of the registered social landlord,
 - (b) in relation to a local authority, an officer or member of the local authority,
 - (c) in relation to a body corporate other than a local authority or registered social landlord—
 - (i) a director, manager, secretary or other similar officer of the body,
 - (ii) where the affairs of the body are managed by its members, the members,
 - (d) in relation to a Scottish partnership, a partner, and
 - (e) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

111 Formal communications

- (1) A “formal communication” means any approval, application, certificate, consent, direction, notice, requirement or submission made, served or given under or for the purposes of this Act.
- (2) A formal communication must be in writing.
- (3) A formal communication is made, served or given if it is—
- (a) hand delivered to the person concerned,
 - (b) sent, by first class post or by using a registered or recorded delivery postal service, in an envelope or package addressed—
 - (i) where sent to the Regulator, to the “Scottish Housing Regulator” at the Regulator’s principal office,
 - (ii) where sent to a registered social landlord, to the landlord at the address set out in the register,
 - (iii) where sent to a local authority, to the local authority at its principal office,
 - (iv) where sent to a body other than a registered social landlord or local authority, to the body at its registered or principal office, or
 - (v) where sent to an individual, to the individual at the individual’s principal place of business or usual or last known abode,
 - (vi) in any case, to the person concerned at a postal address designated for the purpose by that person (such designation to be made by giving notice to the person making, serving or giving the formal communication), or
 - (c) sent to the person concerned in some other way (including by email, fax or other electronic means) which the sender reasonably considers likely to cause it to be delivered on the same or next day.
- (4) A formal communication which is sent by email, fax or other electronic means is to be treated as being in writing only if it is legible and capable of being used for subsequent reference.

- (5) A formal communication is, unless the contrary is proved, to be treated as having been made, served or given—
 - (a) where hand delivered, on the day of delivery,
 - (b) where posted, on the day on which it would be delivered in the ordinary course of post, or
 - (c) where sent in a way described in subsection (3)(c), on the day after it is sent.
- (6) This section does not apply in relation to an—
 - (a) application, notice or other thing which is made, served or given for the purposes of legal proceedings, or
 - (b) an approval by the Scottish Parliament.

112 Orders

- (1) Any power of Ministers under this Act to make an order is exercisable by statutory instrument.
- (2) Any such power includes power to make—
 - (a) such supplementary, incidental, consequential, transitional, transitory or saving provision as Ministers consider appropriate,
 - (b) different provision for different purposes.
- (3) A statutory instrument containing an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.

This subsection does not apply—

- (a) to orders made under section 117(2) (commencement orders), or
 - (b) where subsection (4) makes contrary provision.
- (4) An order—
 - (a) under section 22(1), or
 - (b) under section 114(1) which adds to, replaces or omits any text in this or any other Act,

may be made only if a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.

113 Minor and consequential amendments and repeals

Schedule 2 sets out minor amendments and amendments and repeals consequential on the provisions of this Act.

114 Ancillary provision

- (1) Ministers may by order make any supplementary, incidental, consequential, transitional, transitory or saving provision which they consider appropriate for the purposes of, or in connection with, or for the purposes of giving full effect to, any provision of this Act.
- (2) Such an order may modify any enactment, instrument or document.

115 Connected bodies

A body is connected to a registered social landlord or a local authority landlord if—

- (a) the registered social landlord or local authority landlord can (directly or through nominees) secure that the body's affairs are conducted in accordance with the social landlord's wishes,
- (b) the body can (directly or through nominees) secure that the registered social landlord or local authority landlord's affairs are conducted in accordance with the body's wishes,
- (c) the body is the registered social landlord or local authority landlord's subsidiary,
- (d) the registered social landlord or local authority landlord is the body's subsidiary, or
- (e) the body is the subsidiary of a body of which the registered social landlord or local authority landlord is a subsidiary.

“subsidiary” has the same meaning in this section as in the Companies Act 2006 (c.46) or, as the case may be, the Friendly and Industrial Provident Societies Act 1968 (c.55).

116 Interpretation

In this Act—

“assured agricultural occupancy” has the same meaning as in Part 1 of the Housing Act 1988 (c.50),

“assured tenancy” has the same meaning as in Part 2 of the Housing (Scotland) Act 1988 (c.43),

“charity” means a body entered in the Scottish Charity Register,

“connected body”, and similar expressions, have the meaning given by section 115,

“constitution”—

- (a) in relation to a registered company, means its articles of association,
- (b) in relation to an industrial and provident society, means its rules,
- (c) in relation to a body of any other status, means the instrument which establishes it and states its purposes,

“disposal” means sale, lease, security, charge or any other disposal (including grant of an option) and similar expressions are to be construed accordingly,

“enforcement notice” has the meaning given by section 47,

“house” includes—

- (a) any part of a building occupied or intended to be occupied as a separate dwelling, and in particular includes a flat, and
- (b) any yard, garden, garage, outhouse and pertinent belonging to the house or usually enjoyed with it,

“housing accommodation” includes flats, lodging-houses and hostels,

“housing activities” means any activities undertaken by a social landlord in relation to housing services which are or may be provided by it,

“housing services” means providing housing accommodation and related services and includes anything done, or required to be done, in relation to—

- (a) the prevention and alleviation of homelessness,
- (b) the management of housing accommodation,
- (c) the provision of services for owners and occupiers of houses,
- (d) the provision and management of sites for gypsies and travellers, whatever their race or origin,

“industrial and provident society” means a society registered under the Industrial and Provident Societies Act 1965 (c. 12),

“inquiries” means inquiries under section 37,

“landlord” means any person who lets a house under a tenancy, and includes the landlord’s successors in title,

“legislative registration criteria” has the meaning given by section 22,

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39),

“local authority landlord” means a landlord which is a local authority, a joint board or joint committee of 2 or more local authorities, or the common good of a local authority, or any trust controlled by a local authority,

“Ministers” means the Scottish Ministers,

“non-profit organisation” means a body which—

- (a) is a charity;
- (b) does not trade for profit; or
- (c) does not distribute any profits to shareholders or other persons owning or controlling the organisation,

“officer”—

- (a) in relation to a registered social landlord which is a registered company, has the meaning given by section 1173 of the Companies Act 2006 (c.46),
- (b) in relation to a registered social landlord which is an industrial and provident society, has the meaning given by section 74 of that Act,
- (c) in relation to a registered social landlord of any other status, means any person concerned in the management or control of the registered social landlord,

“outcome” has the meaning given by section 29,

“performance improvement plan” has the meaning given by section 46,

“performance improvement target” has the meaning given by section 32,

“profit-distributing organisation” means a body other than a non-profit organisation,

“register” has the meaning given by section 18(1),

“registered company” means a company for the purposes of the Companies Act 2006 (c. 46),

“registered social landlord” means a body registered in the register,

“registered tenant organisation” has the meaning given by section 53(6) of the Housing (Scotland) Act 2001 (asp 10),

“registration criteria” has the meaning given by section 21,

“the Regulator” means the Scottish Housing Regulator established by section 1,

“regulatory intervention” is to be construed in accordance with section 43,

“regulatory registration criteria” has the meaning given by section 23,

“relevant regulators” has the meaning given by section 16(2),

“responsible individual” has the meaning given by section 54,

“tenancy” means an agreement under which a house is made available for human habitation, and “lease” and related expressions are to be construed accordingly,

“tenant” means a person who leases a house from a landlord and whose right in the house derives directly from the landlord, and in the case of a joint tenancy means all the tenants,

“Scottish secure tenancy” has the same meaning as in the Housing (Scotland) Act 2001 (asp 10),

“Scottish Social Housing Charter” has the meaning given by section 29,

“secured creditor”, in relation to a registered social landlord, means a creditor who holds a security over—

- (a) land held by the registered social landlord, or
- (b) any existing or future interest in rent or other receipts arising from such land,

“security” means any security or charge (including a floating charge),

“short Scottish secure tenancy” has same meaning as in the Housing (Scotland) Act 2001 (asp 10),

“social landlord” means a registered social landlord, local authority landlord or a local authority which provides housing services.

117 Commencement

- (1) The following provisions come into force on Royal Assent—
 - section 112
 - section 114
 - section 116
 - this section
 - section 118
- (2) Ministers may by order appoint the day on which each other provision comes into force.

118 Short title

This Act is called the Housing (Scotland) Act 2010.

SCHEDULE 1
(introduced by section 11(3))

TRANSITIONAL PROVISIONS

Transfer of staff

- 1 (1) All staff employed immediately before the coming into force of this paragraph in the Executive Agency of Ministers known as the Scottish Housing Regulator are transferred to, and become members of staff of, the Regulator.

Accordingly,—

- (a) the contract of employment of a transferred person—
 - (i) is not terminated by the transfer, and
 - (ii) has effect from the date of transfer as if originally made between the person and the Regulator.
 - (b) all the rights, powers, duties and liabilities of Ministers under or in connection with a transferred person's contract of employment are transferred to the Regulator, and
 - (c) anything done before that date by or in relation to Ministers in respect of that contract of employment or a transferred person is to be treated from that date as having been done by, or in relation to, the Regulator.
- (2) Sub-paragraph (1) does not affect the right of a transferred person to terminate that person's contract of employment if the terms of employment are changed substantially to the detriment of the person; but any such a change is not to be taken to have occurred by reason only that the identity of that person's employer has changed.

Transfer of assets and liabilities

- 2 (1) Ministers may by order provide for the transfer to the Regulator of—
- (a) any assets held or used by them for or in connection with the purposes of the Executive Agency of Ministers known as the Scottish Housing Regulator,
 - (b) any liabilities of Ministers incurred for or in connection with those purposes.
- (2) An order under sub-paragraph (1) may, in particular—
- (a) provide for the creation of rights or interests, or the imposition of liabilities or conditions, in relation to assets transferred, or rights or interests acquired, by virtue of the order,
 - (b) provide for any assets, liabilities or conditions to be determined under the order.
- (3) An order under sub-paragraph (1) has effect in relation to any assets or liabilities to which it applies despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the assets or liabilities.
- (4) A right of pre-emption, right of irritancy, right of return or other similar right—
- (a) does not operate or become exercisable as a result of any transfer of assets by virtue of an order under sub-paragraph (1), and
 - (b) accordingly has effect in the case of any such transfer as if the Regulator were the same person in law as Ministers and as if no transfer of the assets had taken place.

- (5) Such compensation as is just is to be paid (by Ministers or by the Regulator or by both) to any person in respect of any such right which—
 - (a) would, but for sub-paragraph (4), have operated in favour of, or become exercisable by, that person, but
 - (b) because of the operation of that sub-paragraph, cannot subsequently operate in the person's favour or (as the case may be) become exercisable by the person.
- (6) An order under sub-paragraph (1) may provide for the determination of disputes as to—
 - (a) whether and, if so, how much, compensation is payable, and
 - (b) the person to whom or by whom it is to be paid.
- (7) A certificate issued by Ministers that any asset or liability has, or has not, been transferred by virtue of an order under sub-paragraph (1) is conclusive evidence of whether the asset has been transferred
- (8) In this paragraph—

“assets” includes property, rights and interests,

“right of return” means any right for the return or reversion of assets in specified circumstances.

SCHEDULE 2

(introduced by section 113)

MODIFICATIONS OF ENACTMENTS

Friendly and Industrial and Provident Societies Act 1968 (c.55)

- 1 In section 4A(3)(ba) (societies which cannot disapply section 4) of the Friendly and Industrial and Provident Societies Act 1968, for “section 57 of the Housing (Scotland) Act 2001 (asp 10)” substitute “section 18(1) of the Housing (Scotland) Act 2010 (asp 00)”.

Housing (Scotland) Act 1987 (c.26)

- 2 (1) The Housing (Scotland) Act 1987 Act is amended as follows.
 - (2) Sections 17A and 17B are repealed.
 - (3) In section 61(4)(e), for “is registered as such” substitute “was first registered as such (and remains so registered)”.
 - (4) In the definition of “registered social landlord” in section 338(1), for “Housing (Scotland) Act 2001 (asp 10)” substitute “Housing (Scotland) Act 2010 (asp 00)”.

Housing (Scotland) Act 1988 (c.43)

- 3 (1) The Housing (Scotland) Act 1988 is amended as follows.
 - (2) In section 1(3)(e), the words from “maintaining” to the third occurrence of “landlords” are repealed.
 - (3) In section 57 (persons by whom right may be exercised) for “Scottish Ministers” in both places those words appear, substitute “Scottish Housing Regulator”.

- (4) In section 63 (consent for subsequent disposals)—
- (a) in subsection (1), for “Scottish Ministers”, substitute “Scottish Housing Regulator”,
 - (b) in subsection (3), for the words from “Scottish Ministers” to “landlord”, substitute “Scottish Housing Regulator under section 96 of the Housing (Scotland) Act 2010 (asp 00) (power to dispose of land)”.
- (5) For paragraph 11(ea) (local authority and other tenancies) of Schedule 4 substitute—
- “(ea) a registered social landlord within the meaning of the Housing (Scotland) Act 2010 (asp 00).”.

Housing Act 1988 (c.50)

- 4 In section 52(10) (recovery etc. of grants) of the Housing Act 1988, for “Housing (Scotland) Act 2001 (asp 10).” substitute “Housing (Scotland) Act 2010 (asp 00).”.

Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)

- 5 In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3 (devolved public bodies) after the entry relating to the Scottish Further and Higher Education Funding Council”, insert—
- “The Scottish Housing Regulator”.

Housing (Scotland) Act 2001 (asp 10)

- 6 (1) The Housing (Scotland) Act 2001 Act is amended as follows.
- (2) Sections 57 to 68 (and schedules 7 and 8) are repealed.
 - (3) Sections 69 to 75 are repealed.
 - (4) In section 76—
 - (a) in subsection (1), the words “or a registered social landlord” are repealed,
 - (b) in subsection (2), the words “or, as the case may be, section 66 of this Act” are repealed.
 - (5) Sections 77 to 83 are repealed.
 - (6) In section 111, for the definition of “registered social landlord”, substitute—

““registered social landlord” means a body registered in the register maintained under section 18(1) of the Housing (Scotland) Act 2010 (asp 00).”.
 - (7) In schedule 9—
 - (a) in paragraph 1(1), sub-sub-paragraph (b) (and the word “or” immediately preceding it) are repealed,
 - (b) in paragraph 2(1), the words “or section 66 of this Act” are repealed.

Scottish Public Services Ombudsman Act 2002 (asp 11)

- 7 In the Scottish Public Services Ombudsman Act 2002, in schedule 2 (listed authorities) for the words “Scottish Homes” in paragraph 44 substitute “The Scottish Housing Regulator”.

Freedom of Information (Scotland) Act 2002 (asp 13)

- 8 In the Freedom of Information (Scotland) Act 2002, in schedule 1 (Scottish public authorities) after paragraph 85A insert—
“85B The Scottish Housing Regulator.”.

Public Appointments and Public Bodies etc.(Scotland) Act 2003 (asp 4)

- 9 In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2 (specified authorities) after the entry relating to the Scottish Further and Higher Education Funding Council insert—
“Scottish Housing Regulator”.

Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)

- 10 In the definition of “registered social landlord” in section 143(2) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), for “section 57 of the Housing (Scotland) Act 2001 (asp 10)” substitute “section 18(1) of the Housing (Scotland) Act 2010 (asp 00)”.

Further and Higher Education (Scotland) Act 2005 (asp 6)

- 11 In section 22(5) of the Further and Higher Education (Scotland) Act 2005, for paragraph (i) substitute—
“(i) the Scottish Housing Regulator.”

Charities and Trustee Investment (Scotland) Act 2005 (asp 10)

- 12 (1) Section 38 of the Charities and Trustee Investment (Scotland) Act 2005 is amended as follows.
- (2) In subsection (1)—
- (a) the words “It is for the Scottish Ministers to exercise” are repealed,
- (b) for the words “in so far as they are” substitute “are not”.
- (3) Subsection (7) is repealed.
- (4) The words “(1) or”, where occurring in subsections (8), (9) and (10), are repealed.
- (5) In subsection (12), for the words from “57(1)” to “(asp 10)” substitute “18(1) of the Housing (Scotland) Act 2010 (asp 00)”.

Housing (Scotland) Act 2006 (asp 1)

- 13 In section 22(4)(b) (application to private rented housing panel) of the Housing (Scotland) Act 2006, for “section 57 of that Act” substitute “section 18(1) of the Housing (Scotland) Act 2010 (asp 00)”.

Annex A

Draft equalities impact assessment for the Housing (Scotland) Bill - reforming Right to Buy and modernising regulation

We would like your views on this partial, draft impact assessment, which is part of the consultation on the draft Bill. We have included a number of questions and your responses to these will help us to carry out a full equalities impact assessment of the proposals.

1 Aims of the policy

What is the purpose of the proposed policy (or changes to be made to the policy)?	To safeguard social housing for the benefit of current and future tenants by: <ul style="list-style-type: none">a) ending Right to Buy (RTB) for new social housing; andb) modernising the way social housing is regulated.
Who is affected by the policy or who is intended to benefit from the proposed policy and how?	Social landlords and their tenants and prospective tenants will be affected by the policy. It introduces changes to the way social housing is regulated and changes to the rules on RTB. <ul style="list-style-type: none">a) The changes to RTB aim to provide benefits for current and prospective tenants of social landlords by helping to protect the stock of social housing for current and future generations.b) Modernised regulation aims to provide independent assurance about the quality and value of housing and related services. It should also enable tenants to hold their landlords to account for the quality of their services.
How have you, or will you, put the policy into practice, and who is or will be responsible for delivering it?	Both parts of the policy will be implemented through the Housing (Scotland) Bill. a) Right to Buy Social landlords are responsible for processing applications under the RTB. They will have new responsibilities to inform tenants that they will not have RTB entitlements over any new supply housing that they are offered.

	<p>b) Modernising regulation</p> <p>The SHR will be responsible for putting the modernised regulation policy into practice. It will do this through:</p> <ul style="list-style-type: none"> • a legal duty to protect the interests of tenants and prospective tenants; • assessments of landlords’ performance against nationally agreed objectives – the Social Housing Charter; and • assessments of landlords’ fitness to be registered as social housing providers.
<p>How does the policy fit into the Government’s wider or related policy initiatives?</p>	<p>a) Right to Buy</p> <p>The changes to RTB will help to protect the supply of social housing and improve access to it for people in need. It will contribute to the national outcome the Government has set for strong, resilient and supportive communities.</p> <p>b) Modernising regulation</p> <p>The modernised system of regulation will contribute to public services that are high quality, continually improving, efficient and responsive to local people’s needs. It will do this by focusing social landlords’ efforts on:</p> <ul style="list-style-type: none"> • meeting tenants’ priorities; • continually improving performance and value; and • commanding the confidence of public and private investors in housing. <p>The proposals are influenced by, and consistent with, the Government’s aims for scrutiny. These include reducing the burden of scrutiny, with more emphasis on self-evaluation by providers, easier access to information for service users and assessments that are easily understood.</p>

2 What do we already know about the diverse needs of our target audience?

Do you have information on				
Age	Yes	√	No	
Disability	Yes	√	No	
Gender	Yes	√	No	
Lesbian, Gay, Bisexual & Transgender (LGBT)	Yes	√	No	
Race	Yes	√	No	
Religion and Belief	Yes	√	No	

Our target audience includes social landlords, their tenants and prospective tenants. Social landlords will put the changes on the Right to Buy into practice, while the policy on modernising regulation will be implemented by the Scottish Housing Regulator (SHR). The SHR does not provide a direct service to the community but, by regulating the services provided by social landlords, helps to maintain and improve the standard of those services. We expect both parts of the policy to bring benefits by safeguarding the stock of social housing and improving the value it provides to tenants, prospective tenants and taxpayers.

2.1 Tenants and prospective tenants

Around a quarter of Scotland's households live in social housing, and many more are on waiting lists or seeking assistance through local authority homelessness services. There is evidence from research and national surveys, including the Census, Scottish Household Survey and Scottish House Condition Survey, that certain groups of people have particular needs and experiences of social housing.

- The population of social housing tenants is on average older than that of Scotland as a whole.
- People with disabilities are more likely to rent from a social landlord than to own their home or rent privately.
- Nearly a third of households with female heads of household are in the social sector, compared with fewer than one in five households with a male head of household.
- Men between the ages of 25 and 60 are at a higher risk of rough sleeping than the population as a whole.
- Older LGBT residents may face particular problems in relation to supported or sheltered accommodation.
- LGBT residents are also at greater risk of being victims of anti-social behaviour.

- Minority ethnic communities are under-represented in social housing (and over-represented in the private rented sector).
- People from Christian religions are more likely than others to live in social housing, while Hindus are less likely to do so.

Those living in social housing are often among the most vulnerable members of society. Single pensioners are the most common household type in the sector, with single adults below retirement age the second most common group and lone parents with dependent children the third¹. While this might suggest that these groups are most likely to need and to benefit from the protection offered by housing regulation, there is also a need to make sure the interests and housing needs of under-represented groups such as minority ethnic communities are not overlooked or neglected.

We do not have detailed information on the characteristics of RTB purchasers. However, a report to Parliament on the wider impact of the RTB suggests that purchasers are increasingly younger, remain in the sector for a shorter period before buying, and are more inclined to use RTB as a means of building up equity to enable them to move to a more suitable house or a more desirable area.²

Question A.1

What else do we need to know about tenants, prospective tenants and RTB purchasers to help us understand their diverse needs and experiences of social housing, and where can we get this information?

2.2 Social landlords

There are 272 social landlords in Scotland. Twenty-six are local authorities and 246 registered social landlords (RSLs). Between them they own and manage around 600,000 homes across Scotland, with more than half of these being council houses. Individual landlords range in size from a local authority with nearly 38,000 houses to small RSLs with fewer than 50 houses.

In terms of the services they provide, there is evidence that landlords across the social housing sector need to improve their performance in relation to equalities. A thematic study on equalities published by the regulator in 2006³ (following an earlier study in 2002) found a mixed picture on progress. While some landlords were doing good work on equalities, many others recognised they needed to do better and some were struggling to meet all their legal obligations. There was commonly a need for improved leadership, guidance and understanding of good practice. The SHR's inspection activity has also revealed some weaknesses in compliance with equalities legislation among social landlords.

¹ Newhaven Research (2006), **The future for social renting in Scotland**, CIH

² Scottish Government (2006), **The Right to Buy in Scotland – pulling together the evidence**

³ Communities Scotland (2006), **Equalities in Practice follow-up study**

A separate study on services for Gypsies/Travellers⁴, also published in 2006, found that local authorities were making only slow progress in improving services for this group of people. Several councils still did not recognise Gypsies/Travellers as a distinct ethnic group. Both studies found that many landlords needed to do more in terms of gathering and using information about the community they serve and in understanding and responding to the needs of different groups within the community.

Other research has similarly identified a need for better collection, analysis and use of information. For example, a 2008 study on allocations policy and practice⁵ found that data landlords collected was often driven by reporting requirements. Only a minority were analysing and using the information to plan or manage services. Also in 2008, an Audit Commission study on the impact of the race equality duty on council services found that local authorities generally lack full and robust information about minority ethnic communities and their needs; and that they were unable to demonstrate how consultation with these communities had influenced the design or delivery of services.⁶

The Policy and Approach action group set up by the Government to take forward recommendations from the Crerar Review recently reported to Ministers. Among other things it proposed that scrutiny functions should be established or continued in certain circumstances. These include where there is a need for assurance about whether services are meeting regulatory requirements, such as those on equalities.

3 What does the information we have tell us about how this policy might impact positively or negatively on the different groups within the target audience?

3.1 Right to Buy

An adequate supply of decent housing at prices or rents people can afford is essential for the health and well-being of individuals and communities. It is a key foundation for sustainable economic growth necessary to deliver a wealthier, fairer society. The RTB has contributed to the reduction in social housing stock, leading to reduced availability of housing at affordable rents. In ending RTB for new social housing we aim to increase the supply of affordable rented accommodation.

Ending RTB on new social housing should increase the supply of social rented accommodation available to tenants by safeguarding new social housing from sale and encouraging social landlords (particularly councils) to build new housing. It should also help local authorities better to plan to meet local housing needs as it will give them more certainty about which properties should be available for social rent in perpetuity. However, social landlords would still be able to sell properties should they wish to, as they can at present, although in certain circumstances they will require Ministerial consent to do this.

⁴ Communities Scotland (2006), **Services for Gypsies/Travellers follow-up study**

⁵ Scottish Government (2008), **Tensions between allocations policy and practice**

⁶ Audit Scotland (2008), **The impact of the race equality duty on council services**

Any increase in supply should have a positive impact by helping improve access to social housing for disadvantaged or under-represented groups. Better availability of social housing should benefit:

- prospective tenants by reducing the time they spend on waiting lists; and
- current tenants by increasing their options for transferring to a new tenancy.

In general, tenants will not have the RTB over new social housing. But they will be able to count their period in occupation of the new housing towards the minimum qualifying period and for discount entitlement purposes. They will be able to apply this time towards their RTB discount if they subsequently move to a property where they are able to exercise their RTB.

However, a tenant of a new supply social house will be entitled to purchase that house under RTB if:

- Their landlord has required them to move to the new supply house (for example, if their current house is to be demolished); or
- They were not informed in time that they would not be able to exercise their Right to Buy over the new house.

Questions

A.2 Do you think ending the RTB for new social housing will have a disproportionately negative impact on particular groups of people in our target audience?

A.3 If you think the RTB proposals will have a negative impact on a particular group, why is this?

A.4 What positive impacts do you think ending the RTB for new social housing will have on particular groups of people?

A.5 What changes to the RTB proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

3.2 Regulation

A central principle of the policy on regulation is that the regulator should have a statutory duty to promote the interests of current and prospective tenants. And, as a public body, the SHR is bound by the duty to promote equality of opportunity in all of its activities. This is particularly important in relation to registered social landlords (RSLs) as they are not public bodies and so are not themselves bound by the public sector equality duty. So the regulator has an important role in setting clear expectations and promoting good equalities practice in the RSL sector.

Together, the duties to promote tenants' interests and the duty to promote equal opportunities should help to safeguard the interests of all groups of tenants regardless of race, gender, disability, age, sexual orientation, religion or belief.

However, the proposed changes place increased emphasis on publication of accessible information to enable tenants and others to make judgements about their landlords' performance and hold them to account. This could disadvantage those who have difficulty reading English. The regulator will need to be alert to this possibility and proactive in making information available in alternative languages and formats such as Braille and audio for those who need it. The SHR already offers all its published information in alternative languages and formats so this would not necessarily mean any radical change.

There are implications for landlords too. For example, self-evaluation would play an important part in the modernised system of regulation and we expect that landlords will want to involve tenants in this activity. This in turn suggests that landlords will need to publish information that is accessible and useful to all of its tenants and enables them to make meaningful judgements about the quality of services.

There will also be new information requirements for the amended policy on Right to Buy. Before offering a new supply house for let, social landlords will be required to inform prospective tenants that it will be exempt from the RTB. So both policies will require social landlords to provide good quality, accessible information that is readily available on request in alternative formats and languages. Good landlords will already be doing this. There is much positive practice to be found in the sector, although another thematic study by the regulator suggests that this is by no means universal.⁷

Questions

A.6 Do you think the changes to regulation will have a disproportionately negative impact on any group, or groups, of people?

A.7 If you think there will be an negative impact on a particular group, why is this?

A.8 What positive impacts do you think modernising regulation will have on particular groups of people?

A.9 What changes to the proposals for regulation would you suggest to reduce any negative impact or enhance any positive impact you have identified?

⁷ Communities Scotland (2007), **Open and accessible?- a thematic study into how landlords share information about performance and governance**

4 Does the policy provide the opportunity to promote equality of opportunity or good relations?

Yes. The policy aims to provide benefits for current and prospective tenants of social landlords by helping to protect the stock of social housing and the value tenants derive from it. The provisions on RTB aim to increase the supply of social rented accommodation. Those on regulation aim to improve the performance of social landlords in providing housing and homelessness services.

The provisions on regulation also include a requirement for Ministers to set objectives for social landlords in consultation with the sector, its tenants, the SHR and other stakeholders. The objectives will be known as the Social Housing Charter and will be a statement of the high-level outcomes landlords are expected to achieve. We have already commissioned research to find out more about what tenants want from their landlords. The discussion and debate about the Charter will give us an opportunity to actively consider and promote equality of opportunity in the context of social housing. An important aim will be to establish a better understanding of the needs and priorities of diverse groups of tenants and other people using housing services.

5 Do we need to carry out a further impact assessment?

This initial draft impact assessment forms part of the consultation on the Bill. We do not have all the answers and we would particularly welcome your comments on the questions above. We would also welcome any other views you have about how (a) the changes to Right to Buy and (b) to regulation will affect equal opportunities for all groups of people.

Question A.10

When we complete our impact assessment of the changes to regulation and RTB, are there any other significant issues we need to consider in relation to:

- Age
- Disability
- Gender
- Sexual orientation (Lesbian, Gay, Bisexual and Transgender (LGBT))
- Race
- Religion and belief?

We will publish the full impact assessment when the Housing Bill becomes law.

Annex B

Partial regulatory impact assessment of proposals for a Housing Bill

1 Title of proposal

The Housing (Scotland) Bill

2 Purpose and intended effect of proposals

2.1 Background

The Housing (Scotland) Bill will:

- remove new social housing from the Right to Buy (RTB) provisions contained in part III of the Housing (Scotland) Act 1987; and
- modernise the powers and functions of the Scottish Housing Regulator (SHR).

Following the consultation on the housing discussion document **Firm Foundations: The Future of Housing in Scotland**, the Cabinet Secretary for Health and Wellbeing confirmed in a statement to Parliament on 25 June 2008 that the Scottish Government would introduce legislation to end the Right to Buy for new social housing and undertake a wider review of Right to Buy policy.

The Cabinet Secretary also announced that the Scottish Government would develop proposals to modernise the powers and duties of the SHR; making it more explicitly focused on protecting and promoting the interests of current and future tenants; reducing the burden of regulation on social landlords; and concentrating its efforts on assessing and improving the value that social landlords provide.

This partial Regulatory Impact Assessment has been prepared to assess the costs and benefits of these proposals, as set out in the draft Housing (Scotland) Bill. The assessment is in two parts. Part 1 addresses the Right to Buy proposals and Part 2 the Scottish Housing Regulator and regulation matters.

Part 1

1 Title of proposal

The Housing (Scotland) Bill (Part 4)

(Amendments to the Right to Buy provisions contained in part 3 of the Housing (Scotland) Act 1987, as amended).

2 Purpose and intended effect of proposals

2.1 Objectives

The proposal is to end the Right to Buy (RTB) on new social housing by adding a new category to the list of exemptions to the RTB provisions. New social housing comprises newly built or acquired housing.

The aims of the proposal are to :

- preserve the supply of social housing for tenants; and
- encourage social landlords, particularly local authorities, to invest in new housing development in the knowledge that this investment will not be lost through RTB sales.

2.2 Background

The Cabinet Secretary for Health and Wellbeing announced in Parliament in June 2008 that the draft Housing (Scotland) Bill would include a provision to exempt new social housing from the RTB.

She also indicated that a review of RTB would be undertaken to look at further safeguarding social rented accommodation, whilst not removing existing entitlements from tenants. This approach was consistent with the views expressed in responses to **Firm Foundations** that, while ending RTB for new social housing was welcome, it would have only a limited impact and there was a need for wider RTB reforms.

2.3 Rationale for government intervention

The case for reforming RTB rests on the fact that it has resulted in more properties being lost from social rented stock than have been built in recent times and the view that this ongoing depletion of social housing stock is unsustainable. Such action should safeguard new supply social housing from purchase, thereby gradually increasing social housing stock.

Part 1

3 Consultation

3.1 Within Government

The RTB review involved early input from key stakeholders (COSLA, SFHA, Shelter and tenants' groups). The key messages from stakeholders were that further restrictions to RTB were needed and that the possibility of devolving policy decision-making to the local level should be explored in order to be more responsive to local circumstances.

3.2 Public consultation

A proposal to end the RTB on new social housing was included in a major housing consultation **Firm Foundations: the Future of Housing in Scotland** which was published in October 2007. There was an overwhelmingly positive response to this proposal. Other responses received suggested that there was substantial support for further restriction of RTB.

The publication of the draft Housing (Scotland) Bill and this partial regulatory impact assessment forms part of the ongoing consultation on this proposal.

4 Options

4.1 Option 1 – Do nothing

Under the current arrangements, new social housing can be purchased through RTB. Temporary protection from RTB can be sought through use of existing provisions such as pressured area designations, the suspension until 2012 of some RSL tenants RTB entitlements and the cost floor determination.

4.2 Option 2 – Adopt the proposals for the Housing (Scotland) Bill

Under the proposed arrangements, new supply social housing could **not** be purchased through RTB other than in exceptional circumstances where a social landlord requires a tenant to move to a new supply property.

5 Costs and benefits

5.1 Sectors and groups affected

The proposal will affect social landlords and tenants.

Social landlords whose tenants have RTB entitlements and who intend to build or acquire new housing in the future will be affected.

Tenants who move voluntarily to new social housing will be affected. Any new or existing tenant moving voluntarily to a new supply property will not

Part 1

have the RTB over that property. But they will still be able to use the time spent in that property towards their RTB qualifying period and discount should they subsequently move to and wish to purchase a non-new supply property under RTB.

5.2 Benefits

- New supply social housing will be retained in the social rented housing stock, which will help social landlords fulfil their housing duties.
- Social landlords (particularly councils) will be encouraged to build more social housing.
- The supply of social rented accommodation will gradually increase.
- The certainty of not losing new supply housing through RTB sales should assist social landlords with planning for future needs.
- Rental income will increase.
- Waiting times for social housing should be reduced.
- Investment in new housing stock should improve the image of the sector.

5.3 Costs

- Tenants moving voluntarily will not have the right to buy new supply social housing.
- Opportunities for home ownership for lower-income groups will be restricted.
- Income from RTB sales receipts will be reduced, which could affect social landlords' capacity for investment.

6 Small/micro firms impact test

The smallest social landlords with fewer than 100 properties will not be affected by the proposal as their properties are already exempt from RTB.

Social landlords with more than 100 houses will be affected as stated in sections 4 and 5.

All social landlords will still be able to sell properties at market value should they wish to, although in certain circumstances they will require Ministerial consent to do this.

Part 1

7 Legal aid impact test

Social landlords will be required to notify tenants who intend to transfer voluntarily to new social housing, before the transfer, that they will not be able to exercise the RTB while they occupy such a property. As a result, no increased volume of applications for legal aid from tenants is anticipated.

8 'Test run' of business forms

Current application to purchase forms will require to be updated to reflect this proposal. No new forms will be needed.

9 Competition assessment

There should be no competitive advantage to any particular group of social landlords.

10 Enforcement, sanctions and monitoring

A landlord who offers new social housing for let will be obliged to inform the tenant that they will not be able to exercise their RTB entitlement over that property, before the tenant accepts the offer. And, in terms of RTB sales, the Scottish Housing Regulator will expect the landlord to act fairly and efficiently and to follow relevant legislation.

There will be no additional sanctions related to this proposal. Existing procedures include a power to refer the case to the Lands Tribunal for a finding in situations where a landlord has erred in law or is attaching unreasonable conditions.

There will be no additional monitoring regimes required to gauge the impact of this proposal, that is, whether it is safeguarding or increasing the supply of social rented accommodation. Using data from annual returns from social landlords, the Scottish Government and the Scottish Housing Regulator already monitor the number of local authority and RSL properties available for social rent, respectively.

Part 2

1 Title of proposal

The Housing (Scotland) Bill (Parts 1-3)

(Modernising the powers and functions of the Scottish Housing Regulator)

2 Purpose and intended effect of proposals

2.1 Objectives

The proposals will:

- provide for Ministers to prepare, consult upon, and submit to Parliament for its approval, a Scottish Social Housing Charter that would describe the high-level outcomes that social landlords should be achieving for their tenants and for taxpayers' continuing investment in new social housing;
- give the SHR statutory independence as a non-Ministerial Department with its own Board, the objective of promoting the interests of social tenants, and a modernised range of powers to regulate social landlords and their performance against the requirements of the Charter; and
- reduce the burden of regulation and inspection on social landlords.

2.2 Background

The provisions contained in part 3 of the Housing (Scotland) Act 2001 gave Ministers the power to perform the function of Regulator of social landlords. This function was carried out on Ministers' behalf by Communities Scotland, an executive agency with wide ranging responsibilities for housing and regeneration. Communities Scotland was abolished in March 2008 and, with the exception of the regulation function, most of its duties were brought into the core Scottish Government. As an interim means of discharging their regulatory functions in relation to Registered Social Landlords (RSLs) and local authority landlords, Ministers established an executive agency, the Scottish Housing Regulator.

2.3 Rationale for government intervention

Whilst the Scottish Housing Regulator has operational independence from Ministers, as an agency acting on behalf of Ministers it lacks the full independence that has been granted to most regulatory bodies. Furthermore, the current provisions permit only a limited set of interventions to address poor performance. The new provisions will enable the Scottish Housing Regulator to exercise enhanced powers independently of Ministers; in a more proportionate and targeted way; and with a broader set of intervention options. It will be more explicitly focused on protecting and promoting the

Part 2

interests of current and future tenants; reducing the burden of regulation on social landlords; and concentrating its efforts on assessing and improving the value that social landlords provide.

As proposed in **Firm Foundations**, the Bill also provides for a clear separation of the roles of standard setting and performance measurement. Central Government will set the strategic direction and standards for social housing and the Regulator will hold landlords to account on compliance or performance against these standards. Where appropriate, the Regulator will set out more detailed operational standards and timescales for compliance.

3 Consultation

3.1 Within Government

The proposals have been developed in consultation with the current Scottish Housing Regulator, Audit Scotland, the Care Commission, the Office of the Scottish Charity Regulator and the Convention of Scottish Local Authorities, and all against the background of Professor Lorne Crerar's **Report of the Independent Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland**.

3.2 Public consultation

Outline proposals to modernise regulation were included in **Firm Foundations**, which was published in October 2007. Responses indicated substantial support for a modernised regulation framework.

The current proposals have been developed with the assistance of an informal sounding board of key stakeholders, brought together to share their views on the principles for modernising social housing as set out in **Firm Foundations** and to inform thinking as to how these might be implemented. The Sounding Board comprised representatives from:

- The national network of Registered Tenants Organisations
- Convention of Scottish Local Authorities
- Association of Local Authority Chief Housing Officers
- Council of Mortgage Lenders
- Scottish Federation of Housing Associations
- Chartered Institute of Housing Scotland
- Equalities and Human Rights Commission
- Consumer Focus Scotland.

The publication of the draft Housing (Scotland) Bill and this partial regulatory impact assessment forms part of the ongoing consultation on the proposals. Furthermore, the terms of the Bill require that before Ministers publish their Scottish Social Housing Charter, which will set out the broad standards that social landlords will be expected to meet, they will consult with the Scottish

Part 2

Housing Regulator, social landlords or their representatives and tenants or their representatives.

4 Options

4.1 Option 1 – Do nothing

Under the ‘do nothing’ option, the SHR will continue to regulate Registered Social Landlords and inspect the housing and homelessness services provided by local authorities. It will also continue its move towards a more proportionate and risk based approach. The current legislative provisions do not, however, provide for the statutory independence of the Regulator or for the legal separation of the roles of setting standards and measuring performance against them; nor do they give the SHR a clear statutory objective to promote the interests of tenants, or a graduated range of powers to intervene in different situations.

4.2 Option 2 – Adopt the proposals for the Housing (Scotland) Bill

Adopting the proposals contained in the Housing (Scotland) Bill should result in a modernised regime of regulation capable of focusing landlords’ efforts on:

- meeting tenants’ priorities;
- continually improving performance and value; and
- commanding the confidence of public and private investors in social housing.

5 Costs and benefits

5.1 Sectors and groups affected

The proposals will affect tenants and prospective tenants, registered social landlords and local authorities.

5.2 Benefits

Current and future tenants will benefit from the modernised SHR with its objective to promote their interests and its ability to do so through a wider range of intervention powers.

Social landlords that are performing well and delivering good value for their tenants will benefit from the enshrinement in statute of the move away from cyclical inspections of all landlords towards a more risk based and proportionate approach to regulation.

Social landlords and tenants will benefit from the Scottish Social Housing Charter, which will give both parties clarity and certainty over the outcomes

Part 2

that landlords should be achieving for their tenants over the medium term. They will also benefit from the consultation process that Ministers will be obliged to undertake before submitting the Charter to Parliament, as it will enable them to influence the scope and content of the Charter.

5.3 Costs

Registered Social Landlords

Registered Social Landlords currently provide the Scottish Housing Regulator with performance data and the Regulator is already moving towards a more proportionate and risk based regulatory regime. Under the new statutory framework, a broader range of information may be collected by the Regulator to enable it to better assess performance and value for money. In practice, landlords will be collecting such information already as part of their own planning and performance monitoring regime. We expect, therefore, that the modernised regulatory framework will have minimal additional cost implications for RSLs and in any event these are likely to be outweighed, in most cases, by the cost savings linked to the ending of the regime of routine inspections. Where inspections are undertaken, these will generally be with a view to investigating performance concerns, or to examining particular themes.

Local Authorities

Currently, local authorities routinely submit housing performance data to Audit Scotland and they also submit performance data to the SHR as part of their cyclical inspection submissions. Subject to the outcome of the consultation on the draft Bill, local authorities may be required to submit additional performance data to the SHR but, as with Registered Social Landlords, those that are performing their housing and homelessness services well, will benefit from light touch regulation. Every effort will be made to streamline data collection.

Scottish Housing Regulator

In 2008-09, its first year as an executive agency following the abolition of Communities Scotland, total provision for the SHR, including IT support and development costs from the core Scottish Government, was £4.6 million. Total provision for 2009-10 is £4.7 million, including a 2% efficiency saving. Some support services (for example HR and legal advice) are not currently recharged to the SHR. As part of the planning that will be done in preparation for the agency to become a non-Ministerial Department, the SHR's budget will be reviewed and the scope explored for the modernised body to share services and continue to secure efficiency savings. The outcome of that work will inform the Financial Memorandum of the Bill on its introduction.

Part 2

6 Small/micro firms impact test

Small scale landlords are subject to the current regulatory regime. In keeping with the general approach, small organisations that are performing well will benefit from lighter touch regulation.

7 Legal aid impact test

There should be no impact on legal aid issues under these proposals.

8 'Test run' of business forms

Any forms for the collection of information by the Regulator will be prepared in consultation with landlord organisations or their representative bodies.

9 Competition assessment

As these proposals will impact on all social landlords, there should be no advantage to any particular group.

10 Enforcement, sanctions and monitoring

The current statutory intervention powers that the Regulator exercises on behalf of Ministers are relatively severe and intrusive. In keeping with a more proportionate regulatory framework, the Bill proposes a broader range of enforcement and regulation measures which can be exercised by the Regulator in a graduated and proportionate way.

The proposals will require the Scottish Housing Regulator to report annually to the Scottish Parliament on the performance of social landlords operating in Scotland.

RESPONDENT INFORMATION FORM

Please Note That This Form **Must** Be Returned With Your Response To Ensure That We Handle Your Response Appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode	Phone	Email

3. Permissions

I am responding as...

Individual	/	Group/Organisation
<input type="checkbox"/>		<input type="checkbox"/>
<i>Please tick as appropriate</i>		

<p>(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?</p> <p><i>Please tick as appropriate</i> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis</p> <p style="text-align: center;"><i>Please tick ONE of the following boxes</i></p> <p>Yes, make my response, name and address all available <input type="checkbox"/></p> <p style="text-align: center;"><i>or</i></p> <p>Yes, make my response available, but not my name and address <input type="checkbox"/></p> <p style="text-align: center;"><i>or</i></p> <p>Yes, make my response and name available, but not my address <input type="checkbox"/></p>	<p>(c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).</p> <p>Are you content for your response to be made available?</p> <p><i>Please tick as appropriate</i> <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?</p> <p><i>Please tick as appropriate</i> <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	

Draft Housing (Scotland) Bill: a consultation – questionnaire

We invite responses to the consultation paper by **14 August 2009**.

You can use this questionnaire for your response. It covers all the questions included in the consultation paper. You can download a Word version of the questionnaire from our website (<http://www.scotland.gov.uk/Consultations>)

Please reply by email to: housingbill2009@scotland.gsi.gov.uk

or post your response to:

The Tenant Priorities Team
Scottish Government
Area 1-H South
Victoria Quay
Edinburgh EH6 6QQ

Please send your completed **respondent information form** with your reply (see 'handling your response' below)

If you have any queries about how to reply, please contact a member of the team on 0131 244 5568 or email us at housingbill2009@scotland.gsi.gov.uk.

Questions

There are three sets of questions, on:

1. Part 1 of the consultation paper – reforming Right to Buy;
2. Part 2 of the paper – modernising regulation; and
3. Annex A – the draft equalities impact assessment.

You don't need to answer all the questions if you don't want to. Different questions may be more or less important to different groups of people or organisations. We want your comments on the areas that matter most to you, so please feel free to focus on as many or as few as you wish. However, we would particularly welcome comments on the draft equalities impact assessment.

Handling your response

We need to know how you wish us to handle your response and, in particular, whether you are happy for us to make your response public. Please complete and return the **respondent information form** which comes with this questionnaire. This will help us to treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it as such.

The Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002. This means we have to consider any request made to us under the Act for information relating to responses made to this consultation exercise.

Draft Housing (Scotland) Bill: a consultation – questionnaire

Part 1 - reforming Right to Buy

Question 1.1

What financial impact would our proposed reforms to RTB have on social landlords, particularly over the longer term? And what steps could landlords take to mitigate this?

Question 1.2

Do you agree with the definition of new supply social housing provided at section 109 of the draft Bill?

Question 1.3

If not, what definition do you propose?

Question 1.4

Do you agree with the safeguards we are proposing for existing tenants?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 1.5

If not, which safeguards do you propose?

Question 1.6

Do you agree that new tenants entering the social rented sector after the date on which the section comes into force should no longer have the RTB?

Question 1.7

Do you agree that tenants of other relevant landlords should continue to be given modernised RTB entitlements if they transfer directly to the social rented sector?

Question 1.8

Is the scope of proposed reforms to pressured-area designations appropriate?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 1.9

Do you agree that the maximum designation period should be increased from five to ten years?

Question 1.10

Do you agree with our proposal to allow particular housing types to be designated as pressured?

Question 1.11

Should Ministers devolve pressured area decision-making to councils?

Question 1.12

If so, what would be the best way to implement devolved decision-making in practice to deliver a transparent, balanced and soundly-evidenced process?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 1.13

Do you agree with the criteria/approach (to developing guidance for applications from RSLs to extend the ten-year suspension) set out in section 1.7 of the consultation paper?

Question 1.14

If not, what alternative criteria/approach would you suggest?

Question 1.15

Do you agree that landlords should be encouraged to use their discretionary powers on the continuous occupation rule for ex-service personnel transferring to social housing?

Question 1.16

Do you think this should apply in other circumstances or to other groups of tenants?

End of part 1

Draft Housing (Scotland) Bill: a consultation – questionnaire

Part 2 – modernising regulation

Question 2.1

Do you agree that the purpose of the modernised regime of regulation should be to focus social landlords' efforts on:

- meeting tenants' priorities;
- continually improving performance and value; and
- commanding the confidence of public and private investors in social housing?

Question 2.2

If not, what should be the purpose and why?

Question 2.3

Do you agree in principle with the risk-based and proportionate approach to regulating social landlords that we have outlined in section 2.4 of the consultation paper?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.4

Do you have any proposals that would streamline further the regulation of social landlords?

Question 2.5

Should we continue to use the term 'social landlord' to describe local authority landlords and RSLs?

Question 2.6

If not, what term should we use?

Question 2.7

Do you agree in principle with the proposal to set outcomes for social housing in a Scottish Social Housing Charter?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.8

If you agree, do you wish to suggest changes to any aspect of the proposal?
If you disagree, how would you identify the outcomes and value that social landlords should be achieving for their tenants?

Question 2.9

Do you agree that the modernised SHR should be established as a non-Ministerial department under its own Board?

Question 2.10

If not, how would you ensure that the SHR was independent enough?

Question 2.11

Should the modernised SHR have the statutory objective of promoting the interests of tenants and future tenants?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.12

If not, what objective do you think the SHR should be given?

Question 2.13

Should the modernised SHR assume responsibility for regulating services in respect of homelessness, Gypsies/Travellers and factored owners?

Question 2.14

Should SHR work to improve value for tenants and taxpayers through powers to assess, report on and, if necessary, enforce performance improvement?

Question 2.15

If so, would the powers and duties that the draft Bill gives the SHR enable it to do that work?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.16

If not, what role should the SHR have in improving performance and what powers would it need to carry out that role?

Question 2.17

Do you agree that the current inspection powers should be replaced?

Question 2.18

If so, would the new provisions that we are proposing in respect of inquiries and information provide a satisfactory replacement?

Question 2.19

If not, what approach would you suggest?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.20

Do you think that the powers in the draft Bill provide the right balance and would allow the SHR to take prompt and effective action to tackle problems in financial viability and governance?

Question 2.21

If not, what powers would you suggest?

Question 2.22

Do you agree with the proposal to abolish the requirements in Part 1 of Schedule 7 on payments and benefits, and replace them with a code of conduct setting out standards of financial management and governance?

Question 2.23

If not, what would you suggest?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.24

Do you agree that Ministers should set the criteria for eligibility to seek registration as an RSL and that the SHR should set the criteria against which it tests applications?

Question 2.25

If not, what approach would you suggest?

Question 2.26

Do you agree that this power should extend to allowing profit-distributing bodies to become eligible for registration?

Question 2.27

If so, do you think it is right to have specific enforcement powers for profit-distributing RSLs?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.28

Are the enforcement powers that we have set out for profit-distributing registered landlords the right ones?

Question 2.29

If not, what enforcement powers do you think would be right?

Question 2.30

Do you agree that RSLs should only have to seek consent for the three areas of rule changes set out in section 2.15 of the consultation paper?

Question 2.31

If not, what approach would you suggest?

End of part 2

Draft Housing (Scotland) Bill: a consultation – questionnaire

Annex A – draft equalities impact assessment

Question A.1

What else do we need to know about tenants, prospective tenants and RTB purchasers to help us understand their diverse needs and experiences of social housing, and where can we get this information?

Question A.2

Do you think ending the RTB for new social housing will have a disproportionately negative impact on particular groups of people in our target audience?

Question A.3

If you think the RTB proposals will have a negative impact on a particular group, why is this?

Question A.4

What positive impacts do you think ending the RTB for new social housing will have on particular groups of people?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question A.5

What changes to the RTB proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

Question A.6

Do you think the changes to regulation will have a disproportionately negative impact on any group, or groups, of people?

Question A.7

If you think there will be a negative impact on a particular group, why is this?

Question A.8

What positive impacts do you think modernising regulation will have on particular groups of people?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question A.9

What changes to the proposals for regulation would you suggest to reduce any negative impact or enhance any positive impact you have identified?

Question A.10

When we complete our impact assessment of the changes to regulation and RTB, are there any other significant issues we need to consider in relation to:

- Age
- Disability
- Gender
- Sexual orientation (Lesbian, Gay, Bisexual and Transgender (LGBT))
- Race
- Religion and belief?

Please continue on a separate sheet if necessary

End

Thank you for taking the time to respond.

Please remember to complete your respondent information form and return it to us with this questionnaire.

Further copies of this document are available, on request, in audio and large print formats and in community languages, please contact:

اس دستاویز کی مزید کاپیاں آڈیو کیسٹ پر اور بڑے حروف کی چھپائی میں اور کمیونٹی کی زبانوں میں طلب کیے جانے پر دستیاب ہیں، برائے مہربانی اس پتہ پر رابطہ کریں:

এই ডকুমেন্ট-এর (দলিল) অতিরিক্ত কপি, অডিও এবং বড়ো ছাপার অক্ষর আকারে এবং সম্প্রদায়ের ভাষায় অনুরোধের মাধ্যমে পাওয়া যাবে, অনুগ্রহ করে যোগাযোগ করুন:

Gheibhear lethbhreacan a bharrachd ann an cruth ris an èistear, ann an clò mòr agus ann an cànan coimhearsnachd. Cuir fios gu:

इस दस्तावेज़/कागज़ात की और प्रतियाँ, माँगे जाने पर, ऑडियो टैप पर और बड़े अक्षरों में तथा कम्प्यूनिटी भाषाओं में मिल सकती हैं, कृपया संपर्क करें:

ਇਸ ਦਸਤਾਵੇਜ਼/ਕਾਗਜ਼ਾਤ ਦੀਆਂ ਹੋਰ ਕਾਪੀਆਂ, ਮੰਗੇ ਜਾਣ 'ਤੇ, ਅੌਡੀਓ ਟੇਪ ਉੱਪਰ ਅਤੇ ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਕੰਮਿਊਨਿਟੀ ਭਾਸ਼ਾਵਾਂ ਦੇ ਵਿਚ ਮਿਲ ਸਕਦੀਆਂ ਹਨ, ਕ੍ਰਿਪਾ ਕਰਕੇ ਸੰਪਰਕ ਕਰੋ:

此文件有更多備份，如果需要，語音版本和大字體版本及少數種族語言版本也可提供，請聯絡：

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Aby otrzymać niniejszy dokument w innej wersji językowej, na kasecie lub w wersji z powiększonym drukiem, prosimy o kontakt:

Telephone: 0131 244 5568



The Scottish Government

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RR Donnelley B59349 04/09

Tenant Priorities team – 0131 244 5568
Email – housingbill2009@scotland.gsi.gov.uk

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Draft Housing (Scotland) Bill: a consultation – questionnaire

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or post your response to:

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Scottish Government
Area 1-H South
Victoria Quay
Edinburgh EH6 6QQ

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2. Part 2 of the paper – modernising regulation; and
3. Annex A – the draft equalities impact assessment.

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Part 1 - reforming Right to Buy

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 1.1

What financial impact would our proposed reforms to RTB have on social landlords, particularly over the longer term? And what steps could landlords take to mitigate this?

Reform of RTB would reduce income. However, this might be offset by an improved rental stream. It would almost certainly be offset against the cost of building new homes to replace the ones lost, in order that local authorities can meet their statutory obligations. However, as these changes would only affect a handful of tenants in the medium term, there is time for planning around this issue. Proper business planning and efficient supervision and management would mitigate against these initial losses. Therefore, while there would be an immediate short term planning problem, this would be outweighed by the longer term advantages of not having to meet the cost of new replacement housing. Further, the rights of existing tenants would remain and so the effects would be over a longer period allowing transitional planning.

Question 1.2

Do you agree with the definition of new supply social housing provided at section 109 of the draft Bill?

Broadly SIC agrees this approach as a fair way of bringing about this step change.

Question 1.3

If not, what definition do you propose?

N/A

Question 1.4

Do you agree with the safeguards we are proposing for existing tenants?

Yes.

Question 1.5

If not, which safeguards do you propose?

N/A

Question 1.6

Do you agree that new tenants entering the social rented sector after the date on which the section comes into force should no longer have the RTB?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Yes.

Question 1.7

Do you agree that tenants of other relevant landlords should continue to be given modernised RTB entitlements if they transfer directly to the social rented sector?

Yes

Question 1.8

Is the scope of proposed reforms to pressured-area designations appropriate?

No, we would prefer a reversal of the current position where suspension of the RTB is the default position unless the demand for a particular house type or area is low. This would remove the need for any form of administration, devolved responsibilities or monitoring of such responsibilities. In any event, we would welcome an approach that is simple and easy to apply based on supply and demand calculations required as part of the LHS requirements. Administration of any approach must be simple and clear.

Question 1.9

Do you agree that the maximum designation period should be increased from five to ten years?

Yes. However, in doing so we are storing up latent demand and the designation should include some planning on what happens when the designation period ends. Subject to comments 1.8 above.

Question 1.10

Do you agree with our proposal to allow particular housing types to be designated as pressured?

Yes. This is long overdue.

Question 1.11

Should Ministers devolve pressured area decision-making to councils?

Yes. It is Councils that have to live with the consequences of these decisions and so it seems appropriate and logical that they should have devolved decision making.

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 1.12

If so, what would be the best way to implement devolved decision-making in practice to deliver a transparent, balanced and soundly-evidenced process?

This could be transparent by using the LHS approach to consultation. However, the criteria should be kept simple. We would favour a simple formula that allows a pressured area decision to be made when the waiting list for a particular house type exceeds the number of houses available. In other words wherever, demand exceeds supply or waiting lists occur.

Question 1.13

Do you agree with the criteria/approach (to developing guidance for applications from RSLs to extend the ten-year suspension) set out in section 1.7 of the consultation paper?

This is not applicable in our local context but we would welcome this as a national approach.

Question 1.14

If not, what alternative criteria/approach would you suggest?

N/A

Question 1.15

Do you agree that landlords should be encouraged to use their discretionary powers on the continuous occupation rule for ex-service personnel transferring to social housing?

Yes, as this group of employees are unable to exercise much control over where they live during their service.

Question 1.16

Do you think this should apply in other circumstances or to other groups of tenants?

No, as most other staff groups are able to exercise some form of control by not moving or ability to choose tenure by subsidy.

End of part 1

Draft Housing (Scotland) Bill: a consultation – questionnaire

Part 2 – modernising regulation

Question 2.1

Do you agree that the purpose of the modernised regime of regulation should be to focus social landlords' efforts on:

- meeting tenants' priorities;
- continually improving performance and value; and
- commanding the confidence of public and private investors in social housing?

Yes. However, we would also like to add facilitating and enabling of landlords to this list. In our view the strength of regulation and public perception would be increased if the process was about education as well as checking against criteria.

Question 2.2

If not, what should be the purpose and why?

See 2.1 above

Question 2.3

Do you agree in principle with the risk-based and proportionate approach to regulating social landlords that we have outlined in section 2.4 of the consultation paper?

Yes

Question 2.4

Do you have any proposals that would streamline further the regulation of social landlords?

Local authority housing services are covered by Audit Scotland and the Housing regulator. While there is supposedly a memorandum of understanding, there is still a requirement to answer to both. It should be either one or the other but not both. Also, we would welcome a greater shift from process to outputs and in particular outputs agreed at a local level with tenants of the landlord.

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.5

Should we continue to use the term ‘social landlord’ to describe local authority landlords and RSLs?

No

Question 2.6

If not, what term should we use?

Our suggestion would be all landlords using public funding should be redesignated as “community” landlords, to reflect the contribution to the communities they serve. We would favour a move away from demarcation of landlords towards a model that accepts what is best for a given community.

Question 2.7

Do you agree in principle with the proposal to set outcomes for social housing in a Scottish Social Housing Charter?

In principle, we would agree. However, it does seem to duplicate what is already occurring through the LHS process. This seems like just another hoop to jump through and an addition of another layer of administration to measure compliance against. Also, how diluted would this have to be to cover all types of tenants and regions in Scotland? Would it be so diluted as to make it less meaningful.

Question 2.8

If you agree, do you wish to suggest changes to any aspect of the proposal? If you disagree, how would you identify the outcomes and value that social landlords should be achieving for their tenants?

Landlords should be wholly accountable to their tenants using locally agreed measures of worth. For example, what is important to an individual in Edinburgh may be completely different to what tenants in Shetland want. Similarly, what tenants in Shetland want may be completely different to what a third party inspector thinks they should be getting. For removal of doubt, the measures should be compliance with legislation and then what is agreed locally, as should the pace of any change and the cost implications of such change.

Question 2.9

Do you agree that the modernised SHR should be established as a non-Ministerial department under its own Board?

Draft Housing (Scotland) Bill: a consultation – questionnaire

Yes. We would also welcome representation on any board from groups subject to regulation and tenant representatives. We also wish to see regional representation to ensure the views of rural and remote communities are taken into account.

Question 2.10

If not, how would you ensure that the SHR was independent enough?

N/A

Question 2.11

Should the modernised SHR have the statutory objective of promoting the interests of tenants and future tenants?

Yes.

Question 2.12

If not, what objective do you think the SHR should be given?

N/A

Question 2.13

Should the modernised SHR assume responsibility for regulating services in respect of homelessness, Gypsies/Travellers and factored owners?

Yes

Question 2.14

Should SHR work to improve value for tenants and taxpayers through powers to assess, report on and, if necessary, enforce performance improvement?

We would welcome work to improve services and value. We would welcome an approach that facilitates improvement with enforcement as a last resort. We would also welcome a weighting in favour towards those organisations able to demonstrate the close involvement of tenants in their operations.

Question 2.15

If so, would the powers and duties that the draft Bill gives the SHR enable it to do that work?

Mostly yes, subject to the comments in 2.14 above

Draft Housing (Scotland) Bill: a consultation – questionnaire

Question 2.16

If not, what role should the SHR have in improving performance and what powers would it need to carry out that role?

Guidance, mentoring and leading by example with inspection staff holding appropriate levels of qualification and experience to assist as well as comment. It should be less about enforcement and more about collaborative and integrated guidance towards improvement. This should include inspectors seconded from similar sectors to ensure there is an equitable balance of inspectors. Similarly, care should also be taken to filter out those inspectors with prejudiced or pre determined views of a particular sector.

Question 2.17

Do you agree that the current inspection powers should be replaced?

We would welcome evolution, transparency, fairness, equity, support, flexibility and proportionate powers that properly consider outcomes and not process, rather than wholesale replacement.

Question 2.18

If so, would the new provisions that we are proposing in respect of inquiries and information provide a satisfactory replacement?

The current proposals seem to be going in the right direction but could be even more powerful if linked to positive guidance.

Question 2.19

If not, what approach would you suggest?

We would also welcome standing review of the inspection process to ensure that the process continues to be effective. We would further welcome an understanding of who regulates the regulators and to whose standards are they working. Any inspecting body needs to establish credibility based on an earned respect and not an artificial respect demanded from a position of authority. A person with authority does not necessarily have to make demands to exercise authority. The existing arrangements were trumpeted as the means to an end but are now up for modernisation after a relatively short period. This raises the question of how something that was set to revolutionise the housing world can move towards an obsolescence in such a short time frame? A mechanism for regular review and change that is a natural part of the improvement process for regulator and regulated alike, would be preferable to a process that can only be changed by legislation. If

Draft Housing (Scotland) Bill: a consultation – questionnaire

this is linked to a shared understanding and genuine partnership approach to improvement it can be a win / win situation and something to be welcomed.

Question 2.20

Do you think that the powers in the draft Bill provide the right balance and would allow the SHR to take prompt and effective action to tackle problems in financial viability and governance?

Yes, subject to the comments in 2.17, 2.18 & 2.19.

Question 2.21

If not, what powers would you suggest?

N/A

Question 2.22

Do you agree with the proposal to abolish the requirements in Part 1 of Schedule 7 on payments and benefits, and replace them with a code of conduct setting out standards of financial management and governance?

Yes.

Question 2.23

If not, what would you suggest?

N/A

Question 2.24

Do you agree that Ministers should set the criteria for eligibility to seek registration as an RSL and that the SHR should set the criteria against which it tests applications?

Yes.

Question 2.25

If not, what approach would you suggest?

Draft Housing (Scotland) Bill: a consultation – questionnaire

N/A

Question 2.26

Do you agree that this power should extend to allowing profit-distributing bodies to become eligible for registration?

Yes, this would encourage other models of supply.

Question 2.27

If so, do you think it is right to have specific enforcement powers for profit-distributing RSLs?

Yes, where the use of public money is involved.

Question 2.28

Are the enforcement powers that we have set out for profit-distributing registered landlords the right ones?

Yes.

Question 2.29

If not, what enforcement powers do you think would be right?

N/A

Question 2.30

Do you agree that RSLs should only have to seek consent for the three areas of rule changes set out in section 2.15 of the consultation paper?

No comment

Question 2.31

If not, what approach would you suggest?

No comment

End of part 2

Draft Housing (Scotland) Bill: a consultation – questionnaire

Annex A – draft equalities impact assessment

Question A.1

What else do we need to know about tenants, prospective tenants and RTB purchasers to help us understand their diverse needs and experiences of social housing, and where can we get this information?

It is our view that current practices and current legal requirements, mean there is already sufficient information held to check equalities

Question A.2

Do you think ending the RTB for new social housing will have a disproportionately negative impact on particular groups of people in our target audience?

Yes, those with unmet housing need even after the proposed changes to RTB.

Question A.3

If you think the RTB proposals will have a negative impact on a particular group, why is this?

The changes are welcomed but they are insufficient in their own right to turn around the acute housing shortage that Scotland (and the UK) currently faces. Despite these changes, there will remain many individuals with acute housing need that remains unmet. Inevitably, some of these same individuals are likely to come from the disadvantaged backgrounds these changes are intended to help and protect. Therefore, these changes are welcomed and a step in the right direction but do not go far enough to remove inequalities.

Question A.4

What positive impacts do you think ending the RTB for new social housing will have on particular groups of people?

In the longer term it should ensure that there is more houses available for those that genuinely cannot house themselves for whatever reason and whatever their background. Therefore, there should be an overall increased provision of housing services for those in acute housing need.

Question A.5

What changes to the RTB proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

Complete withdrawal of RTB for every social housing tenant. It is appreciated that this would be disappointing for existing tenants but the changes could come with a commitment to honour RTB if / when housing equilibrium is reached into the future. In other words turn the existing proposals around to

Draft Housing (Scotland) Bill: a consultation – questionnaire

introduce automatic suspension of RTB until such time that demand for that particular house in a particular area is demonstrably reduced. RTB can be allowed in areas where there is little, no or low demand. In other words make suspension of RTB the default position unless there is no demand.

Question A.6

Do you think the changes to regulation will have a disproportionately negative impact on any group, or groups, of people?

No

Question A.7

If you think there will be a negative impact on a particular group, why is this?

N/A

Question A.8

What positive impacts do you think modernising regulation will have on particular groups of people?

None as it will not result in additional housing for all those in acute need. Thus by definition and logic some will remain disadvantaged.

Question A.9

What changes to the proposals for regulation would you suggest to reduce any negative impact or enhance any positive impact you have identified?

None

Question A.10

When we complete our impact assessment of the changes to regulation and RTB, are there any other significant issues we need to consider in relation to:

- Age
- Disability
- Gender
- Sexual orientation (Lesbian, Gay, Bisexual and Transgender (LGBT))
- Race
- Religion and belief?

Draft Housing (Scotland) Bill: a consultation – questionnaire

None

Please continue on a separate sheet if necessary

End

Thank you for taking the time to respond.

Please remember to complete your respondent information form
and return it to us with this questionnaire.



REPORT

To: Services Committee

3 September 2009

From: Head of Community Care

Report No: SC-14-09-F

Lerwick Long-term Care Project: First Progress Report

1. Introduction

1.1 This report presents the brief that will be used as the basis for a feasibility study to explore the options for capital works to provide additional long-term care places in the Lerwick area.

1.2 The information is for noting.

2. Links to Corporate Priorities

2.1 The Council aims to deliver a modern, affordable Community Care Service across Shetland that will contribute to creating a sustainable society.

2.2 The Council is committed to: -

- delivering a range of quality care services which are, where possible, based in local communities, and
- securing an additional 120 care places over the next 20 years.

2.3 The commitment to “complete feasibility studies or necessary capital works, including Viewforth and Isleshavn Care Centres” is articulated in the Council’s corporate plan.

3. Background

3.1 The population is ageing. It is estimated that in Shetland the number of people aged 75 or over will increase by 79% by 2024 from numbers in 2006.

- 3.2 Shetland's Community Health Partnership has completed a Long Term Care Review and a Dementia Redesign project to explore long-term care needs locally and the implications of dementia in an ageing population.
- 3.3 Services Committee approved a prospective work programme to develop 120 additional long-term care places at a meeting of the Committee on 5 February 2009 (Min. Ref. SC 02/09.)
- 3.4 The proposals include projects to develop 50% of the additional places in the Lerwick area and to replace the dedicated secure environment provided for people with dementia at Viewforth House.
- 3.5 A feasibility study brief has been prepared for the work programme in the Lerwick area. This has drawn on information from:-
 - Shetland CHP Long Term Care Review
 - Shetland CHP Dementia Redesign Project
 - CHCP Agreement 2009-2012
 - NHS Shetland 2020 vision
 - Better Health, Better Care¹
- 3.6 The brief is attached at Appendix 1.

4. **Proposals**

- 4.1 The brief sets out suggestions as to how an additional 50 care places could be provided in the Lerwick area.
- 4.2 The intention would be to maximise the use of existing assets and take opportunities for revenue savings wherever possible. The brief is not intended to be prescriptive and the feasibility study should explore all options for ensuring that the targets for the service are met.
- 4.3 The brief is consistent with the views of local communities expressed through the Long Term Care Review and Dementia Redesign Project: that is for locally based services and increased support for people to stay at home or close to home for as long as possible and through the last stages of life.
- 4.4 Expressions of interest for undertaking the feasibility study have been sought.
- 4.5 The brief will be issued together with other tender documentation to the short-listed consultants. It is anticipated that appointment of the successful consultant can be made in October 2009.

¹ Better Health, Better Care, Scottish Government, February 2008

5. Financial Implications

- 5.1 Funding has been allocated for the feasibility study.
- 5.2 The prospective work programme reported to Services Committee on 5 February sets out the estimated capital and revenue costs of the capital projects. None of the estimated costs is currently included in the Council's approved capital or revenue budgets.

	Capital £,000,000s	Revenue per annum £000s
Montfield Care Home	2.6	765
Edward Thomason House & Taing House development	3.5	270
Viewforth	4.5	675
Extra Care Housing including King Erik House	2.2	540
Totals	£12.8M	£2,250K

6. Policy & Delegated Authority

- 6.1 In accordance with Section 13 of the Council's Scheme of Delegations, the Services Committee has delegated authority to make decisions on the matters within approved policy and for which there is a budget. No SIC decision is required.

7. Conclusions

- 7.1 The Council has approved a comprehensive prospective work programme to provide an additional 120 long-term care spaces in Shetland by 2025.
- 7.2 This report presents the feasibility brief for the proposed developments in the Lerwick area.
- 7.3 All the proposals aim to build on the devolved, locality based model of service delivery for Community Care that has been promoted over the last 10 – 15 years.

8. Recommendations

I recommend that Services Committee note and endorse the information presented in this report.

Date: 3 September 2009
Ref: CF'AN'SC14-09

Report No: SC-14-09-F

Lerwick Long-Term Care Project Brief for Feasibility Study

July 2009

1. Background

Shetland Islands Council and the Charitable Trust are committed to providing high quality care services for older people, as close to home as possible.

For the Lerwick and Central Mainland areas, this service is provided in a number of different ways and on a number of different sites.

- Viewforth Care Centre is a dedicated residential and day care centre for service users with dementia.
- Taing House provides both residential care and day care.
- Edward Thomason House provides residential care only, targeted at those with higher levels of dependency.
- King Erik House provides extra care housing, which gives maximum independence for those requiring less support.
- A new facility is under development at Montfield that will provide residential care.

Whilst these facilities are all located in Lerwick, places within them may be allocated to people from other areas of Shetland according to their needs and choice.

2. Introduction

The findings of the Long Term Care Review, completed in January 2008, proposed to stage capital works to create an additional 120 long term care places for the whole of Shetland by 2024. This was approved by full council on 18 February 2009.

The Lerwick Long Term Care Project would be one stage in the delivery of this target, providing 50 of the additional 120 care places.

Local and national demographic trends show that pressure on Community Care Services will increase with time, and Service Plans need to reflect those trends.

This brief explains how Shetland Islands Council's Community Care Service plans to ensure that the demand for these facilities can be met. It also sets out what is known relating to available sites and where new buildings are likely to be required.

3. Remit

This feasibility brief has been developed to act as an aid to development of the detailed feasibility study, covering all strands of the provision of long-term care in the Lerwick area, however extensive stakeholder consultation will also be required as the work progresses.

The suggestions (at a Service Plan level) for developing each strand are described under section **5. Scope of Study**. As shown, it is possible that strands can be combined where synergies are evident.

These ideas should be seen as examples of how the existing provision could be developed, however this is not meant to be prescriptive. The feasibility study should not be constrained by these examples and may highlight any number of different proposals.

The report must, where possible, explore different options under each strand, highlighting both negative and positive aspects of each option.

4. Timescale

A draft of the report must be submitted to SIC by 16/09/09 and the final report must be completed, and submitted to SIC by December 2009

5. Scope of Study

The table below indicates how service levels could be maintained for the next 10 years or so.

Facility	Current Provision	Possible Enhancement
Residential Care		
Taing House	20 residential places plus daycare provision	Reconfigure site to provide total of 42 residential places plus daycare provision + 8 Extra Care Units to be Co-located
Edward Thomason House	16 residential places	
Viewforth House	20 residential places	Upgraded or replacement facility providing 20 secure residential places +15 Extra Care units
Montfield		17 residential places (under construction)

Extra Care Housing		
King Erik House	16 Extra Care Units	Possible addition of 4 Units
TOTALS	72 long term care places	122 long term care places

These sites are further described below.

Taing House/ Edward Thomason House

These buildings are located adjacent to each other. Edward Thomason House is in a 'U' configuration. It is thought that extensions, essentially joining the two buildings, creating a square with an enclosed courtyard would:

- Provide additional accommodation
- Provide a secure external space
- Allow sharing of kitchen and domestic scale laundry facilities
- Reduce transit distances within the complex

It is preferable to try and co-locate supported accommodation with facilities of this type for staffing and resourcing implications. It is therefore suggested that Extra Care housing units could form part of this strand.

Viewforth Upgrade/ Replacement

This would continue to be a facility designed specifically for residents with more acute forms of dementia, incorporating:

- A secure site
- Choice of accommodation for service users with dementia who are still ambulant comparative to frail service users.

It is preferable to try and co-locate supported accommodation with facilities of this type for staffing and resourcing implications. It is therefore suggested that Extra Care housing units form part of this strand.

SIC also has an aspiration to develop a shared laundry facility in association with Shetland Health Board. The possibility of incorporating this on the same site should be explored as part of this exercise.

As there is not yet any identified site for the building, there can only be some aspirational suggestions about size and arrangement of the components of the complex as a whole. However, the preferred option would be to build a replacement dementia centre in Lerwick. Other sites could be explored in the Central area if no suitable site can be identified.

Extra Care Housing

The possibility of re-developing St Clements's Hall to augment the adjacent King Erik House should be examined.

General

All the facilities should:

- be fully designed to facilitate the related symptoms of dementia in service users. This should follow design guidelines of the Dementia Centre of the University of Stirling
- avoid where possible that people who develop dementia will have to move accommodation
- support a positive engagement with the individual person
- be age and culturally appropriate
- emphasise a homely environment, which reflects the locality
- facilitate the roles and responsibility of staff
- comply fully with the
 - Equalities Act 2006
 - Sex Discrimination Act 1975
 - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000
 - Disability Discrimination Act 1995 (2005)
 - Human Rights Act 1998
 - And all relevant subordinate legislation made under these Acts;
- be sensitive to a range of ethnic groups as well as individualised to the person whose home it is
- be designed with regard to ease of maintenance for the fabric of the building. The technologies used and all equipment installed should be designed so as to be locally maintained and repaired.

Designs should take account of the extreme weather on the islands, especially the stronger than normal wind, the low sun and long hours of darkness in the winter.

Where possible any new build or refurbishment should exceed the current size recommendations of the Care Commission.

There are many other standards to comply with and many expectations as to what the buildings should be able to deliver to the residents, staff and the wider community. It is therefore seen as vital that a constant dialogue between the key players in the project will be kept open and officers responsible for the Viewforth redesign remain in constant communication with the partners involved in the feasibility study, as well as during the design and build phases.

6. Stakeholders

The following stakeholders are expected to be involved as the Feasibility Study is developed, although the list is not exhaustive.

- CHP Management Team
- Older Peoples Strategy Group
- Disability Strategy Group
- Shetland Mental Health Partnership
- Supported Accommodation Team
- Local Partnership Finance Team
- Planning in Localities Steering Group
- Members of the public via PPF

7. Sources of Information

The following documents provide further background information and will be made available to the consultant.

- SIC/NHS Dementia Redesign Project
- Dementia design guidelines: home and community care capital works programme - Lisa Hodges, Catherine Bridge and Katrina Chaudry: University of Sydney 2006
- Dementia, Design and Technology: Time to get involved – Paivi Topo and Britt Ostlund: Washington Press 2009
- SIC/NHS Long Term Care Review
- “Better Health, Better Care” Scottish Government
- SIC Space and Property Audit – Accommodation requirements, Lerwick

The consultant will be required to undertake consultation with a number of individuals and organisations in order to fully define the scope of the works. Initial contact with these individuals and organisations should be made through the Head of Community Care service.

REPORT

To: **Services Committee
Shetland NHS Board
CHP Committee**

**3 September 2009
8 September 2009
14 September 2009**

From: **Service Manager Occupational Therapy**

**Report No SC-15-09-F
Therapy Resource Centre and Stock Control System**

1. Introduction

- 1.1 This report presents information on the work programme being taken forward to design and build a Therapy Resource Centre and to commission an Occupational Therapy Stock Control System.
- 1.2 The report is for noting and comment.

2. Links to SIC Corporate Priorities, Community Health and Care Partnership Agreement 2009-2012 and HEAT targets

- 2.1 Provision of a Therapy Resource Centre and Occupational Therapy Stock Control system will contribute to the local authority and health boards shared objectives of supporting increasing numbers of older people to remain in their own homes or in homely environments in their local communities.
- 2.2 The local authority's corporate plan also aims to reduce the Occupational Therapy waiting list, promote a modern and affordable community care service and seeks to collect the right data to describe service needs and aspirations and to effectively design services around the needs of individuals, families and communities.

3. Background

- 3.1 A large increase in the older and disabled population is predicted for the next 10-15 years. Equipment, adaptations to property and

increasing the use of new technologies and Telecare are seen as essential to providing effective support for higher levels of dependency in our community in a sustainable way.

- 3.2 The need for a therapy resource centre was originally raised by the Head of Community Care in a report to the Council's Capital Programme Management Team in January 2004.
- 3.3 Each year the Occupational Therapy Service purchases equipment to a value of £300K. This is distributed to clients throughout Shetland. Equipment awaiting issue and items returned from the public is stored at one central store. Smaller ancillary supplies are retained at NHS health centres throughout Shetland to enable timely supply.
- 3.4 A small proportion of the community equipment (approximately 20%) is collected again, and recycled if it is possible to clean and repair items to a suitable standard. The volume of equipment and regularity with which it moves around mean that manual records cannot be used to record the situation adequately and there is constant pressure on budgets.
- 3.5 Community nurses have a stock of equipment, purchased via the health board and charitable donations. Appropriate maintenance of this equipment is essential, however the service shares the problems experienced by the Occupational Therapy Service in tracing their property. Parts of equipment e.g. handsets for nursing beds, frequently go missing leading to replacement costs to the service.
- 3.6 Community Nursing and Occupational Therapy equipment can often be issued by either profession and are, in the main, subject to the same infection control and health and safety guidance.
- 3.7 The facilities currently available to store and maintain OT and nursing equipment locally are unsuitable. There is insufficient storage space, problems with damp and mould due to a lack of heating, problems with access, inadequate cleaning and maintenance areas. These have been alleviated to a degree by transferring some stock to the old gym at King Harald Street. Although these premises are better than other stores, the facilities are very limited - for example the cleaning areas remain inadequate. The concerns of the Council's Safety and Risk, Insurance, Finance and Internal Audit departments were brought to Council in Report CE-31-F in July 2009 (Min. Ref. SIC 97/09.)

- 3.8 Working practices and storage facilities for community equipment are governed by the Health and Safety at Work Act (1974) and the Management of Health and Safety at Work Regulations (1999). The Medicines and Healthcare products Regulatory Agency (MHRA) provides guidance on decontamination processes for Community Equipment Loan Stores.
- 3.9 The NHS and SIC Occupational Therapy Services are now managed jointly by a single Service Manager. Complete integration of services will be dependent on access to shared accommodation. A need for Speech Therapy facilities has also been identified by NHS Shetland.

4. **Current Position**

- 4.1 NHS Shetland and Shetland Islands Council require a “One Stop Shop” Community Equipment facility that will enable sharing of resources, planned and unplanned maintenance of equipment, and infection control procedures to be fully implemented.
- 4.2 The facility will allow demonstration, trial and self-selection of equipment by service users. This will contribute to the reduction of waiting lists thereby enabling Occupational Therapy skills to be focussed on rehabilitation, reablement and management of long-term conditions. Joint facilities will foster greater collaboration between the SIC and NHS.
- 4.3 The Stock Control System will enable location and management of stock items over a large geographical area, thereby providing more accurate management and planning data to improve and inform decision-making. It will enable stock sharing between SIC and NHS and allow appropriate responses to Safety Action and equipment recall notices. There will be improved efficiency through reductions of duplication of time and resources related to information gathering and recording. The system will be owned by the SIC but NHS staff will be able to access it through a standard PC.
- 4.4 The combination of the Therapy Resource Centre and the Stock Control System will meet the requirements of key national policies & strategies e.g. Equipped for Inclusion.
- 4.5 Discussions are ongoing between NHS and SIC personnel regarding issues such as ownership of the land, provision of car parking for the Resource Centre, governance of the project and provision of dedicated rehabilitation facilities on the Gilbert Bain site. Data

protection issues regarding the stock control system are also under discussion.

5. Time Scales

- 5.1 The project is not on the Capital Programme for 2010, but there is funding to take the project to the starting point. Subject to Council approval for the project to be included in the capital programme, the estimated earliest timescale for contractors to start on the Therapy Resource Centre is June/July 2010 and work is expected to last 18 months.
- 5.2 The Stock Control system is currently at the tendering stage. Implementation is expected to begin in February 2010 and be complete by May 2010.

6. Financial Implications

- 6.1 There are no financial implications arising directly from this report.
- 6.2 The Therapy Resource Centre is an SIC funded new build on NHS land. This may attract a potential capital grant from NHS. It is expected that the Council will enter into a long-term lease for the land. Construction was estimated in the Feasibility Study report (Nov 2007) at £2.6M over 2 years. This will be subject to further reports to the Council once the detailed design stage is complete.
- 6.3 It is estimated that revenue costs would be met from within existing SIC budget allocations assuming that the operating costs for current premises were no longer required.
- 6.4 The Stock Control System is being funded as a separate project by the Council.

7. Policy and Delegated Authority - SIC¹

- 7.1 In accordance with Section 13 of the Council's Scheme of Delegations, the Services Committee has delegated authority to make decisions on the matters within approved policy and for which there is a budget.

¹ For Shetland Islands Council Services Committee only

8. Conclusions

- 8.1 Provision of a Therapy Resource Centre and Occupational Therapy Stock Control system will contribute to the local authority and health boards shared objectives. In combination, they will lead to effective, joined up working across agencies and improved co-ordination of service delivery.

9. Recommendations

- 9.1 I recommend that members of SIC Services Committee, Shetland Health Board and the CHP Committee note the information presented in this report and comment as appropriate.

Date: 3 September 2009
Ref: JR'AN'SC15-09

Report No: SC-15-09-F



REPORT

To: Services Committee 3 September 2009

From: Capital Programme Service Manager

Report No: CPS-14-09-F

Subject: Capital Projects Update – Services Committee Projects

1 Introduction

1.1 This report sets out the current status and activity of the Capital Projects, which fall within the remit of the Services Committee. Key issues and events are summarised to enable Members to ask for additional information and clarification on any projects.

2 Link to Council Priorities

2.1 Investment in capital assets will enable the Council to support the aspirations set out in the Corporate Plan in respect of the following service areas – Community Care, Children’s Services, Schools, Sport and Leisure, and Shetland College.

2.2 The Council’s Corporate Plan includes reference to the following specific capital projects:

- Complete a review of services for Long Term Care, young adults with physical disabilities and the Eric Gray Resource Centre.
- Complete strategies for Long Term Mental Health and Joint Respite Care.
- Complete feasibility studies or necessary capital works, including Viewforth and Isleshavn Care Centres.
- Progress the Joint Occupational Therapy Service and Resource Centre.
- Consider investment decisions on the replacement of Leog, Laburnum and the Bruce Family Centre
- Improve our teaching facilities by completing the new Anderson High School and Mid Yell Junior High School.

3 Projects Update

3.1 There are a number of stages in the life a capital project, as set out in the Council's Capital Projects Procurement Guidance. The initial stages can be described as:

- The Business Case – the initial idea or concept to address a gap in service.
- Feasibility Study – an in depth exploration of the service need and the options to best meet that service need.
- Design – the design of the new asset, once agreement on identified service need and the best option to meet that need has been identified. Sometimes, this stage can be combined with the construction phase, as a “design and build” procurement route.
- Tender Period – seeking and evaluating the most appropriate contractor to undertake the work, normally on a quality and price mix.
- Construction – the actual building of the new facility/ asset.

3.2 Appendix 1 contains a list of all the projects within the remit of the Education and Social Care Department with comment on progress.

4 Financial Implications

4.1 There are no direct financial implications arising from this report. The financial performance of the Capital Programme is reported separately, to the Council.

5 Policy and Delegated Authority

5.1 In accordance with Section 13 of the Council's Scheme of Delegations, the Services Committee has delegated authority to make decisions on matters within approved policy and for which there is a budget.

5.2 The Council currently retains full authority for decisions on the Capital Programme so there is no delegated authority for Services Committee to amend the priority and funding for Capital Projects.

5.3 This Report is presented for information only, so no matters of policy require to be considered.

6 Conclusions

6.1 This report is for information only to enable Members of the Services Committee to discuss and debate the Capital Projects within their remit.

7 Recommendations

- 7.1 I recommend that Services Committee note the content of the Report and request any further information or analysis as required on the current and planned programme of work.

Our Ref: GMF/RS/CPS-14-09-F

25 August 2009

GENERAL FUND CAPITAL PROGRAMME		Approved Budget 2009/10	Status as at August 2009
Project Name		£000	
GCA**** (Various projects)	Occupational Therapy Rolling Programme	869	Ongoing Programme (all project stages)
GCA0106	Older People's Rolling Programme for new care places	225	Brief for three elements of the project now prepared and documents for tendering for consultants in preparation. The three elements are: Viewforth - investigate options for redevelopment. Taing House and Edward Thomason House - Investigate options for additional beds and St Clements Hall, investigate conversion into additional housing units associated with King Erik House. (Feasibility)
GCA0231	Fire Upgrades to Care Homes	342	Completed projects: Overtonlea, Nordalea, Leog. Fernlea complete with the exception of some minor works and defects. Target date for pricing up the remaining projects 31 August 2009, programmes to be determined for these: Isleshaven, ET House, Laburnum, Northaven, Viewforth and Taing House.
GCA0233	Occupational Therapy Resource Centre	150	Tenders for architects returned. Quality submission assessment carried out 24 August. Tender price to be opened 25 August. Service Engineers tenders returned and quality submission assessment completed 19 August 2009. Tender price to be opened 25 August. (Design Stage)
GCA0234	Taing House Capital Maintenance	76	Shower works programmed for November.
GCA0235	Viewforth Capital Maintenance	40.5	Shower works programmed for November.
GCA0236	New Temporary Care Home for Lerwick (Montfield)	300 (NHS)	Phase one (Interim placement unit enabling works) completed and IPU relocated to first floor. Works commenced on phase 2 (Care Home) on 17 August 2009. (Construction) Further budget on basis of funding from NHS will be reported in September Capital Report to SIC
GCA0237	Eric Gray Replacement	290	Feasibility Study approved by Services Committee February 2009. Funding allocated by Council 20 May 2009. Tender documents & EU Adverts being prepared for Consultant appointment (Design stage). Site to be identified and approved by Council. (Design)
GCE0134	Anderson High School Replacement, including moving Train Shetland from premises at the Knab	(15M not part of Capital Programme)	Project review to be presented to Services Committee 3 September.

GCE1171	Little Tikes	38	Architect appointed and design/ production information ongoing for completion end 2009, to allow tender thereafter. Progress beyond this stage subject to available budget in 10/11 for construction. (Design stage)
GCE1315	Mid Yell Junior High School	4,422	Following the Council decision of 1 July 2009 to select the larger school (Option B) and increase the budget allocation to £8.75M, the project has been progressed well with a Target Cost agreed with the contractor and a Notice to Proceed to Construction issued. It is anticipated that construction will commence on site mid October 2009 with completion October 2010. Revised drawings have been signed off. Further to better than expected progress, the expenditure forecast identifies a potential overspend on the Capital Programme allowance this financial year (09/10) of approximately £207K whilst retaining the total project spend within budget (future years). It is not proposed at this stage to seek slippage from the Capital Programme and allocate to Mid Yell at this stage, but to continually monitor the expenditure forecast with a view to requesting slippage (should it still be required) at a later date. (Tender/ Construction)
GCE1500	Education Capital Maintenance	1,355	Individual projects noted below. Budget for these projects is greater than available budget and request for additional budget from slippage will be presented to Council on 16 September.
XXE1001	Aith Maintenance	13	<i>At design stage - External architects (Design)</i>
XXE1002	AHS Maintenance	190	<i>New sash & case windows for the Old English Block. Detailed design and statutory permissions with Historic Scotland ongoing. (Design)</i>
XXE1004	Bells Brae Maintenance	585	<i>Curtain walling project complete; on programme and on budget. Completed the design of phase 2 & 3 of the air conditioning project as the school have complained about serious over heating. Education instructed us to prioritise this latter project. (Construction)</i>
XXE1007	Burravoe Maintenance	55	<i>Full electrical rewire - 90% complete after holidays (Construction)</i>
XXE1009	Cunningsburgh Maintenance	40	<i>Project complete - snagging items still to complete (Construction)</i>
XXE1016	Hamnavoe Maintenance	13	<i>At design stage with external architects (Design)</i>
XXE1017	Happyhansel Maintenance	13	<i>At design stage with external architects (Design)</i>
XXE1020	Mid Yell Maintenance	10	<i>Works to nursery (Construction)</i>
XXE1021	Mossbank Maintenance	80	<i>The replacement of the gym hall roof was planned, but due to the number of people involved in the Olnafirth project it has been deferred to 2010. Also, the available monies have been allocated to Phase 2/3 heating at Bells Brae.</i>
XXE1024	Olnafirth Maintenance	200	<i>General refurbishment works to roof, walling, flooring, canteen and toilet blocks planned for Summer 2009. The school has approved the design proposals, and contracts are in place with the DLO, Hunter & Morrisons, G&S Flooring and Isometric Engineering to address the outstanding issues. A rather complicated project due to the timing and sequencing of several contractors, but it's the only way it can be done within the timescales. Works 90% complete – external soffit works ongoing. (Construction)</i>

XXE1028	Sandwick Maintenance	85	Commenced blockwork and harling renewals during the summer holidays 2009. Included substructure blockwork. 80% complete - scope of works increased due to unforeseen substructure replacements. (Construction)
XXE1034	Whalsay JHS Maintenance	45	New sash & case windows. Project Complete
XXE1060	Janet Courtney Maintenance	130	Agreed with George McGhee that we can take possession of one floor at a time after the summer holidays to upgrade fire doors and to renew the services. Design still to be finalised. To be commenced Sep 2009 (Design)
GCG0232	Leog Replacement	400	Planning submitted, anticipate planning consent w/b 24 August. Meeting held Hjaltland/ Social Care to agree final detail. Contractor/ QS setting cost plan and if in budget building warrant in September for construction start Late October/ November. (Design)
GCH3100	Housing Staff Accommodation	10	Ongoing Programme - to be reviewed
GCH3102	Housing Chalet Accommodation	11	Ongoing Programme
GCH3120	Housing Temp Accommodation (Homelessness)	14	Ongoing Programme
GCJ3001	Capital Grants to Water Based Facilities	30	Approved commitment from 08/09 carried forward. No new budget approved 09/10. The major part of the £30k commitment has now been paid. Only retention still outstanding to be paid. (Construction phase)
GCJ3002	Knab Dyke	88	Committed project – for completion in 09/10. Works ongoing on site. (Construction stage). Works nearing completion - only about 50 metres left.
GCJ3003	Play Areas and Park Equipment	210	Ongoing Programme, on schedule
GCJ3006	Capital Grants to Voluntary Organisations (General)	426	Ongoing Programme. 270K allocated 09/10 and 156K c/f from 08/09. Most of this budget has now been committed and furthers reports to be brought forward for funding.
GCJ3020	Islesburgh Capital Maintenance	36	Works to tower due to start on site in 2 weeks.
GCL4402	Mareel	3,279	Project Management transferred to Shetland Arts. Contractor appointed, site set up has commenced. 6 July. Project ongoing with site works, piles completed and car park site levelled. Contrsctors site accommodation in place. (Construction stage). Due to late start on site following negotiating period with contractor full spend in 09/10 unlikely and slippage will be reported to Council 16 September 09.
	Shetland College Extension	0	Feasibility Study completed and approved. No budget approved for further work on this project. College is progressing external funding with Estates Strategy Working Group. (Feasibility stage)

URL	Shetland College Reception Works	College budget	We re-tendered the works with some additional works and an extended construction period on the 27th April 2009, letters were sent to the four contractors who expressed an interest in the initial works package. We received only one tender, the others stating work load and time scales as restricting factors. The tender received was significantly higher than the estimated cost for the works and it was decided not to progress with the works. The additional works were picked up by the Building Services Unit.
	Lerwick Primary Provision	0	Final draft copy of report has been sent to Education Department for comments and approval 21st August 2009 (Feasibility Stage)
	Lerwick Library Redevelopment, including replacement premises for Adult Learning	0	Design study reported March 2009. No budget approved to progress this project. (Feasibility stage)
	Laburnum Replacement	0	Feasibility Study reported March 2009. No budget approved for further work on this project. (Feasibility stage)
	Replacement Viewforth	0	Part of Older People's Rolling Programme for new care places. See item above
	Replacement Isleshavn	0	Feasibility study completed, to be reported to September Services Committee meeting. No budget approved for further work on this project. (Feasibility Stage)
	Bruce Family Centre	0	Feasibility completed in draft and passed to client. Awaiting feedback. Meeting arranged for 21 August 09. (Feasibility)
	Sandwick JHS Additional Primary Classrooms	0	No budget approved, Council agreed no further action meantime. (Feasibility stage)
	Happyhansel Primary School Additional Classrooms	0	No budget approved, Council agreed no further action meantime.
	Indoor Children's Activity Centre (former Islesburgh Squash Courts	0	No budget approved, Council agreed no further action meantime.
	Hall of Residence	0	No budget approved, Council agreed no further action meantime.
	Scalloway Junior High School Science Block	0	No budget approved, Council agreed no further action meantime. (Design completed)
	Total Services General Fund Capital Programme	12,415	

HOUSING REVENUE ACCOUNT		Approved Budget 2009/10	Status as at June 2009
Project Name		£000	
HCH3303	Land & Property Acquisition	679	Engineers appointed to identify site-works for new build proposals.
HCH3404	Environmental Improvements	259	Ongoing programme. Staneyhill contract due to complete 09/10. North Toogs, Burra currently on site, and Bayview, North Roe to follow in 09/10.
HCH3512	Community Care Projects	107	Extra care pilot conversion of sheltered housing in Unst on site. Conversion to wheelchair accessible property on site south mainland.
HCH3525	Feasibility Studies	26	Ongoing programme
HCH3526	Opportunity Conversion	125	Prioritised projects being progressed. Extension to property for large family with consultants , building warrant applied for.
HCH3706	Heating Replacement Programme	157	Rolling programme - Hamarsgarth, Mossbank 09/10
HCH3708	External Re-render Programme	388	Rolling programme - ongoing. Completion of Grindahoul, Brae. Steenbrae, Aywick tendered.
HCH3710	Lerwick Crudens	1,147	Phase 1 on site, due to complete 09/10. Phase 2 to be tendered 09/10.
HCH3711	Retentions/ Final Accounts	40	Ongoing.
HCH3712	Housing Quality Standard	360	Rolling programme – ongoing. Kitchen replacement contract agreed at Services Committee 07/05/09
HCH3714	Replacement MIS System	200	Approved by SIC 18/02/09. Project team established. Proceeding to tender.
HCH3800	Capital Rec/ Sale Council Houses	-890	Estimated capital receipt from Right to Buy sales.
	Total HRA Capital Programme	2,598	



DRAFT REPORT

**To: Audit and Scrutiny Committee
Services Committee
Central Safety Committee**

**2 September 2009
3 September 2009
11 September 2009**

From: Human Resources Manager

**Promoting Attendance Project Up Date
Report No. CE-38-F**

1. Introduction

- 1.1 This report provides an up-date to Members on progress made in regard to sickness absence in the last financial year, and the current one. It also allows an opportunity to look at some of the wider initiatives being developed to promote attendance across the Council.
- 1.2 Services Committee has had particular concerns with attendance in the Education and Social Care department and this report highlights progress since Members of that Committee looked at this issue in May 2009 [Min Ref.: 52/09].

2. Links to Council Priorities

- 2.1 The Council's Corporate Plan 2008-11 contains a specific target to "Reduce the employee sickness absence rate for the whole Council to less than 4.5%, thereby ensuring that the Council is ranked in the top 8 Councils in Scotland".

3. Statistical Data

- 3.1 As this Committee is aware, the Council must report on sickness absence amongst its Statutory Performance Indicators (SPI's). In previous years the indicator required the Council to report on "the number of days lost through sickness absence expressed as a percentage of the total working days available, for Chief officers and local government employees; Craft operatives and for Teachers". For 2008-09 the indicator has changed to require data on "the average number of working days per employee lost through sickness

absence for local government employees and craft workers, and for teachers”.

- 3.2. In order that Members can note progress, comparative figures in the specified groups are set out in the following table for both sets of SPI's:

Specified Group	SIC 2007-08	Scottish 2007-08	SIC 2008-09*	***SIC 2008-09 Av days lost
Chief Officers and local government employees	6.8%	5.8%	5.9%	13.3days
Craft Employees	6.5%	6.6%	**	
Teachers	4.8%	3.9%	2.7%	5.3 days

* This data has been audited as agreed by Internal Audit and passed to Audit Scotland

* This category is not now used by Audit Scotland, and is included along with other non-teaching

*** This is the revised SPI, looking at average days lost, and for combined non-teaching group

- 3.3 The 2008-09 days lost as a % of total days available shows a steady improvement for non-teaching staff and excellent progress for teachers. Clarity gained from Audit Scotland on how sickness over school holidays should be treated for teachers has contributed in part to the improvement, but the 2007-08 data also reflects the relatively high numbers of teachers who had serious illnesses causing long term absence in that period.
- 3.4 The year end figure for non teaching employees is consistent with the 9 month figure gathered through the quarterly performance review process. It reflects steady progress through the year and it is heartening to see the increased efforts made by managers and HR staff in addressing absence coming through in these figures.
- 3.5 It is not possible to see where the Council's position for 2008-09 will sit alongside other local authorities in Scotland until the comparative SPI's are released at the beginning of next year. However data gathered each year by the Chartered Institute of Personnel and Development across all sectors reports 4.7% working time lost, and 10.7 average days lost across local government in its 2009 survey report, looking at the previous year. That data is a reminder that within Shetland Islands Council we should be aspiring to continued and sustained improvement as there remains considerable scope for improvement.
- 3.6 As well as gathering data for SPI reporting, the Human Resources service gathers management information on absence reflecting days lost and numbers of instances of absence quarterly, by service. The table below shows days lost at departmental level.

	2008-09 Q1	2008-09 Q2	2008-09 Q3	2008-09 Q4	2009-10 Q1
Education & Social Care	10,284	9,705.5*	11,129	8,557**	9,692
Executive Services	1,342	731.5	844	678.5**	473
Infrastructure Services	3,276	1,675.5*	1,659.5	1,576	1,689
EDU & P&H	297	345	210.5	206.5	328
Council total	15,199	12,457.5	13,843	11,018	12,182

* School cooks and cleaners and office cleaners move between Infrastructure and Ed & Social Care

**Housing moves between Executive Services and Education and Social Care

- 3.7 The data for quarter 1 of 2009-2010 compared with the same period the previous year shows an improvement in days lost and numbers of instances.
- 3.8 An area where there has been particular improvement over the period is Cleansing Services who had the worst absence rate across the Council throughout 2008-09 of over 14% to 8% in quarter 1 of 2009-2010. This improvement reflects the continued focus on attendance set by the Service Manager and the relevant HR Adviser and while it is still a higher level of absence than average, action will continue to be taken using the applicable policies to gain the necessary improvement. Similarly the Community Care service who consistently have had absence rates of over 11% have reflected improved numbers of days lost in the last two quarters, again reflecting sustained focus on absence management and joint working between managers, particularly at Unit Manager level and HR staff. In both these cases progress is linked to the additional emphasis on improved attendance required of managers in the department by the Executive Director.

4. Education and Social Care Department

- 4.1 Members of Services Committee and senior managers of Education and Social Care have been concerned for some time with the higher than average absence levels in the department. While it is recognised that factors such as higher proportion of women and older workers, and higher proportion of challenging public facing roles often quoted as an explanation for differences between absence rates between private and public sectors can also describe patterns of absence in Education and Social care it cannot allow these levels of absence to go unchallenged. Indeed, a more robust management culture is beginning to be developed in the department, and managers have a greater understanding of absence levels in their service area and expectations of them of challenging staff to improve.
- 4.2 Trends in absence across the department are beginning to move in the right direction, however changes such as all school cooks and cleaners, and office cleaners moving from Infrastructure to Education and Social Care in 2008-2009, and Housing service coming from

Executive Services to Education and Social Care have increased the numbers in the department, and increased the numbers of women and changed the demographic picture as well. These changes have improved absence figures at Infrastructure and Executive Services while it has impacted on those of Education and Social Care negatively.

- 4.3 That aside, the department has worked hard since the last report to Services Committee in May 09 across all services to improve performance in relation to absence. A working group has been looking particularly at Social Care and the outputs from this group have included the production of improved documents for use by occupational health at pre-employment screening and management referrals; improved information systems for managers; pro forma posters showing impact of absence in financial and lost hours for use at each centre.
- 4.4 The Social Care working group recognised the importance of Return to Work interviews being carried out in accordance with Council policy, and this has been underlined by the Council's Internal Audit service's concerns in this regard. To ensure that this is improved the Council has provided additional training in this area, and taking account of the particular difficulties in Social Care more than half of the 48 places were reserved for their staff.
- 4.5 The Social Care working group also noted that managers of the service were looking for more assistance from HR in challenging attendance issues and this has resulted in focused pieces of work with particular managers and resulted in improvements in some areas and termination of contracts where necessary.
- 4.6 Measures being developed in Social Care to improve recruitment, particularly in attracting a wider recruitment base and different demographic, for example the development of trainee Social Care Worker posts, is expected to assist absence levels in that service. Dependency levels in residential care, ongoing commitment to training and development particularly in relation to matters such as manual handling, and support and supervision of staff are also believed to have an impact on absence levels.

5. Other Council-wide Initiatives

- 5.1 While HR have developed a suite of reports provided to managers at departmental, service, and unit level, as well as analysing reasons for absence, trends and hot spots, for some purposes these are limited by the historical nature of the data. Taking account of these limitations, and in an effort to fully use the benefits to managers of better notification systems a LEAN workshop will take place in late August looking to identify improvements that could take place in sickness administration that may release workflow benefits. The workshop will involve staff from all areas of the Council. An action plan will be developed after the workshop to take that project forward.

- 5.2 The Council like other large employers has recognised the benefits that can accrue from improvements to the health and wellbeing of employees. The Council is embarking upon the Healthy Working Lives awards programme which is designed to help organisations to develop a planned and integrated approach to improving health at work. As part of that process HR has issued a health needs assessment through a survey to all employees to identify health issues that are of concern to them, and that will assist the Healthy Working Lives working group to draw up its action plan to address the award criteria.
- 5.3 Central Safety Committee and the Council's Risk Management Board requested that the HR service reviewed the provision of Employee Health Checks to Council employees. The results of that review is to be provided to the Risk Management Board later in September but the response from employees to a survey on the service has indicated that it was valued by staff. While the review is not yet complete it is likely that Employee Health Checks will again be offered to employees as part of the Council's focus on improving Health and wellbeing.
- 5.4 In a similar vein the Council's Welfare Officer and other HR staff have arranged a Health Fair for Council employees and their families, with the support of Safety and Risk Service and the Risk Management Board. The Health Fair will take place on 8 September 2009 and will provide information on a wide range of health and wellbeing matters, including opportunities for some staff to take part in alternative therapy and exercise tasters, as well as providing information on healthy eating, smoking cessation, alcohol and drugs, the benefits of exercise etc.
- 5.5 It is important that the Council reviews the policies and procedures used to manage absence as well as ensuring that the Occupational Health provision meets the needs of managers and employees. These will be reviewed in the last quarter of the year, and managers and staff representatives will be consulted.

6. Policy and Delegated Authority

- 6.1 The Audit and Scrutiny Committee is authorised to discharge the Council's audit and scrutiny functions, as detailed in Section 10.0 of the Scheme of Delegations.
- 6.2 All matters relating to Education and Social Care come under the remit of the Services Committee. In accordance with Section 13 of the Council's Scheme of Delegations, the Services Committee has delegated authority to implement decisions within its remit for which the overall objectives have been approved by the Council, in addition to appropriate budgetary provision.
- 6.3 The role of Central Safety Consultative Committee is a consultative one and focuses on all matters concerning the Health, Safety and

Welfare of all Council employees as well as the Health and Safety of anyone affected by the Council activities.

7. Financial Implications

- 7.1 There are no direct financial implications arising from this report as all actions outlined have been met from within existing budgets.
- 7.2 Improving sickness absence statistics offers opportunities for sizeable financial savings.

8. Conclusions

- 8.1 Statistics available on 2008-09 SPI's and quarterly departmental and service level information for 2008-09 and quarter 1 of 2009-10 show improvements in absence figures. However, Members and managers are all aware that there continues to be scope for continued and sustained improvement in these figures.
- 8.2 While information available on absence levels has been developed further over the last year there are plans to improve that through analysis using LEAN techniques, and an action plan will be developed to take this further after the event in late August 2009.
- 8.3 Improving health and wellbeing of employees will assist towards improved attendance and will assist in meeting the Council's Corporate Plan 2008-11 on "promoting active lives and mental health and wellbeing".
- 8.4 Appendix 1 summarises these ongoing actions in one table.

9. Recommendation

- 9.1 I recommend that the Committee note the content of this report.

Date: 24 August 2009
Ref: MG/

Report No: CE-38-D1

Action Plan

<u>Activity</u>	<u>Timescale</u>
<u>Information</u> Statutory Performance Indicators on Absence, and comparative analysis	Annual - ongoing
Performance Management Review Sessions - By Service	6, 9 & 12 monthly - ongoing
Reports analysing by reason, duration, service and departmental area	Quarterly - ongoing
Rolling Balance Reports to HR Advisers, with follow up meetings with Managers	Monthly - ongoing
Report on Anxiety, Stress & Depression for Staff Welfare Officer, triggers follow ups with Managers	Monthly - ongoing
Drill Down Reports to Heads of Service / HR Advisers, with follow up meetings with managers, employees as required	Quarterly - ongoing
LEAN Workshop "Reporting and recording sickness data in the Council", with follow up action plan ensuring improved info and workflow	25 th & 26 August 2009 within next quarter
<u>Health & Wellbeing Initiatives</u> Review of Employee Health Check provision Healthy working Lives award programme Employee Health Fair	September 2009 Beginning of September - ongoing 8 September 2009
<u>Training & Development</u> Ongoing training provided in Absence Management, Stress Management through Train Shetland Having difficult conversations, by ACAS Coaching sessions by HR to managers	Ongoing annual plan August Ongoing
Review of Occupational Health provision	2009/10 January to March
Absence Management Policies Review	2009/10 January to March
<u>Targets</u> Reduce employee Sickness Absence Rate for whole Council to less than 4.5% Progress checked annually, expecting to see year by year reduction	By 2011



REPORT

To: Services Committee

3 September 2009

**From: Hazel Sutherland, Executive Director of Education and Social Care
Kate Gabb, Authority Reporter and Acting Chair of Shetland Child
Protection Committee**

SHETLAND CHILD PROTECTION COMMITTEE ANNUAL REPORT AND BUSINESS PLAN

1. Introduction

- 1.1 This report presents to the Committee details of Shetland Child Protection Committee's work for the period April 2008 to March 2009, as set out in its Annual Report for 2008-09.
- 1.2 The Annual Report was approved in principle at CPC on 22 April 2009 subject to final sign-off of some details by its Quality Assurance Sub-Committee, which was completed on 18 May 2009. The report has been signed off by Chief Officers following presentation to the Community Planning Delivery Group on 22 June 2009, and the draft Business Plan included at its appendix 13 was approved as a working document.
- 1.3 The Annual Report has been lodged with the Scottish Government and placed in the public domain. The Business Plan will be further considered and finalised following publication of the report of the child protection inspection that took place in Shetland in February-March 2009.
- 1.4 Once finalised, the Business Plan for 2009-10 will be incorporated by reference as an integral part of Shetland's Children and Young People's Services Plan 2008-11.
- 1.5 This Report sets out some of the main matters covered in the full and detailed Report, which is available on the SIC website at <http://www.shetland.gov.uk/socialwork-health/documents/ShetlandCPCAnnualReportFinal08-09.pdf>.
A hard copy is available in the Members' room or from Children's Services (Social Work).

2. Links to Corporate Priorities

- 2.1 Shetland Islands Council has endorsed, through the Single Outcome Agreement process, the national priority outcome to, 'improve the life chances for children, young people and families at risk'. Further, the

Council's Corporate Plan gives a commitment that, 'children and young people should be encouraged and supported to enjoy being young. Child protection will remain one of the Council's main priorities'.

3. Background

- 3.1 Shetland Child Protection Committee (CPC) is an inter-agency body, constituted under Scottish Executive guidance – Protecting Children: Child Protection Committees: 2005, and working to a constitution agreed by Chief Officers and last amended and updated by them in December 2008.
- 3.2 Statutory agencies including Shetland Islands Council are required to work closely together in seeking to promote the protection of children from all forms of abuse and neglect. CPC provides the mechanism for this to happen, with the Annual Report showing how it fulfils each of its specified functions.
- 3.3 CPC's work is best seen in a broader safeguarding context which includes helping families before problems escalate, taking action to protect children and young people when they may be at risk from abuse and neglect, and meeting their needs to enable them to go on to lead fulfilling lives.
- 3.4 Early help to families will be supported by the Getting it Right for Every Child programme being rolled out throughout Shetland, overseen by the Children's Services Strategic Planning Group. Protective action when children and young people may be at risk is supported by the Shetland inter-agency Child Protection Procedures, overseen by CPC, whilst meeting their needs links closely with the Council's Corporate Parenting responsibilities to its Looked After children and young people.
- 3.5 The Shetland inter-agency Child Protection Procedures provide details for staff in all sections of the Council about how they are expected to act to help children and young people who may be at risk of abuse and neglect. The latest version can be accessed from <http://www.shetland.gov.uk/socialwork-health/services/child-protection.asp> and now includes new protocols issued during the year which provide additional guidance on specific issues:- Protecting children and young people affected by adults with problem substance use, the Management of Significant Case Reviews, and Working with children and young people who display sexually harmful behaviour.
- 3.6 Keeping children safe requires the support of the whole community, understanding that issues can be more complex than may be readily apparent and that social work will respond sensitively and proportionately to any referrals. An explanatory leaflet advises that anyone with a concern about a child can ring Duty social work on 01595 744421, or outside office hours ring 01595 695611. In an emergency anyone can contact the police on the local number or dial 999. The leaflet was distributed to all households during the year and is available in a number of public places and on the internet at <http://www.shetland.gov.uk/communitysafety/documents/CPCLeaflet-March2008.pdf>.

- 3.7 Young people in Youth Voice helped design a leaflet for young people themselves about staying safe and getting help. This was supported by the Council's Youth Empowerment and Development Worker. The wallet card sized leaflets were distributed through schools and are available in various public places, or on the internet at <http://www.shetland.gov.uk/communitysafety/documents/YouthVoiceWalletCard.pdf>.
- 3.8 Statistics looked at during the year showed a number of cases requiring a protection plan to be in place pre-birth to ensure the baby's safety, with issues relating to parental alcohol and drug use a major cause of concern. In such cases it is vital for the baby's future wellbeing to undertake high quality comprehensive assessments of the parents' parenting capacity and their ability to make any necessary changes within an appropriate timescale to meet the developmental needs of a young child. Such assessments are time consuming and require to be made by skilled social work staff within tight timescales. This impacts on the human resources required by the Children's Services (Social Work) team.
- 3.9 A major additional task for all partners during the year was to prepare for and participate in Shetland's first inter-agency child protection inspection. Key agencies including the Shetland Islands Council, particularly Children's Services and the Schools Service, were inspected during February and March 2009 by a multi-disciplinary team based in the Services for Children Unit of Her Majesty's Inspectorate for Education against the Quality Indicators set out in <http://www.hmie.gov.uk/documents/publication/hwcpnm.pdf>. Shetland's report is due out on the 10 September 2009 and will be the last of the current round to be published, at the conclusion of a three-year programme when inspectors visited all local authority areas in Scotland.
- 3.10 There is no doubt that the inspection involved a lot of extra work for many people. Both the inspection itself, and the comprehensive self-evaluation exercise which preceded it, enabled agencies to see more clearly where improvement effort needed to be targeted, and services are working on detailed action plans to implement and run alongside the CPC's inter-agency plan. We hope this will prove a useful model for the future, as we seek to use the findings of CPC Quality Assurance work carried out on a multi-agency basis to further improve services to children and young people and their families.
- 3.11 The following extract from CPC's Annual Report summarises highlights from the year's work in each key area of CPC responsibility.
- **Public Information** – We circulated an information leaflet to every household in Shetland and made leaflets and pens with contact numbers widely available
 - **Policies, Procedures and Protocols** – We provided further guidance to staff by disseminating 3 new protocols to the Shetland inter-agency Procedures to assist staff dealing with particular situations.

- **Management Information** – We looked at local statistics on child protection quarterly and compared them with the national figures reported nationally. This helped us see where resources needed to be targeted.
 - **Quality Assurance** – We prepared for external inspection and also maintained our own self-evaluation and quality assurance programme by completing a comprehensive self-evaluation exercise and undertaking further multi-agency case reviews.
 - **Promotion of Good Practice** – We worked within our agencies to embed the learning from previous quality assurance work, for example by ensuring more children, young people and their families had the chance to read reports about them in good time before meetings, and encouraging the use of chronologies in schools.
 - **Training and Staff Development** – We delivered an extensive training programme to a wide range of professionals, developed a new course for managers, and continued to support training for community groups.
 - **Communication and Co-operation** – We sought to disseminate information about the work of CPC within our agencies and organisations.
 - **Planning and Connections** – We met with representatives from the Scottish Government and child protection committees from other areas to share best practice. We worked with a range of agencies and partnerships in Shetland to develop and roll out new protocols aimed at achieving better outcomes for children and young people in specific circumstances.
 - **Listening to Children and Young People** – We helped Youth Voice get their child protection wallet card and poster widely distributed, and in response to what young people had told us, worked on developing more materials to help those involved in child protection processes understand what was likely to happen and how they could get their views across.’
- 3.12 It is clear that there is a lot of good safeguarding work going on in Shetland and CPC’s aim is to enable all professionals and volunteers working with children and young people, or with their parents and other carers, to learn from each other’s good practice. Work in the current year will focus on embedding best practice identified through internal agency and inter-agency quality assurance work and bringing about any further improvements suggested by the inspection process.
- 3.13 Current vacancies in some key services within the Council and partner agencies are bound to impact on the work that can be done and every effort is being made to fill these vacancies. Staff are to be commended for their continuing efforts to fill the gaps and continue to provide the essential services that vulnerable children and young people need.

4. Proposals

- 4.1 Services Committee is asked to note the report and to recognise and support the efforts of their dedicated professional staff in improving outcomes for vulnerable children and young people.

5. Financial Implications

- 5.1 There are no direct financial implications arising from this report.

6. Policy and Delegated Authority

- 6.1 In accordance with Section 13 of the Council's Scheme of Delegation, the Services Committee has delegated authority to implement decisions relating to matters within its remit for which the overall objectives have been approved by the Council.

7. Recommendations

I recommend that the Services Committee note the CPC's Annual Report for 2008-09.

Report No: ESCD-92-F



REPORT

To: Services Committee

3 September 2009

From: Executive Director of Education and Social Care

Implementing the Childcare Strategy

1 Introduction and Key Decisions

- 1.1 This report asks Members to note progress on implementing the recently approved Childcare Strategy. It also provides information on the direct costs of SIC childcare services in Lerwick, Dunrossness and at Mossbank, following a request from Services Committee in June 2009.

2 Links to Corporate Priorities

- 2.1 This report supports the Council's intention to, "... improve the sustainability of childcare and pre-school provision" and the Economic Development objectives of "...enabling individuals to achieve their full potential".
- 2.2 This work also directly links to the Education Blueprint proposals for early years education.

3 Background

- 3.1 In June 2008, Services Committee approved a Childcare Strategy (minute reference 63/09). The Committee also asked for clarification on the budget provision for the childcare services provided by the Council at Islesburgh and the budget arrangements.

4 Current SIC Direct Service Provision

- 4.1 At the moment, the Education and Social Care Department provides childcare services, beyond the pre-school provision, at three locations: Lerwick; Dunrossness; and Mossbank.
- 4.2 Provision at Islesburgh consists of a Breakfast Club staffed by a Play Practitioner and a Play Support worker, and an Out of School club staffed by a Play Practitioner and 4 Play Support Workers. Pre-school provision is also provided at Islesburgh, as a partner provider for the Schools Service.
- 4.3 The Blydehavn Nursery provides pre-school education, in a morning and an afternoon session, but also facilitates full day care, for parents who wish to

pay for additional hours. It is open from 9.00 am until 5.15 pm, for 44 weeks per year.

4.4 Services at Dunrossness are an Out of School Club staffed by a Play Practitioner and two Play Support Workers.

4.5 At Mossbank the service is open from 8.30 am until 6.00 pm, for 50 weeks per year. It is staffed by a teacher and a team of early years workers and assistants. The dedicated staffing complement is 4.63FTE. The nursery as part of the school, is ultimately managed by the Head Teacher. The service provides a morning and an afternoon session of pre-school education plus it facilitates full day care for parents, who pay for additional hours. Mossbank nursery is also registered to take two-year olds, for which there are no pre-school funded hours.

4.6 The cost of the services which the Council provides are set out in Table 1 below, based on current year estimates. This table does not include the cost of pre-school provision, provided or bought in by the Schools Service.

Table 1: Cost of Childcare Provision based on 2009/10 Estimates

Services	Estimated Cost 2009/10 £	Estimated Income 2009/10 £	Net Cost to the Council £
Ness Out of School Club	46,091		
Kidzone Out of School / Breakfast Club (Mossbank)	46,252		
Islesburgh Out of School Club	59,431		
Co-ordinator / Staffing Cover	61,058		
Operating Costs	54,381	(71,400)	195,813
Blydehavn	74,043		
Operating Costs	5,593	(36,176)	43,460
Total Estimated Cost	346,849	(107,576)	239,273

4.7 The services and costs are managed as part of the normal line management arrangements within the Department, through the Head of Schools (for the Mossbank service) and the Head of Children's Services (for all others).

5 Action Plan Progress

5.1 Approval of the Childcare Strategy set out a number of principles to support ways to help develop more sustainable services into the future. The principles are:

- Where appropriate, the Council will make Council owned premises (predominantly schools) available to support out of school clubs and wrap around childcare at no/minimum cost.
- Voluntary and private sector partners will be encouraged to provide out of school and wrap around childcare services, within Council owned premises (so not necessarily provided by Council staff).
- Where community facilities are suitable for use as Childcare settings, the Council will support the use of those facilities for that purpose.
- The Council will provide support for workforce development.

- There is a need to narrow the gap between the cost of childcare and the charges levied by all providers.
- There should be a presumption against the Council providing more childcare services, beyond what it will be required to do to extend the pre-school sessions.
- There should be a presumption towards facilitating the private and voluntary sector to sustain and/or expand childcare provision.
- The Council should make available, to any provider, available space within existing premises free of charge or at minimal cost.

5.2 The following tasks were agreed to deliver what the Strategy set out to achieve. A note of the work in progress has also been provided.

Action	Progress
<p>The Council will support the private or voluntary sector to sustain and/or increase the number of childcare places.</p> <p>The Council will develop a "top up" grant to ensure the viability of childminders.</p> <p>The Council will create two new "top up" grant scheme for Childminders and childcare services from the existing Economic Development budget allocation for grant aid. The top up grant scheme will have certain conditions attached, including the requirement to take up tax credits or voucher scheme to maximise the income available from the Government.</p>	<p>Two new grant schemes are being developed by Economic Development to support childcare and childminders. It is the intention to report this for approval in the next cycle of meetings.</p>
<p>The Council will support the private or voluntary sector to sustain and/or increase the number of childcare places by guaranteeing a set number of places for its staff each year or by providing a workplace-based service.</p>	<p>The Working Group will start to explore the options for provision within the Lerwick area, with an objective of securing a more sustainable service into the future.</p>
<p>The Council will look to increase, year on year, the amount of grant payable for commissioned places by an amount greater than the rate of inflation, in order to narrow the gap between direct costs and income.</p>	<p>The Head of Schools will address this issue as part of the Blueprint exercise on pre-school / primary provision and in the budget process for 2010/11.</p>
<p>All providers should charge for services, and a minimum level should be set.</p>	<p>No specific work meantime. This will be addressed for the SIC as part of the budget process for 2010/11.</p>
<p>The Council will support new business start ups from existing economic development grants.</p>	<p>Ongoing, subject to requests from individuals, businesses or organisations. Support is being provided to North Isles Childcare and Little Tikes as they develop their</p>

6 Financial Implications

- 6.1 There are no direct financial implications arising from this review of progress. Specific reports will address the capital and revenue implications of service redesign or capital investment proposals on a case by case basis.

7 Policy and Delegated Authority

- 7.1 Section 13 of the Council's Scheme of Delegations enables Services Committee to deliver projects and make decisions within policy and budget. Childcare services fall within the remit of Services Committee, as does authority to monitor progress against the agreed Strategy.

8 Recommendations

- a) I recommend that Services Committee note the progress towards delivering the aspirations set out in the Childcare Strategy.

Our ref: HAS/sa

Report No: ESCD-94-F



REPORT

To: Services Committee

3 September 2009

From: Executive Director, Education and Social Care

Provision of training within the Education and Social Care Department – Report for Information

1. Introduction

- 1.1 The purpose of this report is simply to inform Members of the volume, types and cost of training undertaken within the Education and Social Care Department during the financial year 2008/09.

2. Background

- 2.1 Interest has been expressed by some Members in the training undertaken by departmental staff. The following report and appendices are for information only.
- 2.2 Both Schools Service and Social Care Services have dedicated staff to co-ordinate and record the various training events. The two main drivers for this are the McCrone Agreement: A Teaching Profession for the 21st Century which stipulates that teachers must undertake 35 hours of continuing professional development each year; and the registration requirements placed on staff in Social Care by the Scottish Social Services Council (SSSC).

3. Links to Corporate Plans and Priorities

- 3.1 The Council, as stated in their Corporate Plan, is committed to meeting employees' training and development needs, which in turn attracts and retains high quality, well motivated, employees and thus ensures the delivery of quality services to Shetland communities.

4. General Information

- 4.1 A wide variety of training courses are offered to staff – Appendix 1 shows the ‘Top 40’ training courses undertaken by staff during 08/09; Appendix 2 details all courses undertaken. The majority of these are job specific, some are mandatory and others help the Council to meet its statutory obligations.
- 4.2 The bulk of the training undertaken is that by our staff in Social Care; of particular note is the rolling programme to ensure all essential staff obtain a qualification to meet SSSC registration requirements – there are 60 SVQ2 places each year, up to 2014, to make sure that all our current staff are trained to this standard; 30 SVQ3 places for our key workers and 12 SVQ4 places for our Senior Social Care Workers. Unit Managers and some other senior staff, may undertake the Professional Development Award through UHI. The cost of this SVQ programme is in the region of £420K per annum.
- 4.3 In addition to the above, we have 2 trainee Social Workers and 3 other staff undertaking a BA in Social Work and 1 member of staff undertaking a BA in Residential Child Care. All professional social work type qualifications are done through Robert Gordon’s University. Professional training of this type costs the authority £50K per annum.
- 4.4 The Inter-Agency Child Protection and Adult Support and Protection training is also co-ordinated by the Education and Social Care Department.
- 4.5 The main event in the Schools Service calendar is the annual in-service programme – the activities are offered to departmental and other staff from our partner organisations – just over 1200 members of staff attended over the 2 days in October 2008. The cost of this event is approximately £20K.
- 4.6 The spend in 08/09 on training across the various services within the department is as follows:

	£K
Schools	250
Social Care*	870
Housing	12
Shetland College	54
Others	30
Total	1216

* Includes costs of both Community Care and Children’s Services

5. Financial Implications

- 5.1 There are no financial implications arising from this report.

6. Policy and Delegated Authority

7.1 In accordance with Section 13 of the Council's Scheme of Delegations, the Services Committee has delegated authority to make decisions relating to matters within its remit for which the overall objectives have been approved by Council, in addition to appropriate budget provision. A decision by Services Committee is not required.

7. Recommendations

7.1 I recommend that the Services Committee note the content of this report.

August 2008

Our Ref: HAS/slt

Report No: ESCD-96-F

Shetland Islands Council
Education & Social Care Department
Training Courses Undertaken During 2008/09

COURSE NAME	SERVICE				TOTALS
	HOUSING	SOCIAL CARE	EDUCATION	Shetland College & Train Shetland	
Self Evaluation			1		1
"Lets Move"			2		2
16+ A new model			1		1
3 Way partnership for Orkney / Western Isles			1		1
A Creative Curriculum Conference			1		1
A Curriculum for Living & Learning in the 21st Century"			1		1
A toolkit to Autism			1		1
Aberdeen University Revised PGDE Arrangements			2		2
Absence management	1	18	4		23
Act as tutor with staff from OIC			1		1
Adapted Digital Papers			2		2
ADED Seminar on Roll Projections			1		1
ADES Annual Conference			1		1
ADES CfE Implementation Partnership			2		2
ADES personnelNetwork Meeting			1		1
Adobe PDF Forms			2		2
ADSW Developing a workforce fit for purpose		1			1
ADSW Learning & Development Officers		4			4
ADSW Workforce Development Group		1			1
Adult Abuse - In House		64			64
Adult Support & Protection Training	8			12	20
Adult Support and Protection Level 2		230			230
Adult Support and Protection Level 3		30			30
Advanced Diploma in Jazz			1		1
Advanced Higher Physics: Support for the Investigation			1		1
Advanced Skills For Technicians			3		3
Advanced Video Editing - 10 Week Course			1		1
AGH Dundee			1		1
Aiming for Excellence in Mediation, Investigation & Dispute Resolution at Work			1		1
Alcohol, Drugs and Offending Conference		1			1
All that Jazz			1		1
Anger Management		4			4
Anti Bullying policy			1		1
Asbestos Awareness	29	2	5		36
ASD Training			3		3
ASDAN Briefing Seminar			1		1
ASDAN: Employability and Personal Effectiveness			5		5
ASE - Science conference			2		2
ASE: Grampian			1		1
ASIST		1			1
ASL Act: What it Means To You			8		8
ASLO Meeting			3		3
ASN - Using Lass & Neale Assessments			13		13
ASN Cluster Group - Self Evaluation			15		15
ASN Cluster Group Meeting - Dyslexia			32		32
ASN Cluster: Transitions and IEPs			33		33
ASN Induction - Record Keeping			4		4
ASN Induction: Assessment			3		3
ASN Induction: Co-operative Teaching			2		2
ASN Network			1		1
Assertiveness Skills		17	3		20
Assessment Skills		24			24
Associate Assessor training			2		2
Associated Board Music Examining			1		1
Attachment		4	1		5
Attendance at Hulle Seminar			1		1
Autism		2			2
Autism Awareness + TEACCH		1			1
BAAF - Securing Children's Futures		2			2

Basic First Aid			7		7
Basic First Aid for Children		2			2
Basic Life Support		5			5
Basic Training in Epilepsy & Rescue Medicines		1			1
Basic Welding			1		1
BASW MHO Conference		2			2
Behaviour Management Conference			21		21
Bereavement		11			11
Better Health, Better Care		1			1
Beyond the Curriculum			1		1
Bill Rogers Behavioural Management Conference			1		1
Biology Design Team Meeting			4		4
Blind Management		1			1
Bonhoga Education Programme			8		8
Book Keeping		1			1
Bookstart Rhyme Time 2 day Training			2		2
Boots Medication Training		37			37
British Sign Language		2			2
Building the Curriculum			3		3
Building the Curriculum & Health & Wellbeing Launch Event			1		1
Business Continuity Planning	1		2		3
C.O.S.H.H. Regulations			2		2
CAB - Homelessness	8				8
CAB - Welfare Benefits/Housing and Council Tax Benefits	9				9
CALM Instructors Course		1			1
CALM Physical Intervention Training		28			28
CALM Re-accreditation		44			44
Calm Refresher			2		2
CALM Theory		24			24
Calm Training			15		15
Calm Training - Practical			1		1
Calm Training - Theory			2		2
Care Management		16			16
Care Management Training & SSA	2				2
Care of Medicines - Advanced		23			23
Care of Medicines - Domiciliary Care		74			74
Care of Medicines - Foundation		77			77
Care Plan Training		61			61
Care Planning Training		6			6
Careers Experience			1		1
Case Recording		28			28
Category 2 Asbestos Training - Removal of non-licensed asbestos	5				5
Catheter Training		7			7
Central Marking for SQA in PE			1		1
Central Marking of design folio			1		1
CFE and Parents / Building the Curriculum / Health & Wellbeing Launch			1		1
CFE Conference Home Economics			1		1
CFE LA Contacts Meeting & HMIE Conference			1		1
CFE Launch of Technologies Unit			1		1
CFE Technologies Learning Outcomes Developments			2		2
Chair CSP Meeting			1		1
Chairing Child Protection Conferences		9			9
Challenging Behaviour		45	1		46
Changing Lives with Rehabilitation: The Rehabilitation Framework in Action		1			1
Chartered Teachers Summer School			1		1
Child & Young People Mental Health Conference		1			1
Child at the Centre 2			2		2
Child Development		1			1
Child Protection			3		3
Child Protection - Foundation Level 2 1/2 day Course			6		6
Child Protection (two and half day course)	5		1		6
Child Protection Awareness - 1 Day Course			11		11
Child Protection Awareness - 5 Hour Course			12	11	23
Child Protection Awareness 1 day Inter-Agency		34			34
Child Protection Awareness 3 hour course		1			1
Child Protection Case Conference Chairs Training		1			1
Child Protection Foundation Training		22			22

Child Protection Interviewing Skills		12			12
Child Protection Minute Taking		11			11
Child Protection Officers Course - Inverness		2			2
Child Protection Refresher for Foundation course		10			10
Child Protection Refresher Training			5		5
Child Protection Training Co-ordinators		1			1
Child Protection Training For Managers			2		2
Children & Families affected by problem drug & alcohol misuse		1			1
Children 1st Conference - Kinship Care in Scotland today		1			1
Chris 21 Training			8		8
Chris Enquiries		1	2	3	6
CIH Level 4 Diploma	1				1
CILT Local conference			5		5
CIPFA Option Appraisal Training	2				2
Clicker 5			4		4
Clicker Training			2		2
Coaching Course in Orkney			1		1
Coaching People for Change	2	3	1		6
Cognition, Emotion and Behaviour in Multiple Sclerosis		1			1
Comenius visit to Italy			1		1
Comenius visit to Poland			1		1
Comic Strip Conversations		1			1
Communication and Social Interaction		16			16
Communication Intermediate 2		1			1
Community Food & Health (Scotland) Study Tour	2				2
Conference - Contemporary Issues in Home Economics			1		1
Conference by Scottish Association for Language Teaching			1		1
Conference for Literacy			1		1
Conference in Developing Skills in Schools			1		1
Confident Care Planning		106			106
Continence Management		41			41
Contribute Training			1		1
Co-operative Learning - 3 day course			121		121
Co-operative Learning - Follow-Up Day			52		52
Co-operative Learning outcomes			1		1
Co-operative Meeting Skills training -Circular 14			1		1
Co-operative Meetings			2		2
Coronary Care Skills		1			1
Corporate Induction			1		1
COSHH		16			16
COSHH Regulations			5		5
Counselling Skills		1			1
CPD Bonhoga Education Programme			2		2
CPD Networking meeting - Glow and CFE			1		1
CPD Workshop		15			15
Creating Effective Relationships			2	1	3
Creating Electronic Forms in Microsoft Word 2000		2			2
Creative Writing				1	1
Cross Infection Control		1			1
CSCS Exam (Construction Industry Training Board)	3				3
Curriculum for Excellence framework Group			1		1
Curriculum for Excellence			7		7
Curriculum for Excellence - Supporting Pupils with Special Needs			1		1
Curriculum for Excellence : Developing S1 - S3 Courses in ICT & Computing			1		1
Curriculum for Excellence Co-ordinators Course			1		1
Curriculum for Excellence Volleyball Course			1		1
Customer Focused Service		2	5		7
Dance The Night Away			2		2
Data Protection			2		2
Data Protection and Freedom of Info for Schools			1		1
Data Protection Awareness	2	6			8
Dealing with Difficult Telephone Calls	1	8	3		12
Dealing with Violence and Aggression	8				8
Deliver 1st for OIC			1		1
Delivering Effective Presentations				1	1

Dementia - 2 day course		15			15
Dementia Audit Training		1			1
Dementia Awareness Training		65			65
Dementia Training	6				6
Designing Accessible Housing & Housing Adaptations		1			1
Develop CFE planning format			1		1
Develop Competence in Motivational Interviewing		1			1
Develop New Language Course			1		1
Developing English Language for P6			2		2
Developing RME curriculum in line with the CfE			1		1
Developing RME programme			1		1
Developing the Developer			1		1
Development of Earth and space programme			1		1
Development of Health Programme			1		1
Diabetic Blood Sugar Testing		1			1
Diabetic Training		40			40
DICES: Risk Assessment & Management System		20			20
Digital Exam Paper			6		6
Diploma on Mediation Skills and Practice			3		3
DipSW Tutorial		1			1
Disability Awareness		1	1		2
Disciplinary Procedures		8			8
Disclosure Scotland - Effective Recruitment & Interpreting Crimin	3				3
Domestic Abuse - Becoming Part of the Solution			1		1
Driver Development Training	4	35	2	2	43
Drug Awareness		4			4
Drugs Awareness Training 1/2 day			1		1
Dyslexia at Transition Roadshow			8		8
Dyslexia Awareness		10	2		12
Dyslexia Roadshow in Transition			2		2
Dyslexia Scotland Conference			1		1
Dyslexia Training in HE and FE				2	2
ECDL		1			1
ECDL Advanced				1	1
EDEONS			1		1
EDIONS Equality Group			1		1
EEBL Placement - SIC Planning			2		2
EEBL Workshop			1		1
EIS AGM			1		1
EIS Network Meeting			6		6
Elementary Food and Health Certificate		19			19
Elementary Food Hygiene			3	2	5
Emergency First Aid	17	26			43
Emotional Intelligence			2		2
Emotional Well Being			3		3
Employee Review & Development		10	3	1	14
Employee Review & Development (and Appraisal Skills)	3	18			21
Energy Foresight			2		2
Engagement on Assessment Framework			6		6
English Development			1		1
English Language			2		2
Enquire Annual Conference			1		1
Enterprise project with P1/2			1		1
Enterprising Social Subjects			3		3
Epilepsy & Safe Administration of Rescue Medication		103			103
Epilepsy Training			1		1
Equalities			1		1
Equalities in Legislation - Donnie McLeod			1		1
Equality and Diversity Awareness		11	4	13	28
Equality Impact Assessment				3	3
Essential Food Hygiene/Nutrition for Workers with Homeless Pec	4				4
Exam Training Day			1		1
Examining Digital Papers			1		1
Excellence in Practice			1		1
Executive Leadership Government			1		1
Expert Microsoft Access			1		1
Expert Microsoft Excel			1		1
Expert Microsoft Word 2000		8			8
Film Conference - Moving Image			3		3

Fire Safety Awareness		348	1	10	359
First Aid			15	1	16
First Aid & Basic Life Support		2			2
First Aid 1 Day Course		100	2		102
First Aid at Work		3		1	4
First Aid At Work 4 day course		1	3		4
First Aid at Work Refresher			2		2
First Aid Refresher Course		1	6		7
Fit for Life		1			1
Food and Health - Elementary		32			32
Food Hygiene			4	1	5
Food Hygiene - Elementary		116			116
Food Hygiene - Intermediate		3			3
Food Hygiene Refresher		140			140
Fostering Network - The Role of The Supervising Social Worker		1			1
Foundation Food Safety Course (Level 2)	1				1
Foundation Health & Safety Course (Level 1)	1				1
Framing the Curriculum Working Group			1		1
freedom of Information			4		4
Freedom of Information (Scotland) Act 2002		6			6
German Film Class - 10 Week Course			1		1
Getting it Right for Every Child		1			1
GIRFEC Roadshow		1			1
Global Ambition			2		2
Global Ambition Preparation			1		1
Global Ambition Project			1		1
GLOW Learn Training			6		6
Glow Training			1		1
Going LEAN in Local Government		3	3	2	8
Good Practice Conference			1		1
Good Practice in Recording			2		2
Grievance and Disciplinary Training			1		1
Group visit to Edinburgh and Hawick High School			1		1
Handling Pressure and Managing Stress		12	2		14
Harassment and Bullying Awareness		3	2		5
Headteachers Meeting			1		1
Health & Safety		1		1	2
Health & Safety - Elementary		2			2
Health & Safety (First Aid) Regulations 1981		3			3
Health & Safety Residential Training Course			1		1
Health and Well being group			1		1
Health and Well being Outcomes			1		1
Health Safety & Fire		1			1
High Impact Lesson Ideas for Maths Teachers			1		1
Highlands and Islands Strategy Group meeting			1		1
HIV Stage 2		1			1
HMEI / LTS Good Practice			1		1
HMIE Conference			1		1
HMIE event			1		1
HMIE National Conference: Improving learning			1		1
HMIE Network Day			1		1
How To Evaluate The Impact Of Training Programmes		1			1
How to Manage your Email			6		6
HSE First Aid At Work				4	4
HSE First Aid At Work Refresher course			6		6
HSE First Aid Refresher course	2		4		6
HSE First Aid Training			2		2
HSW Induction/Refresher	6				6
I.C.T Security Policy		1			1
IC3			1		1
ICT Security Policy	1				1
ILM2 Team Leading	2				2
Improving Writing Standards			1		1
Increase Productivity in Microsoft Outlook			4		4
Increase your Productivity using Microsoft Outlook 2000		8		1	9
Independent Living Conference on Self Directed Support		1			1
Independent Living Skills "Theory and Practice" Visual Impairment		4			4

Induction		1			1
Induction for young enterprise groups			1		1
Infection Control		1			1
Inter Agency Refresher			1		1
Interim Review Meeting for pupil with CSP			2		2
International Co-ordinators Meeting			1		1
International Education Meeting			1		1
interpretation			1		1
Interview Skills			1		1
Interview Training			1		1
Interview training for Parent Council			1		1
Intro to Access 2000			1		1
Intro to instrumental and vocal teaching			1		1
Intro to Integra General Ledger Inputters			1		1
Intro to Macromedia Contribute 3			1		1
Intro to Microsoft Excel 2000			4		4
Intro to Microsoft Publisher			1		1
Intro to NLP (Neuro-Linguistic Programme)			1		1
Intro to Video Conference Systems			1		1
Introduce learning school to Wallace High School Stirling			2		2
Introduction to Adults with significant and complex needs		6			6
Introduction to Counselling Skills		2			2
Introduction to Graphics using Paint Shop Pro v.9			1	1	2
Introduction to Integra Enquiries		2	3	1	6
Introduction to Integra General Ledger Inputters		5	2		7
Introduction to Internal Quality Auditor		2			2
Introduction to Microsoft Access			1		1
Introduction to Microsoft Excel 2000			1		1
Introduction to Microsoft Word 2000		5	1		6
Introduction to Motivational Interviewing	2		1	1	4
Introduction to NLP		2			2
Introduction to Paint Shop Pro			1	1	2
Introduction to Record Management			1		1
Introduction to Report Writing		5		1	6
Introduction to Shetland's Geology			1		1
Introduction to Teach			1		1
Introduction to Video Conferencing			1		1
Introduction to Windows Explorer		65			65
IOSH Health and Safety			1		1
ITALL Training (Adult literacy)	5				5
Joint Improvement Team Learning Network		1			1
Joint Investigative Interview Course - Inverness		2			2
Jolly Grammar Introduction			1		1
Jolly Learning 2 day course - Jolly Phonics and Jolly Grammar			1		1
Jolly Phonics Day			4		4
Jolly Phonics Introductory Day			1		1
Journals Training		1			1
Lass, Neale - formal Assesment Training			8		8
Laughter Workshop		6			6
Leadership Development Programme			2		2
Leadership Training Programme			1		1
Leading Excellence in Learning & Teaching Conference			1		1
Leading workshop for SQA			1		1
LEAN Workshop (Toyota Management Model)	1			1	2
Learning & Teaching and all that Jazz			1		1
Learning Disability Training		1			1
Learning Disability Training Week		1			1
Learning Festival			1		1
Learning without Limits			1		1
Legionella Awareness	2	7			9
Legionnaire's Disease Awareness			6		6
Level 2 Activstudio Curriculum Developer Course			1		1
Licenciate in Music Teaching			1		1
Listening to Children			2		2
Local Area Co-ordinator Training		2			2
Look after children and young people			1		1
Looked after Children - Donnie McLeod			1		1
Low Vision and Low Vision Aids		3			3

LTS Enterprise			1		1
Macromedia Contribute Training			14	1	15
Mail Merge			5		5
Mail Merge in Microsoft Word 2000		4			4
Making Accessible Resources			9		9
Making Adapted Digital Assessment Papers			1		1
Making Recovery Happen		1			1
Management and Info Systems Site Visits			1		1
Managing a Subject Team			1		1
Managing E-mail	2				2
Managing Inclusion Guidelines			2		2
Manual Handling		23	7		30
Manual Handling Update		3			3
MAPPA		7			7
Marker Check			1		1
Markers Meeting & Presentation			2		2
Mathmatics CFC Outcomes			16		16
Medication Awareness		10			10
Medication Handling Training		5			5
Medication Induction		11			11
Medication Management		4			4
Medication Refresher		66			66
Meet Learning School to plan shared learning & teaching with partner schools in Canberra & Christchurch			1		1
Meeting all GA Leaders			1		1
Meeting local reps with consultants on attainment analysis			1		1
Meeting of Chemistry Teachers			1		1
Meeting of Glow Co-ordinators			1		1
Meeting of Highlands & Islands SQA steering group			1		1
Meeting to Discuss Literacy in P.E. in relation to ACfE			1		1
Meeting with Kay Livingston from LTS			1		1
Meeting with Partner Schools in Comenius Project			1		1
Mental Health & Emotional Wellbeing in Residential Child Care		9			9
Mental Health Officer Transitional Training		3			3
Microsoft Access - Introduction		2	1		3
Microsoft Outlook Tasks & Calendars		1			1
Microsoft Publisher 2000		3			3
MIDAS - UPDATE		1			1
Minute Taking		16	4	1	21
MIS Site Visits			1		1
Modern Language Outcomes			1		1
Modern Languages Outreach Conference			9		9
Modern Studies Conference			1		1
More Effective Meetings		1	1		2
Motivational Interviewing			1		1
Moving & Handling People Conference		1			1
Moving and Assisting		88			88
Moving and Assisting Refresher		210			210
Moving and Handling - Training the Trainer			1		1
Multi Agency Substance Misuse Protocol Training		23			23
Multi-Agency Public Protection Awareness Training (MAPPA)	1				1
Music Examining			1		1
NAEN Study trip			1		1
NAS		1			1
NAS - PECS Training Course		2			2
National Conference			4		4
National Course on geology			1		1
National examining			1		1
National Numeracy Conference			1		1
Navigating Around CHRIS 21			10		10
Navigating CHRIS 21		25			25
Navigating CHRIS 21 - Half day course	1				1
NEBOSH - Level 3 Certificate in Construction Health & Safety	1				1
NEBOSH - Management of Health & Safety	1				1
NEBOSH - Managing and Controlling Hazards in Construction Ac	1				1
Network Meeting			2		2
Neuro-Linguistic Programming		1	1		2

New Experiences and Outcomes for ML for Curriculum for Excellence			1		1
NLP Training	2				2
Non-Violent Crisis Intervention Training		3			3
Not So Ordinary Living Conference		1			1
Numeracy CFE Outcomes			16		16
Numeracy Residential Seminar			1		1
Occupational Therapy Training			1		1
Offer Letter and Continous Service		1			1
Option appraisal and Business Case CIPFA			3		3
Oral Health Care for Older People		59			59
Oral Hygiene		1			1
OT Fieldwork Educators Course		2			2
OU Creative Writing				1	1
Outreach Conference			1		1
Oxygen Administration 1		6			6
P.I.N Form Awareness		17			17
Palliative Care		176			176
Palliative Care - Children		10			10
Parental Involvement Seminar			2		2
Participation Training		22			22
Partner Schools Meetings			2		2
Partners in Learning RNIB			3		3
Partnership Event			2		2
Partnership Group			1		1
Passenger Assistant Training		1			1
Pastoral Care, Guidance Principles and Practice. Post Graduate module working towards Guidance & Pupil Support Diploma			1		1
Pastoral Care, guidance, principles & practice module			1		1
Pathways Throught Grief Conference		1			1
Peer Mediation Train the Trainer		2			2
PGCE Physical Education			1		1
PGDE Associate Tutor Update			1		1
Phoenix users group meeting in Elgin			1		1
Phonics Training			1		1
Physics INT 1 Markers meeting			1		1
Pilot Programme "1-Hero"Careers Event			1		1
PIPs conference			1		1
Placement in National Library of Scotland - Cross Circular Resources			1		1
Planning & development of S3/S4 RME Programmee			1		1
Planning for CFE ML			1		1
Planning for Change			1		1
Planning of S3/4 RME Programme			2		2
Podiatry Training		13			13
Portable Appliance Testing		2			2
Post Grad Certificate in 3-14 P.E.			3		3
Post Graduate Certificate in Inclusive Practice			1		1
Post Graduate Course in Inclusive Practice Induction & exploring Difference & Diversity			2		2
Practical Craft Skillis Verification work			1		1
Practical Solutions for Dyslexia				12	12
Practice Teacher		1			1
Pre school Seminar: Active learning			1		1
Preparing Glow Courses with Suzanne Inkster			1		1
Present learning school to Wallace High School			1		1
Present Work done in International Education			1		1
Presentation at Dublin University on CCT in PE			1		1
Presentation Skills			6		6
Primary Drama			1		1
Primary Heads Thinking Group			1		1
Primary Thinking Group			5		5
Prince 2 Training Course		2			2
Principles of Care		1			1
Profiling Bed Maintenance		1			1
Project Management		3			3
Promoting Literacy Across the Curriculum - Follow Up			4		4
Promoting Partnership Team Event			1		1

Promoting Positive Sense of Self & Identity		11			11
Promotional Event for National Courses in Geology			1		1
Psychological Services Symposium & More Choices, More Chances Meeting			1		1
Quarter final trails of Scottish Schools Netball Cup			1		1
R.E.H.I.S. Elementary Food & Health			10		10
R.E.H.I.S. Elementary Food Hygiene				1	1
R.E.H.I.S. Elementary Health & Safety			1		1
Rachel House Childrens Presentation			4		4
RDSAP Training - Energy Performance Certificates (CIH)	1				1
Re-accreditation			1		1
Reading and Writing			13		13
Reconstruct Child Protection Minute Taking		1			1
Recruitment & Selection	1	12	13	2	28
Represent School Service at Scot Gov Homecoming Launch			1		1
Respect Me Training for Trainers		2			2
Return to Learn		33			33
Rickter Scale Training	2				2
Risk Assessment		2	3		5
Risk Enablement		31			31
Risk Enablment in Adult Care & Support Conference		1			1
RME Trialling Event			1		1
RNIB		1			1
RNIB Patnrns in Learning			1		1
RNIB Refresher		1			1
RNIB Training		2			2
Roadshow supporting Dyslexia at Transition			1		1
Safer Caring		3			3
Safer People Handling Risk Assessment Requalification Course		12			12
Safer People Handling Trainers Course		2			2
Safer People Handling Trainers Requalification Course		10			10
Safety in Microbiology Level 3			2		2
Safety Procedures for Building Works in Schools			15		15
SAGT Conference			1		1
SBEA Conference			1		1
SCCPN - Evidence to Practice: Making the links for enhancing child safety		1			1
SCEEN Meeting			1		1
School of Ambition Conference			2		2
School of Ambition evaluation			1		1
School Website Development			1		1
Schools of Ambition			1		1
Schools of Ambition and Research Advisor for AHS			1		1
Schools of Ambition Meeting and Global Ambition Project Meeting			1		1
Schools of Ambition Meetings			2		2
Schools of Ambition Networking Event			2		2
Science Learning Outcomes Developments			5		5
scilt Outreach Training Day			2		2
Scottish Association of Geograhly Teachers			1		1
Scottish Book Trust Literacy Projects Events			1		1
Scottish Childcare & Protection Network - Documentary Research		1			1
Scottish Learning Festival			8		8
Scottish Mathematical Council - Annual One Day Conference			2		2
Scottish Mathematical Council - Mathematical Challenge Presentation			1		1
Scottish Teachers for a New Era Development Day			1		1
Scottish Technicians Advisory Group Meeting			1		1
SCSSA Course Leading and Implementing			1		1
SEEMIS - 1/2 day Primary School Head Teacher Training			2		2
Seemis - 2 Day School Survival Training			1		1
Seemis - Expert Training Course			1		1
SEEMIS - Head Teacher / Depute Head Teacher Training			1		1
SEEMIS - Primary School			2		2
SEEMIS - Pupil Support Training			6		6

SEEMIS Expert training			2		2
SEEMIS Head Teacher Training			12		12
SEEMIS Office Staff Training			22		22
Seemis System Overview			2		2
Seemis Training			11		11
Self Evaluation - HMIE		2			2
Self Evaluation: The Road to School Improvement			1		1
Seminar on Roll Projections			1		1
Seminar: Values and Citizenship			1		1
Set up of School Website			1		1
Sexual Health			1		1
SG Seminar on Outcomes		1			1
Shadowing Staff at Cornhill Hospital		10			10
Share research from S4 Club xl			1		1
Share Training			5		5
Shawdowing Glaswegian Drum Teacher - Jim McDermott			1		1
Shetland Forewirds Meeting			1		1
Single Shared Assessment & Care Management		28			28
SIRCC - Sustaining relationships: A vital residential child care task		3			3
SIRCC - Through Care and After Care	5				5
SIRCC Introduction to Residential Child Care		8			8
SIRCC Shaping the Future of Residential Child Care		1			1
SIRCC Through Care & After Care		13			13
SIRCC Transitions Seminar		1			1
Site Management Safety (Site Safety for Supervisors)	3				3
Situational Leadership		20		1	21
SJCRME Curriculum for Excellence & RME Conference			1		1
Skills for new technicians			1		1
SNAP Conference			1		1
SOA Conference			1		1
Software package Training			1		1
SOLAR Online Assessment training & Skills 4 Work e-portfolio			1		1
Speakersbank Training			1		1
SQA Assessment Panel			1		1
SQA Assessment Procedures			1		1
SQA Launch for review of RMPS			1		1
SQA Markers Meeting			4		4
SQA Standard Grade Biology			1		1
SQA Verification of practical craft skills			1		1
SRC Vortex Induction			1		1
SSA 2008 Moderation of Writing			1		1
SSCA Implementing and leading a curriculum			1		1
Staff Development and Review			1		1
Statistics for outcomes			1		1
STOMA Course		1			1
Strategic Seminar on Curriculum for Excellence			1		1
Study Visit to Ridgewood			1		1
Successful Project Management		1			1
Supervisory Training for Social Work		15			15
Supporting Children & Young People Through Change		11			11
Supporting Inclusion Guidelines			2		2
SVQ 2 Care Adults		15			15
SVQ 4 Registered Managers Award		1			1
Swift Basic Course		6			6
SWIFT Children & Families Special Interest Group		2			2
Swift Training		8			8
Swift Training for Care at Home		16			16
SWIFT User Group		1			1
Tapestry Partnership			4		4
Teach 3 Day Course			1		1
Teachers Together Conference			1		1
Teaching Children with Autistic Spectrum Disorders using the Teacch approach			1		1
Teaching French to young learners course			2		2
Team Building		4			4
Technicians as Demonstrators			1		1
Technicians: Co-Leaders in Education			1		1

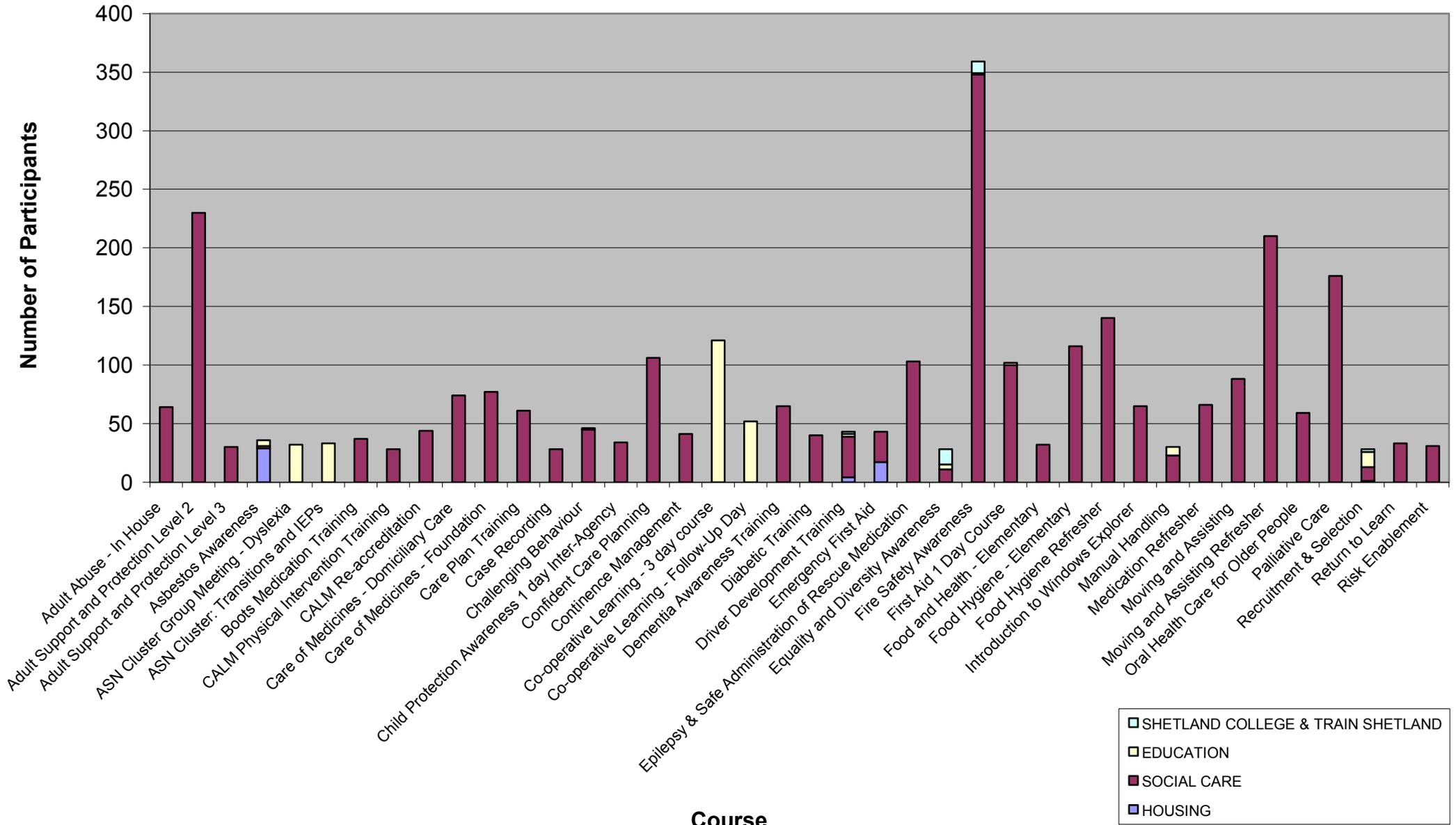
Technologies Curriculum for excellence			9		9
Technologies Learning Outcomes Developments			8		8
Telecare Assessment & Problem Solving Course		1			1
Testing the Framework working group			5		5
The underlying principals of personal care		1			1
Therapeutic Activities in Dementia Care		2			2
Throughcare/Aftercare		12			12
Time and Self Management		4	2		6
To Attend SQA Meeting			1		1
To present learning school to Charleston Academy & Wallace High School			2		2
To present learning school to wallace high			1		1
Towards solution Oriented Childrens Services			4		4
Train The Trainer			1		1
Training on Electronic Forms and Creating Forms			3		3
Training Session			1		1
UKCC Level 1 certificate in coaching Badminton			2		2
UKMT - JUNIOR GROUP CHALLENGE			1		1
Understanding Anger in the Early Years			1		1
Understanding Standards - Advanced Higher Geography			3		3
University Trip			1		1
University trip with S6			4		4
Upper Primary Dialect			1		1
Using ICT to sit SQA Exams & Assesments			1		1
Using Lass and Neale Assessments			2		2
Using Microsoft Powerpoint 2000			2	1	3
Using Microsoft Publisher 2000			5		5
Valsgarth Leadership Development Programme			3		3
Video Conference User Training			5		5
Visiting other small Shetland Schools to discuss CFE			1		1
Visiting Partner Schools			1		1
Visiting schools involved in the CfE / International Education Student Advisory Group			1		1
Visual Impairment Awareness		25			25
Voice activated software			1		1
Voxter Training			1		1
Weaving Workshop			1		1
Webroster Training		12			12
Windows Explorer		6			6
Working in Partnership with People with Learning Disabilities - HNC		1			1
Working Restoratively	5				5
Working with Adults with Learning Disabilities		3			3
Workit User Group Meeting			1		1
Workshops on Assessment			1		1
Y Dance Training			1		1
TOTALS	175	3756	1289	100	5320

**Shetland Islands Council
Education & Social Care Department**

**Top 40 Training Courses Undertaken During 2008/09
Appendix 2**

COURSE NAME	SERVICE				TOTALS
	HOUSING	SOCIAL CARE	EDUCATION	Shetland College & Train Shetland	
Adult Abuse - In House		64			64
Adult Support and Protection Level 2		230			230
Adult Support and Protection Level 3		30			30
Asbestos Awareness	29	2	5		36
ASN Cluster Group Meeting - Dyslexia			32		32
ASN Cluster: Transitions and IEPs			33		33
Boots Medication Training		37			37
CALM Physical Intervention Training		28			28
CALM Re-accreditation		44			44
Care of Medicines - Domiciliary Care		74			74
Care of Medicines - Foundation		77			77
Care Plan Training		61			61
Case Recording		28			28
Challenging Behaviour		45	1		46
Child Protection Awareness 1 day Inter-Agency		34			34
Confident Care Planning		106			106
Continance Management		41			41
Co-operative Learning - 3 day course			121		121
Co-operative Learning - Follow-Up Day			52		52
Dementia Awareness Training		65			65
Diabetic Training		40			40
Driver Development Training	4	35	2	2	43
Emergency First Aid	17	26			43
Epilepsy & Safe Administration of Rescue Medication		103			103
Equality and Diversity Awareness		11	4	13	28
Fire Safety Awareness		348	1	10	359
First Aid 1 Day Course		100	2		102
Food and Health - Elementary		32			32
Food Hygiene - Elementary		116			116
Food Hygiene Refresher		140			140
Introduction to Windows Explorer		65			65
Manual Handling		23	7		30
Medication Refresher		66			66
Moving and Assisting		88			88
Moving and Assisting Refresher		210			210
Oral Health Care for Older People		59			59
Palliative Care		176			176
Recruitment & Selection	1	12	13	2	28
Return to Learn		33			33
Risk Enablement		31			31

Top 40 Training Courses Undertaken During 2008/09





REPORT

To: Services Committee

3 September 2009

From: Head of Schools

BLUEPRINT FOR EDUCATION IN SHETLAND - UPDATE, SEPTEMBER 2009

1. Introduction

- 1.1 The purpose of this report is to provide Members with an update on the development of action plans within the approved areas for the Blueprint for Education.

2. Link to Council Priorities

- 2.1 In July 2007, the Services Committee agreed a 4-year plan, as the service element of the Council's Corporate Plan. In relation to the Schools Service, the plan states:-

"Shetland schools population projections anticipate a substantial reduction in pupils within a relatively short time frame. The challenge for the authority is, therefore, to develop a modern "blueprint" for the shape of the Service across Shetland for 10 years time. This model will consider the educational and financial viability levels for schools, their host communities as well as important associated issues such as transport requirements. It will consider links with pre-school services and life long, vocational, further and higher education and training. It will consider the development of centres of excellence, focused on particular sectors of the economy across Shetland building on existing high quality facilities. It is anticipated that significant capital investment will be required to bring some schools and facilities up to a modern standard".

- 2.2 The Council will ensure a model for education is developed by 2009 that considers the educational and financial viability for schools and communities and its outputs are then implemented.
- 2.3 The Council will work to create and maintain a culture where individual learners can strive to realise their full potential.

3. Background

3.1 Action plan areas and a timetable were approved at Services Committee on 12 March 2009 (Min Ref: SC22/09).

3.2 The areas to be considered, from July to October 2009, are as follows:

- Pre-School / Primary Strategy
- Residential Accommodation – Learning
- Primary Staffing Review
- Secondary, S1 to S3.

4. Current Position

4.1 *Pre-school / Primary*

4.1.1 The Pre-School / Primary Strategy working group met in June. A number of models have been looked at, including early years units. The cost of the teaching and support posts has been calculated and these will now be applied to each model across all schools.

4.1.2 Discussions continue between management and unions in respect of the hours to be worked by early year's workers as part of the arrangements for the implementation of single status.

4.2 *Residential Accommodation for Learners*

4.2.1 The working group met during June and agreed upon the following actions:-

4.2.2 Short Term

- Address the accommodation requirements for 16-18 year olds who wish to access Further or Higher Education within Shetland.
- Engage in discussion with the Care Commission.
- Research the legal position to charge further education students for accommodation.

4.2.3 Medium Term

- Plan for the new Scheme of Provision based on the Anderson High and delivery of college courses.

4.2.4 Long Term

- Separate accommodation for all learners to access: School students, College students and Employed trainee students.

4.2.5 Representatives from the Residential Accommodation for Learners working group met (by videoconference) with Mark Causer from the Care Commission in July. Mr Causer indicated that the Care Commission would be flexible when looking at any proposals made by the working group for college pupils of school age staying in the Halls of Residence at the AHS.

4.2.6 The Residential Accommodation for Learners working group will meet in August and will write formally to the Care Commission with possible models of accommodation provision.

4.3 **Primary Staffing Review**

4.3.1 The working group met in August and have identified the following areas to be considered in the short-term.

4.3.2 Specialist teachers in primaries. The group will look at the current provision in each school and make proposals for future provision. These will include:

- The current use of specialist staff to provide non-contact time for Primary teachers
- The potential of employing specialist teachers to a cluster of schools
- The use of specialist teachers in blocks of time to support Primaries in delivering the new Curriculum for Excellence
- Setting levels of specialist teacher provision in schools to create a fair and equitable amount of provision for each pupil in Shetland.

4.3.3 Agree formulae for setting the level of classroom assistants and other support / clerical staff to each school (not including Additional Support Needs Auxiliaries). This will not rely solely on pupil numbers and will be consistent with changes that occur in the school over time, such as a reduction or increase in teaching staff.

4.3.4 Instrumental Instructors: the current provision will be re-assessed and proposals for future levels of provision explored.

4.3.5 The Quality Improvement Manager for Blueprint will work with all Head Teachers to produce accurate and up to date information on the use of specialist and visiting teachers in all Primary Schools.

4.3.6 The Primary Staffing Review Group will meet again in September.

4.4 **Secondary, S1 to S3**

4.4.1 The working group includes all secondary Head Teachers and will have their first meeting in August.

4.5 Working groups whose work may affect staffing arrangements in schools, will consult with Human Resources and the LNCT.

5. **Financial information**

5.1 There are no further direct financial implications arising from this report.

5.2 Once costings are complete for Pre-School/Primary and for any models developed through the Primary Staffing Review, these will be brought to a future Services Committee.

6. **Policy and Delegated Authority**

6.1 In accordance with Section 13 of the Council's Scheme of Delegations, the Services Committee has delegated authority to make decisions relating to matters within its remit for which the overall objectives have been approved by Council, in addition to appropriate budget provision.

7. **Recommendation**

It is recommend that Services Committee note this report.

August 2009

Our Ref: HB/MM/sm

Report No: ED-23-F



REPORT

To: Services Committee

3 September 2009

From: Head of Schools

Mid Yell Junior High School New Build: Progress Report

1 Introduction

- 1.1 The purpose of this report is to update the Council on the progress of the new school project.

2 Links to Council Priorities

- 2.1 The Council's corporate plan includes reference to the following specific capital projects:
 - Improve our teaching facilities by completing the new Anderson High School and Mid Yell Junior High School.

3 Background

- 3.1 At the Council meeting on 1 July Members agreed to expand the design by 70m² to offer greater storage capacity and to enlarge accommodation for music and additional support for learning (min ref. 93/09).
- 3.2 The increased floor area results in additional costs of £250,000 and therefore the budget for the project has been revised to £8,750,000
- 3.3 It was also agreed that the existing school will not be demolished as part of this project and would be subject to a separate report regarding possible redevelopment of the site.

4 Progress Report

- 4.1 The Design Team finalised revised drawings for contract approval during the week ending 21 August 2009 with the Target Cost formally agreed within the existing budget. Further to this, a formal Notice to Proceed to Construction has been issued to the Contractor.
- 4.2 The Design Team are continuing with ongoing dialogue with all statutory authorities and relevant stakeholders to inform them of progress and to ensure that the proposals meet with their approval.

5 Proposal

- 5.1 The Contractor has confirmed that they propose to commence works on site during September 2009 with a proposed completion date in October 2010.

6 Financial Implications

- 6.1 Following the Members instruction to increase the school area the project budget allocated to this project has been revised to £8.75 million.
- 6.2 There are no financial implications associated with this report.

7 Policy and Delegated Authority

- 7.1 In accordance with Section 13 of the Council's Scheme of Delegations, the Services Committee has delegated authority to make decisions relating to matters within its remit for which the overall objectives have been approved by Council, in addition to appropriate budget provision.

8 Conclusions

- 8.1 Following the Council approval to proceed with the increased floor area the Design Team have revised and concluded the contract information. The Contractor has been appointed and proposes to commence on site during September 2009. The anticipated handover of the school is mid October 2010.

9 Recommendations

- 9.1 It is recommend that the Services Committee note the contents of this report.

August 2009



REPORT

To: Services Committee

3 September 2009

**From: Head of Finance
Executive Services Department**

Report No: F-029-F

**Education & Social Care Revenue Management Accounts
General Ledger, Reserve Fund and Housing Revenue Account
For the Period 1 April 2009 to 30 June 2009**

1. Introduction

1.1 The purpose of this report is to advise Members of the financial position on the Education & Social Care service General Ledger, Reserve Fund and Housing Revenue Account revenue management accounts (RMA) for the first three months of 2009/10.

2. Links to Corporate Priorities

2.1 This report links to the Council's corporate priorities, defined in its Corporate Plan, specifically in relation to reviewing financial performance relative to the Council's financial policies.

3. Background

3.1 The revenue management accounts are presented to the Executive on a monthly basis to monitor the Council's overall financial position.

3.2 This monitoring report to Members covers the period 1 April 2009 to 30 June 2009. Only controllable items of expenditure are included, on the basis that recharges for central services and financing costs and financing income are excluded, as these are not controllable in terms of spending decisions. The financial data in this report include employee costs, property costs, transport, grants and other running costs, and income comprises of fees and charges, grants and rents.

3.3 For information, all appendices show the Annual Budget, Year to Date Budget, Actual and Variance. It is the Year to Date variances, which are referred to within this report. An estimation of when spending will occur or income is to be received is made on each budget and a spend profile is set which determines the Year to Date Budget. The Year to Date Variance shows how actual activity has varied from the planned budget.

4. Financial position on the General Ledger (inc Support/Recharged)

4.1 Appendix 1 shows the objective and subjective position for Education & Social Care services. For the first 3 months there is an underspend of £2,559,243 (14%). Of this underspend £2,293,195 is due to an accrual for estimated single status back pay. The costs of back pay is only due to be paid in the next few accounting periods. The accrual ensures that the cost is included in the 2008/09 accounts as it relates to that financial year.

4.2 There are several areas which have variances, these are set out below:-

4.2.1 Community Care – The main variance is a profiling error on income of £1,011,846, this is offset by the single status back pay accrual of £1,075,357. The remaining variance is due to staffing vacancies across the service.

4.2.2 Children;s Services – The main variance is on Children’s Off Island Placements due to late journaling of costs from the Schools service and single status back pay accrual £188,610.

4.2.2 Schools – The main variance is the single status back pay accrual amounting to £785,377.

4.3 For more detailed information, Appendix 2 shows the General Ledger by cost centre.

5. Financial Position on the Reserve Fund

5.1 Appendix 3 shows the objective and subjective position on the Reserve Fund for Education & Social Care services. This shows an underspend for the first 3 months of £66,985 (47%). This variance is due to budget profiling errors on Modern Apprenticeships and Tenant Participation.

5.2 For more detailed information, Appendix 4 shows the Reserve Fund by cost centre.

6. Financial Position on the Housing Revenue Account

6.1 Appendix 5 shows the objective and subjective position on the Housing Revenue Account for Education & Social Care services. This shows an underspend for the first 3 months of £343,838 (31%). This variance is mainly due to budget profiling errors on repairs and maintenance.

6.2 For more detailed information, Appendix 6 shows the Reserve Fund by cost centre.

7. Financial Implications

7.1 The General Ledger for the first 3 months is underspent by £2,559,243 of which £2,293,195 relates to the single status back pay accrual. The Reserve Fund is underspent by £66,985 and the Housing Revenue Account

is underspent by £343,888. Officers will be re-profiling any projects where the timing of payments/income is able to be determined with more certainty or identify any real underspends.

8. Policy & Delegated Authority

8.1 The Services Committee has delegated authority to act on all matters within its remit for which the Council as approved the overall objectives and budget, in accordance with Section 13 of the Council's Scheme of Delegations.

9. Recommendation

9.1 I recommend that the Services Committee note the report.

Report No: F-029-F
Ref: Accountancy/HKT

Date: 24 August 2009

EDUCATION & SOCIAL CARE MANAGEMENT INFORMATION 2009/10 - PERIOD 03 1st April 2009 to 30th Jun 2009

<u>Revenue Expenditure by Service</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
	£	£	£	£
Education & Social Care Services (total)	69,474,269	18,497,757	15,938,514	2,559,243
Directorate	1,562,961	658,172	661,745	-3,573
Resources	1,332,809	339,819	268,162	71,657
Sport & Leisure	1,771,165	581,062	413,547	167,515
Community Work	396,349	98,379	96,009	2,370
Train Shetland & Adult Learning	556,799	129,426	161,239	-31,813
Library	1,047,242	294,212	253,786	40,426
Schools	35,510,452	9,513,078	8,381,761	1,131,317
Community Care	18,902,329	4,706,478	4,083,337	623,141
Children's Services	6,127,189	1,554,111	1,206,031	348,080
Criminal Justice Unit	13,013	3,061	-7,324	10,385
Housing	2,253,961	619,959	420,222	199,737

<u>Revenue Expenditure by Subjective</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
	£	£	£	£
Employee Costs (sub total)	60,229,627	14,998,053	11,941,206	3,056,847
Basic Pay	44,819,091	11,179,372	8,771,156	2,408,216
Overtime	231,278	57,822	96,867	-39,045
Other Employee Costs	15,179,258	3,760,859	3,073,183	687,676
Operating Costs (sub total)	13,571,137	4,232,303	3,601,033	631,270
Travel & Subsistence	2,509,719	620,914	467,960	152,954
Property Costs	5,446,235	2,169,319	1,819,277	350,042
Other Operating Costs	5,615,183	1,442,070	1,313,796	128,274
Transfer Payments (sub total)	7,818,823	2,204,532	2,310,821	-106,289
Income (sub total)	-12,145,318	-2,937,131	-1,914,546	-1,022,585
TOTAL	69,474,269	18,497,757	15,938,514	2,559,243

EDUCATION & SOCIAL CARE RMA 2009/10 - COST CENTRE DETAIL - PERIOD 3	1st April 2009 to 30th June 2009
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<u>Description</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
	£	£	£	£
Directorate	1,562,961	658,172	661,745	-3,573
SRJ0000 Exec Dir Educ & Social Care	180,392	45,004	44,737	267
GRJ0227 QOL-Leisure Acc Remote Sch	0	0	252	-252
GRJ1002 Data Sharing Project	167,758	10,729	11,148	-419
GRL4210 Museums & Archives Prop Costs	61,679	25,873	29,042	-3,169
GRL4217 New Museum & Arts Centre	1,153,132	576,566	576,566	0
Resources	1,332,809	339,819	268,162	71,657
SRJ2000 Resources Manager	120,727	23,060	20,816	2,244
SRJ2100 Information	182,972	63,063	68,721	-5,658
SRJ2200 Staff Management	328,205	81,804	63,270	18,534
SRJ2201 Recruitment Expenses	225,000	56,250	19,383	36,867
SRJ2300 Administration	406,908	98,442	79,338	19,104
SRJ2500 Grant Administration	68,997	17,200	16,634	566
Sport & Leisure	1,771,165	581,062	413,547	167,515
SRJ3000 Sports & Leisure Svs Mgt	55,439	13,716	10,516	3,200
GRJ3126 Active Futures	25,929	16,973	20,337	-3,364
GRJ3125 Active Schools	88,750	71,257	69,204	2,053
GRJ3129 Cash back for Communities	1,008	-3,070	-4,937	1,867
GRJ3102 Bridge-End Outdoor Centre	5,000	5,000	4,946	54
GRJ3103 Unst Youth Centre	5,000	0	0	0
GRJ3201 Grants to Vol Orgs General	78,336	53,514	56,718	-3,204
GRJ3202 Development Grant Aid Scheme	76,980	19,245	17,522	1,723
GRJ3203 Support Grant Aid Scheme	111,509	27,877	0	27,877
GRJ3204 Pitches Other	29,131	7,283	8,937	-1,654
GRJ3205 Maintain Community Facilities	15,300	3,825	0	3,825
GRJ3101 Islesburgh	784,974	238,848	109,142	129,706
GRJ3104 Fetlar Camp Site	5,510	1,686	1,676	10
GRJ3105 2 St Sunniva Street	14,503	5,405	-1,337	6,742
GRJ3107 Parks General	259,772	69,347	67,274	2,073
GRJ3108 Play Areas General	101,414	34,272	44,604	-10,332
GRJ3109 Multicourts General	14,000	3,500	441	3,059
GRJ3122 Outdoor Educ and Activities	42,050	-2,360	-4,777	2,417
GRJ3120 Sports Development	56,560	14,744	13,281	1,463
Community Work	396,349	98,379	96,009	2,370
SRJ3300 Comm Learning & Dev Mgt	55,310	13,799	13,187	612
GRJ3301 Area Community Work	297,964	74,597	75,809	-1,212
GRJ3302 Community Work Initiatives	21,920	5,481	6,806	-1,325
GRJ3303 Community Transport	21,155	4,502	-1,577	6,079
GRJ3307 SLSDG (Vision)	0	0	1,783	-1,783
Shetland Library	1,047,242	294,212	253,786	40,426
GRL4410 Library	1,047,242	294,212	253,786	40,426
Train Shetland & Adult Learning	556,799	129,426	161,239	-31,813
GRL4121 Evening Classes	123,906	20,901	24,702	-3,801
GRL4123 Adult Learning	88,908	21,880	28,195	-6,315
GRL4125 Adult Literacy Strategic Plan	184,678	45,147	23,249	21,898
GRL6002 Vocational Service	231,642	57,741	53,572	4,169
GRL6003 Vocational Training	-127,148	-29,837	-33,480	3,643
GRL6006 Short Courses	-38,266	-9,600	53,101	-62,701
SRL6006 Short Course Management	93,079	23,194	11,900	11,294
Schools	32,324,294	8,713,913	8,054,972	658,941
SRE0001 Head of Schools	124,534	31,005	27,949	3,056
SRE6901 Administration Educ	91,165	22,724	22,421	303
SRE9301 DSMO - Aith Cluster	35,165	8,767	7,255	1,512
SRE9303 DSMO - North Isles Cluster	32,782	8,062	7,018	1,044
SRE9305 DSMO - Brae Cluster	35,954	8,965	7,806	1,159
SRE9328 DSMO - Sandwick Cluster	33,070	8,250	3,827	4,423
SRE9329 DSMO - Scalloway Cluster	35,904	8,953	7,653	1,300
SRE9332 DSMO-Sound	34,511	8,604	7,529	1,075
SRE9334 DSMO - Whalsay Cluster	31,499	7,856	3,188	4,669
GRE0006 Director, Central Support	712,695	192,985	202,472	-9,487
GRE0102 Bursaries	206,607	26,001	22,450	3,551

GRE0103	Clothing Grants	21,494	5,374	1,745	3,629
GRE0107	School Milk	11,549	2,887	942	1,945
GRE0108	Educ Maint Allowance (EMA)	0	-1,106	-16,174	15,068
GRE1412	Staff Development	55,329	13,792	14,546	-754
GRE1457	Support for Teachers	39,000	9,750	2,192	7,558
GRE1493	Careers Convention	4,080	0	0	0
GRE1501	MIS Support	91,898	18,455	44,197	-25,742
GRE1502	Respect & Responsibility	5,100	1,234	0	1,234
GRE1506	In - Service	10,754	0	273	-273
GRE1510	Science & Technology Fair	32,240	22,240	20,315	1,925
GRE1522	Blueprint Consultation	72,777	2,375	794	1,581
GRE3500	Link Courses	12,000	3,000	0	3,000
SRE6900	Quality Assurance	716,991	178,691	179,013	-322
GRE1500	Improvement Plans	17,774	750	35	715
GRE0104	School Boards Administration	32,714	7,000	3,951	3,049
GRE3450	Special Education - General	493,527	117,418	47,481	69,937
GRE3451	Special Supply Cover	83,314	20,628	26,787	-6,159
GRE3462	Additional Support Base	205,171	50,328	59,581	-9,253
GRE3463	Club XL	5,000	1,250	51	1,199
GRE3470	Support for Learning	2,469,182	614,269	516,423	97,846
GRE3471	AHS ASN	874,409	231,627	207,446	24,181
GRE3473	Bells Brae ASN	843,338	213,282	205,238	8,044
GRE1101	Schools, Aith Nursery	38,757	10,700	8,893	1,807
GRE1103	Schools, Baltasound NS	46,609	12,507	6,404	6,103
GRE1104	Schools, Bells Brae NS	132,985	37,205	33,219	3,986
GRE1105	Schools, Brae Nursery	68,918	18,955	12,323	6,632
GRE1106	Schools, Bressay Nursery	29,239	7,363	5,872	1,491
GRE1109	Schools, Cunningsb'h NS	44,280	11,015	11,320	-305
GRE1110	Schools, Dunrossness NS	74,347	20,429	17,193	3,236
GRE1111	Schools, Fair Isle Nursery	23,514	5,928	6,632	-704
GRE1112	Schools, Fetlar Nursery	759	215	197	18
GRE1113	Schools, Foula Nursery	577	192	40	152
GRE1117	Schools, Happyhansel NS	40,628	11,392	9,435	1,957
GRE1119	Lunnasting Nursery	36,789	9,200	4,411	4,789
GRE1120	Schools, Mid Yell Nursery	78,065	20,663	21,052	-389
GRE1121	Schools, Mossbank NS	143,355	36,369	33,920	2,449
GRE1128	Schools, Sandwick NS	82,966	22,212	20,027	2,185
GRE1129	Schools, Scalloway NS	70,753	18,059	11,732	6,327
GRE1130	Schools, Skeld Nursery	37,804	10,209	9,143	1,066
GRE1131	Schools, Skerries Nursery	14,918	3,499	2,907	592
GRE1132	Schools, Sound Nursery	101,868	27,766	18,090	9,676
GRE1134	Schools, Whalsay NS	82,770	21,878	18,074	3,804
GRE1135	Schools, Urafirth Nursery	38,343	10,337	6,770	3,567
GRE1137	Schools,Whiteness Nursery	73,702	20,204	17,735	2,469
GRE1150	Schools, Nursery - General	72,888	18,180	17,163	1,017
GRE1151	School Services, Nursery Suppl	18,894	3,460	2,967	493
GRE1160	Div Man, Commissioned Places	220,320	41,530	50,856	-9,326
GRE1201	Schools, Aith Primary	282,751	86,904	64,837	22,067
GRE1203	Schools, Baltasound PS	185,346	56,834	45,143	11,691
GRE1204	Schools, Bells Brae PS	1,199,449	349,725	335,843	13,882
GRE1205	Schools, Brae Primary	422,682	129,578	87,541	42,037
GRE1206	Schools, Bressay Primary	121,753	36,359	24,847	11,512
GRE1207	Schools, Burravoe Primary	101,098	25,640	17,342	8,298
GRE1208	Schools, Cullivoe Primary	126,721	32,055	19,309	12,746
GRE1209	Schools, Cunningsb'h PS	293,990	79,729	70,461	9,268
GRE1210	Schools, Dunrossness PS	560,247	159,819	146,281	13,538
GRE1211	Schools, Fair Isle Primary	110,033	26,495	26,945	-450
GRE1212	Schools, Fetlar Primary	87,536	22,003	18,733	3,270
GRE1213	Schools, Foula Primary	106,517	26,960	17,782	9,178
GRE1214	Schools, Tingwall Primary	224,489	63,961	60,310	3,651
GRE1216	Schools, Hamnavoe PS	219,611	63,214	56,751	6,463
GRE1217	Schools, Happyhansel PS	273,582	78,300	72,186	6,114
GRE1219	Schools, Lunnasting PS	150,244	46,173	41,257	4,916
GRE1220	Schools, Mid Yell Primary	219,538	59,177	52,404	6,773
GRE1221	Schools, Mossbank PS	291,624	74,705	81,100	-6,395
GRE1222	Schools, North Roe PS	85,334	21,239	17,686	3,553
GRE1223	Schools, Ollaberry Primary	108,721	34,913	30,076	4,837
GRE1224	Schools, Olnafirth Primary	131,084	33,566	30,981	2,585
GRE1225	Schools, Papa Stour PS	3,057	800	486	314
GRE1227	Schools, Sandness Primary	77,036	19,469	15,568	3,901
GRE1228	Schools, Sandwick Primary	325,875	94,301	74,320	19,981
GRE1229	Schools, Scalloway PS	323,225	93,420	81,354	12,066
GRE1230	Schools, Skeld Primary	135,809	40,639	34,643	5,996
GRE1231	Schools, Skerries Primary	114,730	26,575	27,198	-623
GRE1232	Schools, Sound Primary	1,115,025	315,016	296,194	18,822
GRE1233	Schools, Nesting PS	145,958	45,114	41,791	3,323

GRE1234	Schools, Whalsay PS	486,634	140,260	100,707	39,553
GRE1235	Schools, Urafirth Primary	101,960	31,322	31,130	192
GRE1236	Schools, Uyeasound PS	96,804	24,400	20,074	4,326
GRE1237	Schools, Whiteness PS	315,728	95,385	69,828	25,557
GRE1251	School Services, Primary Suppl	187,181	21,221	29,234	-8,013
GRE1301	Schools, Aith Secondary	780,985	212,448	203,297	9,151
GRE1302	Schools, Anderson HS	4,468,186	1,302,241	1,226,825	75,416
GRE1303	Schools, Baltasound SS	624,894	171,621	187,229	-15,608
GRE1305	Schools, Brae Secondary	1,942,039	524,563	566,992	-42,429
GRE1320	Schools, Mid Yell SS	671,873	178,861	183,773	-4,912
GRE1328	Schools, Sandwick SS	1,210,287	355,516	355,635	-119
GRE1329	Schools, Scalloway SS	1,110,511	312,630	311,556	1,074
GRE1331	Schools, Skerries SS	90,128	21,597	14,417	7,180
GRE1334	Schools, Whalsay SS	704,880	190,905	217,640	-26,735
GRE1340	Work Experience	33,216	8,293	6,251	2,042
GRE1351	School Service, Sec Supply	117,180	13,216	8,802	4,414
GRE1360	School Service, Halls of Resid	571,515	142,463	91,333	51,130
GRE1401	Visiting Music Specialists	794,132	199,630	192,137	7,493
GRE1402	Visiting Art Specialists	228,528	56,974	56,754	220
GRE1403	Visiting PE Specialists	428,992	107,051	95,914	11,137
GRE1404	Knitting Instructors	124,631	31,075	31,298	-223
GRE1405	Other Visiting Staff	82,399	20,546	19,851	695
GRE1410	Science Technicians	174,266	42,556	32,346	10,210
GRE1407	Probationer Teachers	8,000	2,000	1,704	296
GRE1415	Schools of Ambition	0	0	-74	74
GRE1417	Field Studies	204	9,728	9,651	77
GRE1422	Vocational Pathways	42,090	1,000	4,870	-3,870
GRE1433	Support for Glow	20,538	5,135	3,722	1,413
GRE1436	Youth Music Initiative	38,746	4,094	18,281	-14,187
GRE1440	School Trips	1,507	377	-591	968
GRE1441	Enterprise & Education	786	35,548	25,028	10,520
GRE1444	International Education	136,680	34,539	50,032	-15,493
GRE1455	Tamil Nadu Schools Exchange	8,077	519	2,561	-2,042
GRE1508	P.G.D.E	500	125	107	18
GRE1513	NPAF Curriculum for Excellence	77,640	19,400	4,462	14,938
GRE1520	Cultural Co-ordinator	53,937	9,108	12,048	-2,940

Catering & Cleaning		3,186,158	799,165	326,789	472,376
SRE6902	Catering Support	275,321	68,900	61,046	7,854
VRE4001	Aith School Catering	71,684	17,876	-3,126	21,002
VRE4002	AHS Catering	272,078	67,895	33,228	34,667
VRE4003	Baltasound School Catering	49,709	12,400	-3,403	15,803
VRE4004	Bells Brae School Catering	124,935	31,172	2,965	28,207
VRE4005	Brae School Catering	161,549	40,310	5,317	34,993
VRE4006	Bressay School Catering	14,160	3,532	-1,096	4,628
VRE4007	Burravoe School Catering	11,434	2,853	-360	3,213
VRE4008	Cullivoe School Catering	6,923	1,727	774	953
VRE4009	Cunningsburgh School Catering	35,451	8,839	-1,548	10,387
VRE4010	Dunrossness School Catering	60,889	15,183	-1,704	16,887
VRE4011	Fair Isle School Catering	8,420	2,100	-1,381	3,481
VRE4012	Fetlar School Catering	6,427	1,603	-873	2,476
VRE4014	Tingwall School Catering	33,086	8,254	-779	9,033
VRE4016	Hamnavoe School Catering	25,474	6,349	-1,479	7,828
VRE4017	Happyhansel School Catering	30,763	7,676	1,527	6,149
VRE4019	Lunnasting School Catering	15,838	3,951	-704	4,655
VRE4020	Mid Yell School Catering	63,490	15,847	261	15,586
VRE4021	Mossbank School Catering	34,779	8,677	-1,005	9,682
VRE4022	North Roe School Catering	11,030	2,752	1,622	1,130
VRE4023	Ollaberry School Catering	10,909	2,720	629	2,092
VRE4024	Olnafirth School Catering	18,403	4,593	-89	4,682
VRE4027	Sandness School Catering	6,852	1,710	229	1,481
VRE4028	Sandwick School Catering	122,138	30,474	2,229	28,245
VRE4029	Scalloway School Catering	92,055	22,961	3,164	19,797
VRE4030	Skeld School Catering	13,586	3,389	-739	4,128
VRE4031	Skerries School Catering	12,149	3,033	-756	3,789
VRE4032	Sound School Catering	110,532	27,578	2,093	25,485
VRE4033	Nesting School Catering	15,911	3,973	-82	4,055
VRE4034	Whalsay School Catering	77,378	19,304	-1,290	20,594
VRE4035	Urafirth School Catering	13,771	3,433	3,889	-456
VRE4036	Uyeasound School Catering	2,994	749	412	337
VRE4037	Whiteness School Catering	43,115	10,756	-788	11,544
SRE6903	Cleaning Support	40,477	9,964	6,772	3,192
VRE5001	Aith Sch Cleaning	45,780	11,410	8,231	3,179
VRE5002	AHS Cleaning	201,983	50,348	41,508	8,840
VRE5003	Baltasound School Cleaning	35,036	8,733	7,397	1,336

VRE5004	Bells Brae School Cleaning	51,817	12,917	12,442	475
VRE5005	Brae School Cleaning	89,337	22,265	19,877	2,388
VRE5006	Bressay School Cleaning	12,506	3,118	2,800	318
VRE5007	Burravoe School Cleaning	4,920	1,228	1,022	206
VRE5008	Cullivoe School Cleaning	4,909	1,224	935	289
VRE5009	Cunningsburgh School Cleaning	16,071	4,006	2,698	1,308
VRE5010	Dunrossness School Cleaning	24,376	6,076	5,130	946
VRE5011	Fair Isle Cleaning	4,580	1,142	1,015	127
VRE5012	Fetlar School Cleaning	3,646	909	520	389
VRE5013	Foula School Cleaning	3,253	814	11	803
VRE5014	Tingwall School Cleaning	10,327	2,576	2,314	262
VRE5016	Hamnavoe School Cleaning	25,928	6,468	4,168	2,300
VRE5017	Happyhansel School Cleaning	32,706	8,177	6,222	1,955
VRE5019	Lunnasting School Cleaning	8,345	2,082	2,182	-100
VRE5020	Mid Yell School Cleaning	25,416	6,337	5,195	1,142
VRE5021	Mossbank School Cleaning	21,535	5,368	4,330	1,038
VRE5022	North Roe School Cleaning	7,774	1,939	1,728	211
VRE5023	Ollaberry School Cleaning	10,593	2,642	2,589	53
VRE5024	Olnafirth Cleaning	8,627	2,151	2,197	-46
VRE5027	Sandness School Cleaning	5,824	1,452	1,328	124
VRE5028	Sandwick School Cleaning	78,216	19,497	15,965	3,532
VRE5029	Scalloway School Cleaning	69,103	17,225	13,992	3,233
VRE5030	Skeld School Cleaning	11,017	2,750	2,321	429
VRE5031	Skerries School Cleaning	5,032	1,255	1,163	92
VRE5032	Sound School Cleaning	34,859	8,689	7,539	1,150
VRE5033	Nesting School Cleaning	8,091	2,017	873	1,144
VRE5034	Whalsay School Cleaning	33,218	8,273	7,703	570
VRE5035	Urafirth School Cleaning	6,701	1,671	78	1,593
VRE5036	Uyeasound School Cleaning	6,374	1,590	1,541	49
VRE5037	Whiteness School Cleaning	16,796	4,186	3,520	666
VRE6001	Office Cleaning	281,236	74,534	19,439	55,095
VRE6002	Public Conveniences	86,516	21,563	11,863	9,700

Community Care		18,902,329	4,706,478	4,083,337	623,141
SRA0000	Head of Community Care	362,701	91,929	90,040	1,889
GRA0021	Joint Improvement Team	30,000	0	0	0
GRA5401	Telecare	28,250	0	0	0
SRA1000	Community Care Service Managr:	109,053	27,172	24,497	2,675
GRA0010	Direct Payments	200,000	50,000	101,922	-51,922
GRA0014	Community Care Income	-5,358,377	-1,339,594	-337,701	-1,001,893
GRA0016	W & J Daycare Grant	183,733	45,933	0	45,933
GRA0017	Independant Sector Placements	827,130	206,783	193,765	13,018
SRA4000	Fieldwork Manager	82,238	20,583	25,205	-4,622
GRA0019	Commissioned Services	576,500	108,125	171,865	-63,740
GRA0020	Drugs & Alcohol Services	268,000	67,000	41,500	25,500
GRA4100	Community Care Fieldwork	495,327	123,477	76,027	47,450
GRA4500	Top Up Substance Misuse	54,500	13,625	4,432	9,193
SRA4101	Training Community Care	168,451	41,975	22,329	19,646
SRA4102	Training Vocational	59,871	14,933	1,803	13,130
SRA4103	Training Child Protection	21,378	5,323	4,339	984
SRA4104	Training Child Residential	39,421	9,772	909	8,863
SRA4105	Training Adoption	5,600	1,400	0	1,400
SRA4106	Training Child Services	0	0	0	0
SRA4107	Training SVQ	520,863	129,933	56,734	73,199
SRA4108	Social Work Degree	51,029	12,696	2,060	10,636
SRA4109	Training Food Hygiene	31,157	7,763	1,690	6,073
SRA4111	Training Manual handling	48,083	11,959	8,365	3,594
SRA4112	Training	78,870	19,638	21,219	-1,581
SRA5000	Adult Services Manager	64,985	16,182	18,967	-2,785
GRA5100	Eric Gray Resource Centre	881,530	222,422	182,624	39,798
GRA5200	ILP - Project Manager	430,979	107,505	57,796	49,709
GRA5210	ILP - Central	1,773,688	442,399	264,813	177,586
GRA5215	ILP - Rudda Park	9,868	2,466	3,046	-580
GRA5216	ILP-Transition Flat	3,148	788	1,567	-779
GRA5218	ILP-Arheim	8,383	2,097	46	2,051
GRA5220	Stocketgaet	235,648	94,253	60,500	33,753
GRA5230	Craigielea	1,372	239	-5,352	5,591
GRA5240	Local Area Co-Ordinator	38,046	9,467	1,081	8,386
GRA5250	Mental Health Comm Supp Svs	304,378	78,018	50,734	27,284
GRA5251	Off-Island Placements	90,519	22,630	43,279	-20,649
GRA5600	Banksbroo	283,500	70,555	61,393	9,162
GRA5620	Newcraigielea	733,680	182,175	131,757	50,418
GRA5621	Sea View	497,519	124,109	87,178	36,931
GRA5622	Intensive Sup Services	52,060	12,968	43,571	-30,603
GRA5623	Outreach Project	118,100	29,425	0	29,425
GRA4110	Health Service Social Worker	44,852	11,162	9,471	1,691
GRA4120	Mental Health Officers	165,664	41,289	24,655	16,634

GRA4130	Dementia Care Manager	44,833	11,157	10,136	1,021
GRA4160	Adult Support & Protection	43,534	10,884	10,061	823
GRA4600	Crossroads Packages	110,364	27,591	33,003	-5,412
SRA6000	Older People Manager	111,790	27,888	26,479	1,409
SRA8000	Service Manager Rural Care	58,027	14,450	13,559	891
GRA6100	Taing House	1,656,707	419,506	315,366	104,140
GRA6110	Viewforth	1,662,351	417,936	286,327	131,609
GRA6120	Edward Thomason House	1,802,245	455,861	382,515	73,346
GRA6130	Handypersons	90,126	24,146	20,794	3,352
GRA6141	Care @ Home-Central	273,387	66,507	11,204	55,303
GRA6143	Kantersted Kitchen	151,215	37,728	33,380	4,348
GRA6170	Montfield	334,734	83,066	0	83,066
GRA6300	Freefield	99,112	27,392	2,542	24,850
GRA6400	Miscellaneous Properties	13,168	6,488	5,241	1,247
GRA6420	Interments	800	200	0	200
GRA6900	White/Grey Goods	5,000	1,250	921	329
GRA8050	Care@ Home Mgt & Admin	94,288	23,483	16,747	6,736
GRA8100	North Haven	1,518,278	373,872	269,269	104,603
GRA8110	Overtonlea	1,531,701	376,899	269,191	107,708
GRA8120	Wastview	1,441,236	355,195	248,706	106,489
GRA8130	Fernlea	960,639	236,182	182,334	53,848
GRA8140	Isleshavn	994,487	246,748	168,895	77,853
GRA8150	Nordalea	871,516	213,789	138,437	75,352
GRA5400	Occupational Therapy	411,094	107,686	90,100	17,586

Children's Services		6,127,189	1,554,111	1,206,031	348,080
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SRG0000	Head of Children's Svs	110,260	27,490	25,946	1,544
GRG2014	Children's Serv Improv Officer	47,663	11,880	11,662	218
GRG1002	Quarff Additional Supp Needs	7,222	1,860	397	1,463
GRG1003	Additional Support Team	154,113	38,432	22,827	15,605
SRG6000	Family Support Manager	64,452	16,065	14,186	1,879
GRG3001	Family Support	663,721	165,485	149,486	15,999
GRG5001	Child Rights Services	42,419	10,605	-2,020	12,625
GRG6006	Preventative Services	34,284	8,571	3,736	4,835
SRG3000	Child Protection Co-ordinator	48,616	12,120	11,888	233
SRG2000	Children's Res Svs Manager	62,831	15,661	13,639	2,022
GRG1004	Blydehaven Nursery	43,460	30,021	1,148	28,873
GRG2001	Laburnum	583,979	146,647	125,794	20,853
GRG2002	Leog	490,298	126,595	75,152	51,443
GRG2003	Leog-Market Street	155,919	38,873	13,189	25,684
GRG2004	Windybrae	348,849	86,972	42,175	44,797
GRG2005	Child Off Island Accom	250,150	62,537	180,662	-118,125
GRG2006	Adoption	94,639	23,660	13,283	10,377
GRG2007	Professional Foster Care	45,405	11,352	9,746	1,606
GRG2008	Section 29	12,960	3,240	0	3,240
GRG2009	Fostering	523,419	130,552	128,228	2,324
GRG2010	Shared Care	6,000	1,500	1,735	-235
GRG2012	Voluntary Organisations	0	0	703	-703
GRG5007	Local Support Networks	91,127	22,716	20,642	2,074
GRG6002	Child Care Strategy	208,600	52,060	33,724	18,336
GRG6004	Family Centre Services	459,428	114,621	59,867	54,754
GRG6005	Changing Childrens Services	55,000	13,750	12,259	1,491
GRG6008	Out of School Care	184,319	45,959	24,704	21,255
GRG4001	Psychological Services	173,751	43,315	40,828	2,487
GRG4002	Sensory Impairment	277,914	69,244	57,040	12,204
SRG5000	Youth Services Manager	54,716	13,642	11,576	2,066
GRG5002	Old School Centre Firth	0	933	207	726
GRG5003	Play Schemes	10,460	4,345	-1,991	6,336
GRG5004	Youth Workers	463,120	115,416	68,334	47,082
GRG5005	Duke of Edinburgh Award	2,837	712	660	52
GRG5006	Islesburgh Youth Club	660	166	-1,353	1,519
GRG5008	ASN-Out of Term Provision	77,214	19,246	6,596	12,650
GRG5009	Inclusion Project	32,525	8,111	7,237	874
GRG5011	Youth Development	29,166	5,968	-11,156	17,124
GRG5012	Bridges Project	180,007	44,906	23,334	21,572
GRG7001	Youth Crime	35,686	8,883	9,958	-1,075

Criminal Justice		13,013	3,061	-7,324	10,385
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GRI0001	Offender Services	13,013	3,061	-7,324	10,385
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Housing		2,253,961	619,959	420,222	199,737
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SRH0000	Head of Housing	83,563	20,851	20,790	61
SRH1000	Operational Services	500,249	124,687	81,574	43,113
SRH3300	Housing DLO Management	99,680	24,435	26,545	-2,110
GRH1078	Chalet/Sites	-26,594	-6,648	-5,491	-1,157
GRH1082	Staff Housing	-18,043	-4,249	-2,979	-1,270
GRH1084	Education Houses Hsg	-44,679	-9,898	-9,995	97

GRH1100	Stocketgaet/Gremmasgaet	0	20,475	20,918	-443
GRH1170	Homeless Persons	36,202	14,211	-15,438	29,649
GRH1175	12 A/B North Road	-8,714	-2,191	-7,129	4,938
GRH1270	Sheltered Housing	499,794	130,516	94,195	36,321
GRH1271	Banksbro	0	4,447	3,303	1,144
SRH2000	Business Support Services	416,962	102,526	45,005	57,521
SRH3200	Asset Management	283,480	70,299	40,514	29,785
GRH0050	Grass Cutting Service	53,060	26,530	22,519	4,011
GRH1086	NASSO	17,375	4,344	0	4,344
GRH2074	Economic Rents	-20,695	-4,502	-1,120	-3,382
GRH2093	Housing Act Implementation Tm	60,327	16,870	32,176	-15,306
GRH2094	Supporting People	74,047	18,473	22,137	-3,664
GRH2098	Outreach Service	321,161	80,064	68,240	11,824
GRH4274	Rent Rebates	-34,698	-5,163	-36,289	31,126
GRH4275	Rent Allowances	-38,516	-6,118	20,747	-26,865

TOTAL EDUCATION AND SOCIAL CARE	69,474,269	18,497,757	15,938,514	2,559,243
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EDUCATION & SOCIAL CARE SERVICES MANAGEMENT INFORMATION 2009/10 - PERIOD 03	1st April 2009 to 30th Jun 2009
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<u>Revenue Expenditure by Service</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
	£	£	£	£
Education & Social Care Services (total)	466,179	143,284	76,299	66,985
Housing	156,853	66,399	76,299	-9,900
Adult Learning & Train Shetland	307,540	76,885	0	76,885
Sport & Leisure	1,786	0	0	0

<u>Revenue Expenditure by Subjective</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
	£	£	£	£
Employee Costs (sub total)	0	0	0	0
Basic Pay	0	0	0	0
Overtime	0	0	0	0
Other Employee Costs	0	0	0	0
Operating Costs (sub total)	13,641	2,500	0	2,500
Travel & Subsistence	0	0	0	0
Property Costs	0	0	0	0
Other Operating Costs	13,641	2,500	0	2,500

Transfer Payments (sub total)	452,538	140,784	76,299	64,485
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Income (sub total)	0	0	0	0
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TOTAL	466,179	143,284	76,299	66,985
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EDUCATION & SOCIAL CARE SERVICES RMA 2009/10 - COST CENTRE DETAIL - PERIOD 3

1st April 2009 to 30th June 2009

<u>Description</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable £
	£	£	£	£
Housing	156,853	66,399	76,299	-9,900
RRH2800 Housing Initiatives	59,957	25,658	20,941	4,717
RRH2801 Tenant Participation	15,414	0	14,617	-14,617
RRH2803 Shetland Women's Aid	81,482	40,741	40,741	0
Adult Learning & Train Shetland	307,540	76,885	0	76,885
RRL6050 Modern Apprenticeship	307,540	76,885	0	76,885
Planning	1,786	0	0	0
RRJ3007 Cunningsburgh Marina provision	1,786	0	0	0
TOTAL EDUCATION & SOCIAL CARE SERVICES	466,179	143,284	76,299	66,985

HOUSING REVENUE ACCOUNT SERVICES MANAGEMENT INFORMATION 2009/10 - PERIOD 03	1st April 2009 to 30th Jun 2009
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<u>Revenue Expenditure by Service</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
	£	£	£	£
Housing Revenue Account Services (total)	-4,827,386	-1,119,448	-1,463,286	343,838
Head of Housing	-1,434,865	-358,716	-377,951	19,235
Operational Services	684,257	223,571	31,501	192,070
Business Support	-4,076,778	-984,303	-1,116,837	132,534
<u>Revenue Expenditure by Subjective</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
	£	£	£	£
Employee Costs (sub total)	2,681	670	-7,134	7,804
Basic Pay	0	0	-6,262	6,262
Overtime	0	0	0	0
Other Employee Costs	2,681	670	-872	1,542
Operating Costs (sub total)	2,181,580	563,899	133,380	430,519
Travel & Subsistence	0	0	0	0
Property Costs	2,121,088	542,049	122,626	419,423
Other Operating Costs	60,492	21,850	10,754	11,096
Transfer Payments (sub total)	29,421	25,326	26,104	-778
Income (sub total)	-7,041,068	-1,709,343	-1,615,636	-93,707
TOTAL	-4,827,386	-1,119,448	-1,463,286	343,838

HOUSING REVENUE ACCOUNT RMA 2009/10 - COST CENTRE DETAIL - PERIOD 3 **1st April 2009 to 30th June 2009**

<u>Description</u>	Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
	£	£	£	£
Housing Revenue Account				
HRH0350 Housing Support Grant	-1,434,865	-358,716	-377,951	19,235
HRH1300 Ladies Drive Hostel	-24,896	352	-10,840	11,192
HRH3100 Customer Services	63,104	15,318	3,350	11,968
HRH3150 Garages, HRA	20,600	5,150	14,926	-9,776
HRH3151 South Team Area 2	202,875	50,719	8,389	42,330
HRH3152 South Team Area 1	202,875	50,719	-1,637	52,356
HRH3153 North Team Area 2	202,875	50,719	1,628	49,091
HRH3154 North Team Area 1	202,875	50,719	15,134	35,585
HRH3300 Other	-185,551	0	375	-375
HRH3350 Grazing Lets	-500	-125	0	-125
HRH4258 Cost of Refurbishment	0	0	178	-178
HRH2047 Rents General Needs	-4,563,417	-1,135,282	-1,048,410	-86,872
HRH2048 Rents Sheltered Housing	-551,589	-139,937	-130,123	-9,814
HRH2355 Supervision & Management	22,988	24,873	26,819	-1,946
HRH3200 Planned Services HRA	1,015,240	266,043	34,877	231,166
TOTAL HOUSING REVENUE ACCOUNT	-4,827,386	-1,119,448	-1,463,286	343,838



REPORT

To: Services Committee

3 September 2009

From: Executive Director of Education and Social Care

OMBUDSMAN REPORT

1 Introduction

- 1.1 This report presents the findings of a recent Scottish Public Sector Ombudsman Report into a complaint about the Schools Service and the actions taken by the Department to address their recommendations.

2 Links to Corporate Priorities

- 2.1 There is no direct link to the Council's Corporate Priorities but there is a requirement to Report the outcome of complaints through the relevant service committee, to ensure that the Council is effectively carrying out its business.

3 Background

- 3.1 A complaint was made to the Ombudsman in April 2007 by a parent of a child in one of Shetland's schools. The complaint regarded operational matters and the parent claimed that incidents of bullying reported by her child had not been recorded clearly and had not been handled in line with the Schools Service policy on bullying: 'Standing up to Bullying in Shetland'. The full Report is included at Appendix 1.
- 3.2 A summary of the investigations, the findings and their recommendations is set out below.

Overview

The complainant (Mrs C) complained that her daughter (Child A) had been bullied at her school (the School), and the School had not recorded the incidents of bullying clearly or managed the bullying in line with Shetland Islands Council (the Council)'s procedures. Additionally, Mrs C complained the Council failed to convene a Complaints Review Committee (CRC) to consider a further aspect of a complaint, which related in part, to the remaining issues subject to investigation.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the methods of recording and collating incidents of bullying were unclear (*upheld*);
- (b) the procedures for managing incidents of reported bullying were not adhered to (*upheld*); and
- (c) the Council failed to convene a CRC to hear Mrs C's complaints about the social work department (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) support the School in a review of their record-keeping to reflect the incidents of new bullying and episodes of continued bullying. This reporting schedule will highlight the progress being made to address new and older reported episodes of bullying within the School;
- (ii) review the School's criteria for first time/new incidents of bullying and the identification of ongoing bullying issues to be clearly set out separately to reduce the confusion and misunderstanding;
- (iii) support the School's development of appropriate contingency plans to be introduced to the policy of handling bullying when a number of incidents are being reported by the same pupil and evidence is difficult to obtain from other children;
- (iv) ensure the local policies are adhered to and explanations are recorded within the documentation when there is a departure from the prescribed procedure;
- (v) apologise to Mrs C and Child A for the confusion caused as a result of diverting from the documented procedure;
- (vi) review their procedures and practices to ensure CRCs can be held within set timescales; and
- (vii) apologise to Mrs C for the delay in convening a CRC.

The Council have accepted the recommendations and will act on them accordingly.

4 Action Plan

- 4.1 The Schools Service has accepted in full the recommendations made in the report. The recommendations have been fully met by the school and will continue to be monitored by the Service. The actions taken to implement the recommendations are set out below.

Table 1: Actions to Address the Recommendations

Recommendation	Action Taken / Date and Monitoring Arrangements
(i) support the School in a review of their record-keeping to reflect the incidents of new bullying and	The school record-keeping system has been developed in line with

<p>episodes of continued bullying. This reporting schedule will highlight the progress being made to address new and older reported episodes of bullying within the School;</p>	<p>SIC Schools Service Policy. This was in place prior to the HMIe inspection of September 2007, having been approved by the SIC Quality Improvement Manager (QIM). The Quality Improvement Officer (QIO) will now monitor school procedures termly.</p>
<p>(ii) review the School's criteria for first time/new incidents of bullying and the identification of ongoing bullying issues to be clearly set out separately to reduce the confusion and misunderstanding;</p>	<p>The school's criteria are consistent with SIC Schools Service policy. Record-keeping (in the school's bullying report form) shows details of all reported incidents, when first reported, action taken and on-going monitoring. The QIO will monitor on a termly basis.</p>
<p>(iii) support the School's development of appropriate contingency plans to be introduced to the policy of handling bullying when a number of incidents are being reported by the same pupil and evidence is difficult to obtain from other children;</p>	<p>Revised recording procedures are in place, with every reported incident being recorded on the school's bullying report form. This will be monitored by the QIO termly and will be reviewed annually as part of the Pupil Support Department's self-evaluation process.</p>
<p>(iv) ensure the local policies are adhered to and explanations are recorded within the documentation when there is a departure from the prescribed procedure;</p>	<p>In the event of a similarly complex situation in the future, the school would seek to avoid any departure from SIC Schools Service policy. Were any such departure deemed essential, to best support the child's situation, this would be recorded and explained.</p>
<p>(v) apologise to Mrs C and Child A for the confusion caused as a result of diverting from the documented procedure;</p>	<p>A single apology will be issued to both parties following the decision today;</p>
<p>(vi) review their procedures and practices to ensure CRCs can be</p>	<p>The procedures were reviewed in summer 2007</p>

held within set timescales;	following the appointment of a new panel and training of the CRC was held during 2008 and reported to Services Committee at that time.
(vii) apologise to Mrs C for the delay in convening a CRC as with (iv) above.	

4.2 The Schools Service in Shetland is fully committed to preventing bullying and to ensuring that when it does occur, incidents are dealt with appropriately.

4.3 On an unrelated issue, the complaint also dealt with delays in convening a Social Work Complaint Review hearing at or about the time of the Elections in 2007 and thereafter. The Head of Legal and Administration acknowledged the findings in the Report and commented that the recruitment of a new, highly experienced panel composed mainly of persons who would be unaffected by elections, should remove the prospect of similar recurrence in the future.

5 Financial Implications

5.1 There are no direct financial implications arising from this report.

6 Policy and Delegated Authority

6.1 In accordance with Section 13 of the Council's Scheme of Delegations, the Services Committee has delegated authority to make decisions on the matters within approved policy and for which there is a budget. The Schools Service, and specifically the application of the Bullying Policy, falls within the remit of Services Committee.

7 Recommendations

7.1 I recommend that Services Committee note the actions taken to address the recommendations arising from the recent Report by the Scottish Public Services Ombudsman.

Ref: HAS/sa

Report no: ESCD-97-F

**Scottish Parliament Region: Highlands and Islands
Case 200700224: Shetland Islands Council
Summary of Investigation**

Category

Local government: Education; policy and procedure

Overview

The complainant (Mrs C) complained that her daughter (Child A) had been bullied at her school (the School), and the School had not recorded the incidents of bullying clearly or managed the bullying in line with Shetland Islands Council (the Council)'s procedures. Additionally, Mrs C complained the Council failed to convene a Complaints Review Committee (CRC) to consider a further aspect of a complaint, which related in part, to the remaining issues subject to investigation.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the methods of recording and collating incidents of bullying were unclear (*upheld*);
- (b) the procedures for managing incidents of reported bullying were not adhered to (*upheld*) and;
- (c) the Council failed to convene a CRC to hear Mrs C's complaints about the social work department (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) support the School in a review of their record-keeping to reflect the incidents of new bullying and episodes of continued bullying. This reporting schedule will highlight the progress being made to address new and older reported episodes of bullying within the School;
- (ii) review the School's criteria for first time/new incidents of bullying and the identification of ongoing bullying issues to be clearly set out separately to reduce the confusion and misunderstanding;
- (iii) support the School's development of appropriate contingency plans to be introduced to the policy of handling bullying when a number of incidents are being reported by the same pupil and evidence is difficult to obtain from other children;
- (iv) ensure the local policies are adhered to and explanations are recorded within the documentation when there is a departure from the prescribed procedure;
- (v) apologise to Mrs C and Child A for the confusion caused as a result of diverting from the documented procedure;
- (vi) review their procedures and practices to ensure CRCs can be held within set timescales; and
- (vii) apologise to Mrs C for the delay in convening a CRC.

The Council have accepted the recommendations and will act on them accordingly.

19 August 2009

Main Investigation Report

Introduction

1. On 22 April 2007, the Scottish Public Services Ombudsman received a complaint from a member of the public (Mrs C) against Shetland Islands Council (the Council). She complained that the school her daughter (Child A) had attended (the School) had not recorded the incidents of bullying clearly and they had not handled Child A's reports of bullying in line with the Council's procedure. Mrs C also complained the Council failed to convene a Complaints Review Committee (CRC) to consider complaints about the social work department.

2. The complaints from Mrs C which I have investigated are that:

- (a) the methods of recording and collating incidents of bullying were unclear;
- (b) the procedures for managing incidents of reported bullying were not adhered to; and
- (c) the Council failed to convene a CRC to hear Mrs C's complaints about the social work department

3. During the investigation into the first two heads of complaint, it became apparent there were failures in the Council's procedures for arranging a CRC which, in Mrs C's case, took 18 months to convene. As a result, I have included this aspect of Mrs C's complaint into this report.

Investigation

4. I have made several enquiries to the Council regarding the complaints that have been investigated and have received information on the first two aspects of the complaint and there has been only a small amount of information provided about the third aspect of the complaint.

5. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mrs C and the Council were given an opportunity to comment on a draft of this report.

(a) The methods of recording and collating incidents of bullying were unclear; and (b) The procedures for managing incidents of reported bullying were not adhered to

6. Mrs C raised a complaint with the Council on 26 February 2007. Mrs C complained Child A had been bullied at the School. Child A was removed from the School by her family and she moved to live with a relative away from her family home to attend another school. Mrs C felt the School's staff did not adopt the right attitude and the incidents of bullying were not resolved. Mrs C first complained to the Chief Executive of the Council on 26 February 2007 and the Council responded on 30 March 2007. The Council initially let Mrs C know the School recorded matters of bullying in line with the Council's policy. They also explained that teachers used 'professional judgement to record allegations'. The Council went on to explain that:

'allegations/episodes may carry on over several days or weeks of work. After the initial record in the school log, all the work undertaken to record and resolve incidents of bullying is detailed and recorded in the pupil's pupil progress record.'

The pupil progress record is a record kept for each child to log progress and significant information pertinent to that child. The Council suggested this may account for why the recorded statistics had not reflected Mrs C's understanding of the statistical information made available by the School. In their letter dated 30 March 2007 to Mrs C, the Council highlighted the range of responses that had been made to Child A's reports of bullying and the strategies adopted by the School. In their view, they had appropriately used measures within the School and also made appropriate use of the local social services and the police when additional allegations were made.

7. On 4 April 2007, Mrs C wrote back to the Council in response to their letter dated 30 March 2007. On 20 April 2007 the Council wrote again to Mrs C and she subsequently referred her complaint to the Ombudsman on 22 April 2007.

8. Mrs C complained to the Ombudsman that the School had not appeared to believe Child A's reports of bullying and as a result had not handled the matter appropriately, resulting in the family's decision to remove Child A from the School and send her to another school and to live with a relative some considerable distance away from her family (see paragraph 6). Additionally, Mrs C was concerned that the published reports of incidents of bullying in the School did not accord with her recollection of the amount of incidents Child A alone had reported and that she had noted in Child A's pupil progress record.

9. As part of this investigation, on 2 July 2007, I spoke to the Council and they agreed incidents of alleged bullying had not been recorded on the correct forms, but that details were kept in the individual pupil progress record. Within the pupil progress record for Child A, there were many recorded incidents of reported bullying and notes of interviews conducted between teachers and pupils within the School. The pupil progress record demonstrated contact between Child A, her parents, teachers, and referred to external agencies, those being: social services, the police and the Citizens Advice Bureau (initiated by Mrs C and taken up by the School). There was also written evidence in the pupil progress record of contact within and between these groups.

10. In the response letter to me dated 4 February 2008, the Council provided examples of the documentation used within the Council in respect of recording incidents of bullying within their schools. They had, at that time, a policy entitled 'Standing up to bullying in Shetland'. This provided guidance for schools to develop a local policy in line with the Council's policy.

11. The Council have indicated the bullying log held in the School recorded the incidents of bullying in date order. This contains details of every first incident and the Council indicated it would take a lot of work to redact the record in order to protect the identities of other children. I have considered that in relation to the details I required for this investigation, there was enough evidence within Child A's pupil progress record to indicate the level of incidents that were recorded (see paragraph 6) and the approach taken by the School to respond to the allegations that were made.

12. The information in the pupil progress record did not accord with the number of officially recorded incidents of reported bullying identified from within the School, those being: reported incidents of bullying between August and December 2005 as 20, with ten relating to Child A; and between January and June 2006, 12 incidents were recorded with six of those relating to Child A.

13. The School maintained contact between staff and colleagues via email and teacher meetings were undertaken to address the problems that were identified by Child A. The School's pupil progress record also recorded the concerns of investigating the reported incidents when they were not reported straight away or through the channels identified for Child A to refer her complaints of bullying through. The School identified teacher roles and support staff roles for handling the incidents as they were reported; they also involved the local authority's education department in their consideration of the management of the ongoing issues of bullying that Child A was reporting. Additionally, they introduced peer support and additional pupil support for Child A with other children shadowing Child A between classes and in free periods and breaks. As well as this, Child A was invited to use a member of staff's classroom, set aside to receive children within the School who reported feeling vulnerable, for whatever reason, during their free time. As a part of the overall management staff regularly reported on Child A's progress within the School and looked out for other indicators of stress and disruption as a result of her reports of alleged bullying.

14. The School have agreed they did not record all of Child A's reported incidents of bullying in line with their anti-bullying policy. The policy states in Section 2.3:

'... pupil support teachers keep written records of each stage of their response to bullying.'

And in Section 3.4:

'A central bullying log is kept in the pupil support department. Incidents and follow up action are logged here.'

15. There were a lot of reported incidents of alleged bullying from Child A throughout the period, with written evidence that the School's staff had attempted to identify witnesses to the events and to gather information.

16. The Council have indicated that Child A used a range of reporting routes within the School and did not always report an incident in time for any meaningful investigation to take place. In her comment on the draft report Mrs C remarked this issue also arose because Child A was 'threatened with further violence if she did report incidents'.

17. The Council have agreed the School did not use the correct forms each time incidents of bullying were reported by Child A. The School adopted a local management approach to determine if an incident was a continuation of an earlier report of bullying or whether there were grounds to consider it was a new episode of bullying (see paragraph 6). Only new episodes of bullying were recorded in the bullying log. In this respect, the family were unclear how incidents were being classified and what, therefore, if any, were the criteria for a reported incident of bullying being recorded as a continuation of earlier reports of bullying or a new event. This led the family to challenge

the statistics based on their understanding of an official published record of the incidents of bullying in the School and information in the pupil progress record. This highlighted that not all incidents of reported bullying were being recorded for public viewing. At the same time, the assessment criteria used to determine which incident is a new incident or one that is a continuation of a previous episode of bullying was unclear.

18. The Council have indicated the School attempted to adapt their practices to suit the reports of bullying from Child A. This resulted in confusion and misunderstanding for Child A and her parents. In turn, this may have added to the family's perception that Child A was not being believed and supported within the School's environment.

19. Where the incidents have not been entered in the chronological bullying log, they have been recorded in the pupil progress record; this meant the separate incidents of potential new bullying were not recorded by the School in a way that could be effectively reported overall.

20. The Council indicated in their letter dated 4 February 2008 to me that:

'... the school services therefore accept that in such a complex case it may have been beneficial to have kept all information relating to the bullying allegations in a separate file.'

21. Mrs C complained that the School did not manage Child A's reported incidents of bullying in line with their procedures. She considered that the School were not taking Child A's reports seriously. This investigation has not considered the handling of the incidents of bullying within the School. The Scottish Public Services Ombudsman Act (2002) Schedule 4 Section 7(10) indicates matters which the Ombudsman must not investigate and includes action concerning:

'... conduct, curriculum or discipline, in any educational establishment under the management of the education authority.'

In this regard the matters of the handling of the response to bullying at the time have not been subject to investigation.

(a) Conclusion

22. The Council have a policy in place to support the handling of bullying within schools. However, it appears the local arrangements that were in place at the School were unclear and misleading. It is, therefore, difficult to identify the number of incidents of bullying or to understand the criteria for either a 'first time' incident or an 'ongoing incident' of bullying. This has left doubt in the credibility of the policy as there was a risk it may be misunderstood or misapplied.

23. The work done to support Child A has been recorded in the pupil progress record, which outlined the attention paid to the reports made by Child A, but has not separated out new incidents of bullying nor explained why a decision was taken to identify a reason for why any particular episode was recorded as a continuation of a previous episode of bullying.

24. In relation to having a separate bullying record established within the School, it seems the mechanisms were in place to record each incident through their local procedure. The School indicated they had a chronological record of recording each new incident rather than separate reporting schedules for each incident (see paragraph 6 and paragraph 18). This, however, made it difficult to tease out those data required to identify the needs of a specific child, such as Child A, and the use of the pupil progress record, in turn, reflected aspects of a child's experience and was recorded outside the mechanism which then formally reported on the number of cases of bullying within the School.

25. The Council have indicated that a bullying incident logging form was not completed for every incident reported by Child A (see paragraph 17). However, the Council considered that professional judgement was exercised at a local level to determine the extent to which the teacher agreed the incident to be either a new incident or a continuation of an earlier reported incident (see paragraph 6 and paragraph 19). As a result of my investigation, I uphold this complaint.

26. The Council have outlined a revised bullying reporting form which asks for more detailed information and indicates further action to be taken as a result of the incident being reported. The Ombudsman welcomes that improvement.

(a) Recommendations

27. The Ombudsman recommends that the Council:

- (i) support the School in a review of their record-keeping to reflect the incidents of new bullying and episodes of continued bullying. This reporting schedule will highlight the progress being made to address new and older reported episodes of bullying within the School;
- (ii) review the School's criteria for first time/new incidents of bullying and the identification of ongoing bullying issues to be clearly set out separately to reduce the confusion and misunderstanding; and
- (iii) support the School's development of appropriate contingency plans to be introduced to the policy of handling bullying when a number of incidents are being reported by the same pupil and evidence is difficult to obtain from other children.

(b) Conclusion

28. There was evidence of the reporting of the incidents of bullying and a number of strategies of management have been identified within the pupil progress report which demonstrates the attempts made to find evidence to support the bullying as reported by Child A during her stay at the School (see paragraph 22 and paragraph 24). However, there was a lack of evidence and witness statements to support the experience as reported by Child A. This cannot lead to a conclusion that bullying did not occur during Child A's attendance at the School, it is evidence of insufficient reported witness to the events and a lack of evidence to find any child guilty of bullying Child A.

29. There were a number of departures from the procedures for managing the incidents of reported bullying as there were a lot of incidents and the Council has indicated teachers were required to balance the ongoing needs of the day to day running of the School and the needs of Child A within that environment.

30. I have seen written evidence of a number of attempts to identify potential bullies through interview and witness statements. Though no detailed accurate evidence was found, the staff continued to try to support Child A. Whilst the School made attempts to manage the situation Child A experienced, I accept there was a departure from the procedures for recording incidents of bullying. Because of this I uphold the complaint.

(b) Recommendations

31. The Ombudsman recommends that the Council:

- (i) ensure the local policies are adhered to and explanations are recorded within the documentation when there is a departure from the prescribed procedure; and
- (ii) apologise to Mrs C and Child A for the confusion caused as a result of diverting from the documented procedure.

(c) The Council failed to convene a CRC to hear Mrs C's complaints about the social work department

32. Mrs C complained about the handling of a related incident that led to the education department reporting an incident of alleged argument between Mrs C and Child A. The social services and the police looked into the allegations made; resulting in Mrs C raising a complaint about the handling of this incident. As a result of this, Mrs C requested a CRC to be convened to look into the handling of her complaint. The Council subsequently took 18 months to convene the CRC.

33. I have not considered the actual conduct and outcome of the CRC, however, I agreed to investigate the length of time it took for the Council to convene the CRC and to consider the Council's explanation for that delay.

34. The Council are required to convene a CRC, which is required to meet and report within 56 days of written referral being made, 28 days after the response to the complaint is made.

35. Mrs C brought her additional complaint to the Ombudsman on 30 July 2007 after the Council failed to draw together the panel for the CRC. On 23 May 2008, I informed the Council that I intended to add a further head of complaint to the investigation as a result of their continued failure to convene a CRC.

36. The context for a CRC is that the 'National Health Service and Community Care Act 1990' inserted a section in the 'Social Work (Scotland) Act 1968' requiring local authorities to establish procedures for considering complaints by service users. In establishing these procedures, the Council must follow the directions contained in the 'Social Work (Representations Procedure) (Scotland) Directions 1996', which makes provision for the establishment of a review committee to process appeals.

37. I spoke with the Council over the telephone on a number of occasions and they confirmed they had not convened a CRC. They explained there were difficulties in appointing independent people with appropriate training and understanding of the process to sit on the panel of the CRC. The Council indicated they had approached a neighbouring council area to assist them in providing a suitable number of people to invite for consideration, but it was proving difficult to arrange. The Council had considerable difficulty obtaining enough nominations for a panel to convene.

38. At the time a panel was being considered, the Council were also aware of the pending local government elections, which were to possibly have an effect on the membership of the panel as there may or may not be a change of administration, which the Council indicated would mean a further set of appointments would have to be made and further training would be required for those people to be able to sit on a panel.

39. The Council were also subject to a number of enquiries in line with a Subject Access Request under the Data Protection Act 1998 requested by Mrs C. The Council had withheld privileged information as it was legal advice provided to the Council; this meant there were additional delays in considering the requirements for the CRC. The information requested by Mrs C was subsequently withheld and further to that decision being supported, arrangements were made to convene the CRC.

(c) Conclusion

40. It is the responsibility of the Council to have a supply of trained people to sit on a panel, from which they can draw. Additionally, they were aware of the approximate timing of the local government elections and this should not have been a factor influencing the arrangements required by the Council to have a supply of potential candidates for the CRCs. In view of the Council's acknowledgement of their failure to comply with the CRC procedure, I uphold the complaint.

(c) Recommendations

41 The Ombudsman recommends that the Council:

- (i) review their procedures and practices to ensure CRCs can be held within set timescales; and
- (ii) apologise to Mrs C for the delay in convening a CRC.

42. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify him when the recommendations have been implemented.

Explanation of abbreviations used Mrs C

The Council
Child A
The School
CRC

The complainant
Shetland Islands Council
Mrs C's daughter
The school attended by Child A
Complaints Review Committee



REPORT

To: Services Committee

3 September 2009

From: Head of Housing

NOT FOR PUBLICATION Local Government (Scotland) Act, 1973, Schedule 7A, para(s)
Head of Legal and Administration

Report No: HS-16-09

Offer To Purchase And Demolish Remaining Midlea Flats

1. Introduction

- 1.1 In June 2005, Services Committee approved the demolition of the flats at Midlea, Firth (Min ref 43/05).
- 1.2 In October 2007, a request to purchase one of the blocks was considered by Services Committee. A decision was made to sell one of the blocks and market all other cleared sites as building plots (Min ref 66/07).
- 1.3 A further offer has been received relating to the remaining blocks. This report seeks a decision of Services Committee in response to this offer.

2. Links to Corporate Priorities

- 2.1 Sustaining rural communities is a key Council priority within the Corporate Plan - section 1. Finding locally appropriate housing solutions by delivery of a sustainable housing service will contribute to strong and vibrant rural communities.
- 2.3 The 2009/10 Housing Service plan identifies that SIC Housing services will, *“Work in partnership with others to enable everyone in Shetland to have access to a choice of affordable housing options, across **all tenures** that are warm and safe, energy efficient and in keeping with the Shetland environment, of good quality and in good repair, able to meet demand and the particular needs of households in inclusive and vibrant communities”*.

3. Background

- 3.1 The Midlea houses and flats were built for oil company personnel and transferred to the Council when BP deemed that they were no longer required for staff accommodation. The properties were built with a short life expectancy and were deemed uneconomical to repair. 3 blocks of Midlea flats remain. All other SIC properties have been demolished.

- 3.2 As stated in 1.1 & 1.2, there is already a decision to demolish the remaining flats amended by a decision to sell one of the blocks.
- 3.3 It was the intent of the housing service to proceed with demolition of the remaining two blocks of flats in accordance with the earlier decision from services Committee (Min ref 43/05). Based on earlier demolition costs the estimated cost of demolishing the remaining two blocks is £120k.
- 3.4 In the meantime, a further offer has been made by a local developer wishing to purchase the remaining blocks, demolish them at the developers expense and build a new house. The developer is prepared to carry out the demolition themselves and complete making good works to the remaining block, currently in the process of being sold.
- 3.5 The Council's Asset & Property staff have calculated the value of the cleared site for the purpose of building a new house, to be in the region of £20-30k. Therefore, the cost of demolition exceeds the value of the cleared site.
- 3.6 On the basis of the calculations in 3.5 above, the value of the existing site with blocks of flats to be demolished, has a notional value of £1.
- 3.7 Clearly, it is not best value to spend £120k to clear the site in order to receive £20-30k for a future sale.
- 3.8 If the remaining blocks were sold for a notional value of £1 with a condition to demolish the existing blocks, the Housing Revenue Account (HRA) would not have to meet the cost of demolition.
- 3.9 Further, if the site was purchased, flats demolished and a new house built, this would be a very strong signal of regeneration that the local community has been seeking to a achieve for a long time. This may in the fullness of time encourage further building in the area and sale of building plots currently owned by the Council. This would bring the additional advantage of creating a multi tenure settlement in accordance with the Council's policies set out in 2.1 & 2.2.
- 3.10 Any future development on this site would be subject to planning and building warrant approval.

4. Financial Implications

- 4.1 If this offer was accepted and the sale proceed, the HRA would not have to meet the cost of demolition thus saving an estimated expenditure of £120k. This could then be spent on other much needed HRA activity. However, the loss of potential future receipts would have to be offset against this calculation.

5. Policy and Delegated Authority

5.1 All matters relating to Housing stand referred to the Services Committee In accordance with Section 13 of the Council's Scheme of Delegations. The Committee has delegated authority to make decision on matters within its remit for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

5.2 There is a decision to demolish the remaining flats and a decision to sell cleared sites but no decision to sell the flats for demolition and redevelopment. Therefore, a decision of Council is required.

6 Conclusion

6.1 This offer represents an opportunity to meet the Council's strategic objectives at a minimal cost. This is something of a unique situation and a surprise offer.

7 Recommendations

7.1 I recommend that Services Committee recommend to the Council to consider this offer and agree to sell the remaining flats with, a condition to demolish within one year and meet the making good responsibilities to the owner of the remaining block of flats.