



Shetland Islands

Council

MINUTE

‘B’

Services Committee

Council Chamber, Town Hall, Lerwick

Thursday 16 June 2005 at 10.30am

Present:

F B Grains L Angus
B J Cheyne C B Eunson
R G Feather B P Gregson
L G Groat I J Hawkins
J H Henry J A Inkster
J C Irvine E J Knight
W H Manson Capt G G Mitchell
J P Nicolson F A Robertson
W N Stove T W Stove
W Tait

Apologies:

A J Cluness J G Simpson

In Attendance:

J Watt, Executive Director – Community Services
A Jamieson, Head of Education
C Medley, Head of Housing
G Smith, Head of Community Development
H Tait, Management Accountant
F Waddington, Head of Social Work
L Geddes, Committee Officer

Chairperson

Mrs F B Grains, Chairperson of the Committee, presided.

Circular

The circular calling the meeting was held as read.

Minutes

The minute of the meeting held on 5 May 2005, having been circulated, was confirmed.

Members' Attendance at External Meetings

There was nothing to report.

The Chairperson advised that the Scottish Federation of Housing Associations had issued a press release naming Jacqui Watt, currently the SIC's Executive Director of Community Services, as their new Chief Executive. On behalf of the Committee, she congratulated Ms Watt on her new appointment.

41/05 **Vibrant Shetland – Community Learning and Development Strategy and Action Plan**

The Committee considered a report by the Head of Community Development (Appendix 1).

The Head of Community Development summarised the main terms of the report. In response to a query from a Member, he agreed that there was a need to keep meetings of those involved in the Partnership to a minimum. The Partnership would be reporting to the Community Planning Board on a six-monthly basis, and the Partnership group would be meeting quarterly.

A Member commented that he recognised the good work that was going on, but said that he would welcome a statement that there would be a commitment to applying resources, particularly in relation to school buildings and school resources.

The Head of Community Development said that this was included in the strategy, and that all available resources would be used.

In response to a query as to whether any thought had been given to allowing Council staff time off work for voluntary work, the Head of Community Development said that this was an area that should be explored. He pointed out that adult literacy and adult learning relied heavily on volunteers for one-to-one support, and he felt that it would be useful for the major employers in Shetland to explore the potential for staff to participate in voluntary work.

On the motion of Mr C B Eunson, seconded by Mr J P Nicolson, the Committee approved the recommendation contained therein.

42/05

Scottish Housing Quality Standard (SHQS)

The Committee considered a report by the Head of Housing (Appendix 2).

The Head of Housing summarised the main terms of the report.

Members said that they were pleased to see this report coming forward, and some commented that they would like to see the Council continue as a social landlord, as this appeared to be the majority view of tenants.

Captain G G Mitchell, Housing Spokesperson, advised that he had met with Communities Scotland to consider the issue of stock transfer, and that he had pointed out to them that the Council expected to meet the SHQS as long as Housing Support Grant (HSG) continued. Communities Scotland had advised that they would not be able to consider any new applications for stock transfers until 2007. Captain Mitchell went on to move that the Committee approve recommendations 8.1 and 8.2.1, and Mr B P Gregson seconded.

Some discussion took place regarding whether May 2007 would be a suitable time to consider stock transfer, in view of the fact that it was likely there would be Council elections at that time. It was suggested

that the reference to "May 2007" in recommendation 8.1 should be replaced with "2007" only.

Mr W H Manson said that he felt it was important to look at the housing stock transfer issue again earlier than 2007, as political preparations would have to start in 2006 if there was to be any prospect of sorting out the issues before the next Council elections. He therefore moved, as an amendment, approval of recommendation 8.1 and 8.2.2, but that the reference to "May 2007" in recommendation 8.1 should be deleted and replaced with "May 2006".

After some further discussion, and with the consent of his seconder, Captain G G Mitchell agreed to incorporate this amendment to recommendation 8.1 into his motion.

A Member commented that she was heartened to see that Council houses should be at the required standard by 2007, as there were a number of houses in her ward that were in very poor condition.

A Member enquired if the Scottish Executive were still committed to paying off the Council's housing debt.

Captain G G Mitchell confirmed that they were partially committed to paying off the housing debt. However they had indicated that they were not willing to sit on the money indefinitely unless the Council indicated that they were going to transfer their stock. He was of the view that by the time they were able to consider further bids in 2007, they may decide to put the money to other uses.

A Member outlined the background to the Council incurring the housing debt. He pointed out that the Council had effectively borrowed money from itself to build these houses; therefore earning interest on the money it had borrowed. He said that he had previously requested information on how much money the Council had earned from this interest. This information had not yet been forthcoming, but it was possible that the interest earned would go some way to meeting the housing debt.

A Member commented that Glasgow City Council had received £1 billion for the transfer of its housing stock, and said that he was of the view that the Council should continue to pursue the Scottish Executive as it was entitled to the money being offered for stock transfers.

A Member enquired if the Housing Spokesperson felt that the issues relating to the housing debt were clouding the Scottish Executive's consideration of Shetland's situation.

Captain G G Mitchell said that he felt that the Scottish Executive did not want to be seen to be creating a precedent. He went on to speak about HSG funding, and pointed out that Shetland would be the only authority in Scotland in receipt of this once the Western Isles had transferred

their stock. However he did not expect HSG to be withdrawn without some warning.

In response to a query, the Head of Housing confirmed that the interest received from the housing debt was not notional interest. The income from the HSG was added to the rental income, and the cost of running the service was subtracted from this total. The remainder went to the Council as interest and partial debt repayment. He went on to point out that a stock transfer, in current circumstances, would mean that rents would have to increase in order to enable the new landlord to pay the Council for the stock, and that this would remain an issue until the Scottish Executive addressed the issue of the valuation of the stock.

After some further discussion, Members agreed that an information report from Finance regarding the housing debt, and the interest earned on it, should be presented to the next meeting of the Committee.

A Member added that she would like to see some information included as to why the Council had had to build these houses rather than the government.

43/05

Midlea Demolitions

The Committee considered a report by the Head of Housing (Appendix 3).

After hearing the Head of Housing summarise the main terms of the report, the Committee approved the recommendations contained therein on the motion of Mrs B J Cheyne, seconded by Mr W H Manson.

A Member enquired if consideration had been given to retaining the serviced sites in case there was demand for them in the future

The Head of Housing advised that the sites had been retained as far as possible, and he went on to confirm that the Local Housing Strategy had identified that more single person units were required in the area.

44/05

Joint Local Partnership Agreement – Joint Resourcing

The Committee considered a report by the Community Care Manager (Appendix 4).

A Member noted that the Council contributed £18 million towards the Partnership Agreement, whilst the NHS Shetland's contribution was £5 million. Whilst he was unsure as to how far the NHS were constrained by the Scottish Executive, he felt that there still seemed to be some discretion as to how the NHS allocated funds and he was concerned that this situation would continue. He suggested that the Council should make representations to NHS Scotland and the Scottish Executive regarding additional resources being made available.

It was also suggested that Tavish Scott, MSP, should be invited to discuss these concerns with the Council, and the Chairperson agreed that she would raise this with the Convener.

Some Members pointed out that NHS Shetland had a fixed budget and that it did not have much discretion as to how this should be spent as it was governed by NHS Scotland. Therefore it would be appropriate to address any funding queries to NHS Scotland.

A Member said that he felt the ELPA did not address the fundamental resourcing issues, and that it was important that it was properly resourced. Members pointed out that the Council's community care budget was also overspent, and suggested that representations should be made to the Scottish Executive regarding how the Council was expected to fulfil its statutory obligations.

The Executive Director said that the Council had already endorsed the Extended Local Partnership Agreement (ELPA), and that arrangements were in place and working well.

In response to a query as to how the Council would be advised of how the money committed by NHS Shetland was being spent, the Head of Social Work said that the report presented today indicated, for the first time, how the NHS resources were being spent. NHS Shetland now had better financial management systems in place and was now able to provide this information. Financial information was also presented to the Local Partnership Finance Team.

After some further discussion, Mrs I J Hawkins moved that the Committee approve the recommendations 8.1.1 and 8.1.2 (a) and (d) in the report, and Captain G G Mitchell seconded.

In respect of recommendation 8.1.2(d), the Committee nominated Mrs I J Hawkins to attend meetings of the Local Partnership Finance Team, on the motion of Mr J A Inkster, seconded by Mr E J Knight.

45/05

Shetland's Response to Scotland's Criminal Justice Plan

The Committee considered a report by the Head of Social Work (Appendix 5).

A Member said that he would like to commend staff and the Criminal Justice Service Manager on their work in relation to this.

Mr C B Eunson moved that the Committee approve the recommendations in the report, and Mr B P Gregson seconded.

A Member expressed concerns at handing over responsibility and control for the service outwith Shetland. He felt that the proposals were not in Shetland's interests and that a better deal could be negotiated, such as becoming a Criminal Justice Authority (CJA) on the understanding that there could be a contract with the Northern CJA.

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Other Members said that they were supportive of the recommendations, and felt that the legislative changes requested would protect Shetland's position.

The Head of Social Work explained that the service would not be 'handed over', and that it had been specified that legislative changes would be required if Shetland was to become part of the Northern CJA. She went on to say that the Scottish Executive had been very clear that there was no room for negotiation regarding the Head of Social Work becoming the Chief Officer of a CJA, and she added that the MSP was aware of the situation and was awaiting a decision from Members so that he could lobby the Scottish Executive.

Mr J C Irvine moved, as an amendment, that the Scottish Executive should be informed that the Council could not meet the deadline of 30 June, and that they wished to have a meeting with the MSP before they made a submission. However his amendment did not receive a seconder.

Mr L Angus pointed out that the Council were already seeking legislative change in respect of budgets and transfer of staff. He felt that the Council should seek further legislative changes, as he did not feel that a Northern CJA would be in the Council's best interests. He therefore moved, as an amendment, recommendation 7.1(b) and 7.1(a), amended to read "Agrees to make strong representations that Shetland Islands Criminal Justice Social Work Services are subject to negotiated legislative change".

Mr J C Irvine seconded.

After summing up, voting took place and the result was as follows:

Amendment (Mr L Angus)	7
Motion (Mr C B Eunson)	11

46/05 **Shetland Child Protection Committee**

The Committee considered a report by the Head of Social Work (Appendix 6) and on the motion of Mr W N Stove, seconded by Mr W H Manson, approved the recommendation contained therein.

A Member enquired if it was felt that the communication and co-operation structures were working properly, and the Head of Social Work said that she believed that there was a high degree of partnership and communication within Child Protection Committee. However she agreed there may be an issue about relevant people to contact, and she outlined how this would be dealt with within the 2005/06 plan.

47/05 **Shared Management for Schools in Shetland**

The Committee considered a report by the Head of Education (Appendix 7).

The Head of Education summarised the main terms of the report and said that although it had been suggested that an overall shared management strategy report should be produced so that it could be delegated to the Education Service, it was felt that it would be advantageous to present this proposal to Members so that they were aware that the proposals had been fully consulted on.

Mr F A Robertson outlined the success of the shared management system in operation on the Westside, and said that he was pleased to see this report coming forward. He went on to move that the Committee approve the recommendations in the report, and Mr W H Manson seconded.

48/05 **Education (Additional Support for Learning) (Scotland) Act 2004**

The Committee noted a report by the Community Care Manager (Appendix 8).

The Head of Education summarised the main terms of the report, and said that it was anticipated that the Bill would become law at the beginning of 2006. A multi-agency group had responded to the draft legislation, and this group would be responsible for preparing a plan for Shetland in relation to the financial commitment and how provision would be implemented.

Captain G G Mitchell said that he understood that savings had to be made in order to staff the Gressy Loan facility in August, so ASN staff were being moved away from peripheral schools. This meant that services would be removed from the most vulnerable members of society and would not be replaced, as there was no money available. He said that there was potential for a crisis to arise after the school holidays, and the multi-agency group referred to would not be considering the issues until October. He felt that this situation was unacceptable, and that money would have to be identified immediately. He therefore moved that the report be noted, but that urgent action was taken to revisit the decision made regarding staffing at the Gressy Loan facility, and that the whole ASN support framework within Shetland for schools, including those in peripheral areas, was explored.

Mr J C Irvine seconded.

Mr W H Manson, Education Spokesperson, said that the Education Service were aware of the issue and would ensure that there were no problems in the schools after the holidays. He explained that officials had been instructed by Members to stay within their existing budgets and resources for the Gressy Loan facility, and that this had necessitated the rearrangement of staff. He went on to suggest that, subject to the Convener's approval, a report should be prepared for the Council meeting to explain the situation so that the Council could approve additional expenditure if required.

The Executive Director explained that a report could be prepared for the Council, however it would not recommend additional expenditure unless

there was an agreement as to where this additional funding would come from. The education budget was already overspent by £1.8 million, and additional expenditure would have to be met by cuts elsewhere. She noted Members' concerns but explained that this was an operational matter and the Education Service would act on the decision made earlier by Members and send out letters to staff explaining that they would be working in Gressy Loan.

A Member referred to the proposed legislation and said that he had spoken to the parents of children with ASN, and that they had said they often experienced difficulties at communicating their concerns and worries about their children. He requested that when the multi-agency group identified a strategy for ASN provision in Shetland, that it was first presented to the parents and people who represent ASN children in Shetland, and that the proposals were costed before it was presented to the Council.

Another Member commented that he felt the proposed legislation had a lot to commend it. However he had concerns regarding resources and said that it would be necessary for Members to fully understand the implications of this legislation.

(Mrs B J Cheyne and Mr J C Irvine left the meeting)

In order to avoid the disclosure of exempt information, Mrs F B Grains moved, and Mr B P Gregson seconded, to exclude the public in terms of the relevant legislation during consideration of agenda item 9.

(Representatives of the media left the meeting)

The Chairperson advised that the Head of Social Work would give a verbal report on the current situation at Laburnum following the Services Committee meeting.

49/05 **Teachers' Early Retirements**

The Committee considered a report by the Executive Director – Community Services and on the motion of Mr W H Manson, seconded by Mr B P Gregson, approved the recommendation contained therein.

Members noted that £151,000 of the costs of funding the proposals would be met from money that had come from the Scottish Executive as part of the McCrone agreement.

.....
F B Grains
Chairperson



REPORT

To: Services Committee

1 September 2005

From: Head of Capital Programme Service

Report No: CPS-01-05

Subject: Mid Yell Junior High School Extension Versus New Build

1. Introduction

- 1.1 In 2004 approval was given by the Council to develop and cost a design solution for Mid Yell Junior High School within a budget of £3.81m (Min ref 37/04).
- 1.2 However, cost projections suggest that the cost comparison between an extension and a new build are converging and as proposed will exceed £3.81m in any event.
- 1.3 Services Committee are asked to consider the cost implications and make recommendations to Shetland Islands Council on how to proceed.

2. Background

- 2.1 As the detailed design progressed it became clear to the Mid Yell Project Team that the gap between the cost of the extension and a new build comparison was getting smaller. This was due to the following:
 - 2.1.1 An extended brief to include the community school and best value agenda;
 - 2.1.2 The need for a complex and protracted construction phase;
 - 2.1.3 An increase in the scale of the services to be replaced;
 - 2.1.4 A significant risk associated with the removal of asbestos.

- 2.2 A full and detailed report outlining the options and assumptions was produced by the Capital Programme Service and is attached in full as *Appendix A*.
- 2.3 This same report seeks to consider whole life capital and revenue costs over a 60 year period. Fig 1, page 4 of 8, *Appendix A*, shows a direct comparison at 2005 prices with £17.343m for the extension/ refurbishment cost and £16.894m for the new build cost. A difference of £0.499m in favour of a new build.
- 2.4 The figures above do not take into account the £115k in fees already expended on this project.
- 2.5 Another method of comparison is to use "Net Present Value" (NPV). NPV is where all known cash flows are discounted by a pre-determined rate of interest and the resulting present values compared. The discount/ interest rate will take into account the opportunity cost of the capital used and the rate of return that could be earned investing the capital elsewhere.
- 2.6 However, the NPV model on its own does not take into account the political, social or environmental impacts of a project, as they are almost impossible to determine in pure financial terms. In addition it is almost impossible to predict with any degree of significance what the quantitative social benefit of a school may be in 20 years time or beyond.
- 2.7 Some analysts have advocated that a lower rate of discount should be applied for social projects to take full account of future social value. Others suggest that anything less than the market rate will lead to mis-allocation of resources. In practice there is no simple answer and a variety of rates might be applied.
- 2.8 Therefore, the use of NPV's must be recognised as a tool that provides a snapshot for comparison. It should also be recognised that there are limitations on its use as a measure of "social" projects as opposed to straight commercial comparisons.
- 2.9 It can be seen from Fig 2, page 4 of 8, *Appendix A*, that in this case the estimated whole life NPV for extension/ refurbishment would be £7.341m and the whole life NPV of a new build would be estimated at £8.657m, a difference of £1.316m in favour of the extension/ refurbishment. This is because the new build option would use up greater sums of money in the earlier years. Therefore, there would always be a differential regardless of the discount rate used.
- 2.10 Theoretically, using the NPV method if social benefits in the distant future (more than 20 years) is to have a significant influence on investment decisions now, a lower discount rate compared to commercial rates would be needed. This would have the effect of lowering the difference between competing projects. In this case a lower rate if it was applied, would reduce the NPV difference to

something less than the £1.316m discussed in 1.9 above. However, the rate used is considered by the Head of Finance to be the most appropriate.

- 2.11 The figures in 2.3 and 2.10 above equate to initial capital expenditure at 2005 prices of £5.025m for the extension/ refurbishment and £7.263m for the new build a difference in cost of £2.238m.
- 2.12 In addition there are concerns from staff about the level of disruption that would be caused by opting for an extension/ refurbishment. There is no doubt that the disruption can be managed but there is also no doubt that any disruption will have a significant impact on staff and pupils during the construction phase. This is covered in more detail under section 3.0.
- 2.13 There is also the risk that tender prices might be inflated to take into account the disruptive effects of working around an operating school.
- 2.14 The attached report (*Appendix A*) also clearly states that both options could meet the design brief but, “..... the new build could facilitate a greater design freedom by removing the site constriction and the legacy of the existing building. In addition there is the potential to align a new build with the school's image as an emerging new community school”.
- 2.15 A new build scheme would allow flexibility of design to accept future adaptations that arise from changing economic circumstances. This would include consideration of any recommendations from the education task force.
- 2.16 While the construction phase for an extension/ refurbishment would be longer than a new build, it is expected that all options could be completed within similar time scales (fig 2, page 6 of 8, *Appendix A*).
- 2.17 All costs used in this report are estimates only and do not attempt to predict what effect prevailing construction costs might have on tender prices.
- 2.18 The comments from the Capital Project Management Team (CPMT) are attached as *Appendix B*.

3. Link to Council Priorities

- 3.1 Strengthening rural communities is a key Council priority. (Corporate Plan Section 1).
- 3.2 Active Citizenship and achieving potential will be promoted by provision of high quality services.

4. Consultation

- 4.1 The staff of the Mid Yell Junior High School has been consulted and their concerns tabulated in Appendix 5 of the attached report (*Appendix A*).
- 4.2 Comments from the Head of Education on the educational implications are attached as *Appendix C*.

5. Proposal

- 5.1 Members are asked to consider and confirm one of the following actions:
 - 5.1.1 Continue as directed and modify the specification and/ or design brief to contain extension/ refurbishment costs within £3.81m;
 - 5.1.2 Continue as directed to build an extension/ refurbishment at a revised cost of £5.025m at 2005 prices;
 - 5.1.3 Continue with a new build option with a revised cost of £7.236m at 2005 prices.

6. Financial Implications

- 6.1 Choosing 5.1.2 or 5.1.3 will increase capital expenditure by the corresponding amounts.

7. Policy and Delegated Authority

- 7.1 All education issues stand referred to the Services Committee (Min ref: SIC 70/03). However, the committee only has delegated authority to make decisions on matters within approved policy and for which there is a budget. Therefore, a change that significantly affects the SIC Capital programme will require a decision of SIC (min ref 122/03).

8. Conclusions

- 8.1 If the project is to be delivered within existing cost parameters the design brief will have to be modified to reduce the specification. Assuming members do not wish to reduce the design brief for the school in the short term, a new build option would require greater capital expenditure in the short term.
- 8.2 In the medium and longer term, revenue savings will offset some of this initial additional cost over a 60 year period. However, the required earlier financial cost of a new build makes the extension/

refurbishment option seem more favourable in NPV terms over a 60 year period.

- 8.3 Unfortunately, financial modelling in NPV terms is not able to value social benefit or place a clear value on the disruption that will be caused by the extension/ refurbishment option.
- 8.4 Therefore, taking all these factors into account members are asked to consider if they think it is worth paying the additional early capital cost of new build, to minimise the disruption to the pupils and staff of the school and to enhance the design possibilities for the future.
- 8.5 Analysis of these options can only be taken so far and a political decision is required taking all of the relevant information into account.

9. Recommendations

- 9.1 I recommend that the Services Committee considers and confirms one of the following actions, and recommends it to Shetland Islands Council for approval:
 - 9.1.1 Continue as directed and modify the specification and/ or design brief to contain extension/ refurbishment costs within £3.81m;
 - 9.1.2 Continue as directed to build an extension/ refurbishment at a revised cost of £5.025m at 2005 prices;
 - 9.1.3 Continue with a new build option with a revised cost of £7.236m at 2005 prices.

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Appendix A - Capital Programme Service report, Mid Yell Junior High School
Extension V New build.

Appendix B - Comments from CPMT.

Appendix C - Comments from Alex Jamieson , Head of Education

REPORT

To: CPMT
Rev A

5 August 2005

From: Capital Programme Service

Mid Yell Junior High School – Extension & Refurbishment

Executive Summary

The Mid Yell Project Team has been developing an extension/ refurbishment, design solution to meet the changed requirements of the Mid Yell Junior High School. In April it reported its concerns that the case for extension/refurbishment versus new build was converging:

- Brief extended to include community school and best value agenda.
- Complex, protracted construction phase
- Scale of service replacement increased
- Significant risk of asbestos

This report feeds back on the findings of the review.

The current approval is to take an extension/refurbishment option forward to detailed design and costing before reporting back to council. The approved extension/ refurbishment option would meet the brief, but represents a compromised design and a protracted, complex construction phase with all its associated risks.

In comparison, a new build option could meet the brief with less design compromise and an isolated construction phase with minimal impact on the running of the school.

Both options would require additional capital expenditure to that currently allocated.

The cost projections suggest that, if initial capital expenditure and whole life costing data (60 years) are considered, the financial case for new build versus extension/ refurbishment is converging.

1. Introduction

- 1.1. The Mid Yell Project Team has been developing a costed design solution to meet the changed requirements of the Mid Yell Junior High School. In April it reported its concerns that the case for Extension/ Refurbishment versus New Build was converging. This report feeds back on the findings of the review.

2. Background & Project History

- 2.1. Appendix 1 contains a history detailing the evolution of the project, in particular that a 1997 feasibility study identified the requirement to extend and refurbish the existing school. This study was further revisited in 2001, resulting in approval in 2004 to develop and cost a design solution within a budget of £3.861 million (2004 prices) (Approval of Council Capital Programme 31.03.04 Minute Ref: 37/04.)

Actions since this approval have included:

- Establishing an approved brief taking full account of the Best Value Review outcome and the emerging Community Schools agenda.
- Engaging consultancy staff through EU procedures to form part of the design team.
- Working with the TaskForce, Project and Design Team to secure a workable layout for the extension and refurbishment of the school.

3. Reasons for Evaluating Options

- 3.1. In April 2005 The Project Team indicated to CPMT its desire to pause design of the extension and refurbishment to review the case for extension/refurbishment against new build for the following reasons:

- Decant arrangements/ buildability issues and cost/time implications were complex and needed to be better understood.
- The brief had been extended to include the needs of the community school and best value agenda.
- Detailed services survey recommended full replacement of all existing services (mechanical and electrical)
- Significant risk of asbestos disturbance given services works required—*since confirmed to be less significant.*

Also, costs were increasing beyond their approved capital budget.

4 Options

- 4.1 In response to the approved brief, three separate refurbishment/ extension options have been explored to differing degrees, as follows:

Dismissed Options

- 1 + 3 storey extensions adjacent the existing buildings – *dismissed on basis of decant & circulation problems.*
- Relocation of football pitch to allow 2-storey extension away from school – *dismissed on basis of level difficulties/ accessibility, distance from core.*

Approved Option

- 1 + 2 storey extensions adjacent to the existing buildings – *similar to 2001 feasibility Option, but improved layout and space provision to accommodate changed requirements.*

4.2 Options for comparison were hence identified as:

- Approved extension/ refurbishment Option
- New Build Option – Based on:
 - Same net floor area as extension/ refurbishment
 - Adjacent land owned by school as site for building
 - Specification akin to extensions

Appendix. 2 contains an illustration of both proposals.

5 Evaluation Criteria

The evaluation criteria have been taken from 'Option Appraisal – Building Our Future: Scotland's School Estate' produced by the Scottish Executive.

- Achievement Of Objectives
- Initial Capital Expenditure
- Whole Life Capital Costs
- Whole Life Revenue Costs
- Design Quality
- Disruption During Construction
- Environmental Impacts
- Other – *Time & Risk*

6 Key Findings

Appendix. 3 contains an appraisal table (Table. 1) evaluating how the 2 options perform against these criteria and the underlying assumptions. The key findings are, however, summarised as follows:

6.1 Achievement Of Objectives

Both options could meet the project objective 'to improve existing facilities & provide additional capacity to meet changing educational needs of the school' although school staff queried how this objective held up during the actual construction period of the extension/ refurbishment option given the extent of disruption envisaged.

6.2 Costs

The Figures 1 & 2 overleaf summarise the anticipated costs of both options. Supporting information is supplied in Appendices 3 and 4. It is accepted convention to present these figures to Net Present Values¹ to allow meaningful comparison as the timing of the investment can have a significant effect on the decision as to the most beneficial/ appropriate option in financial terms.

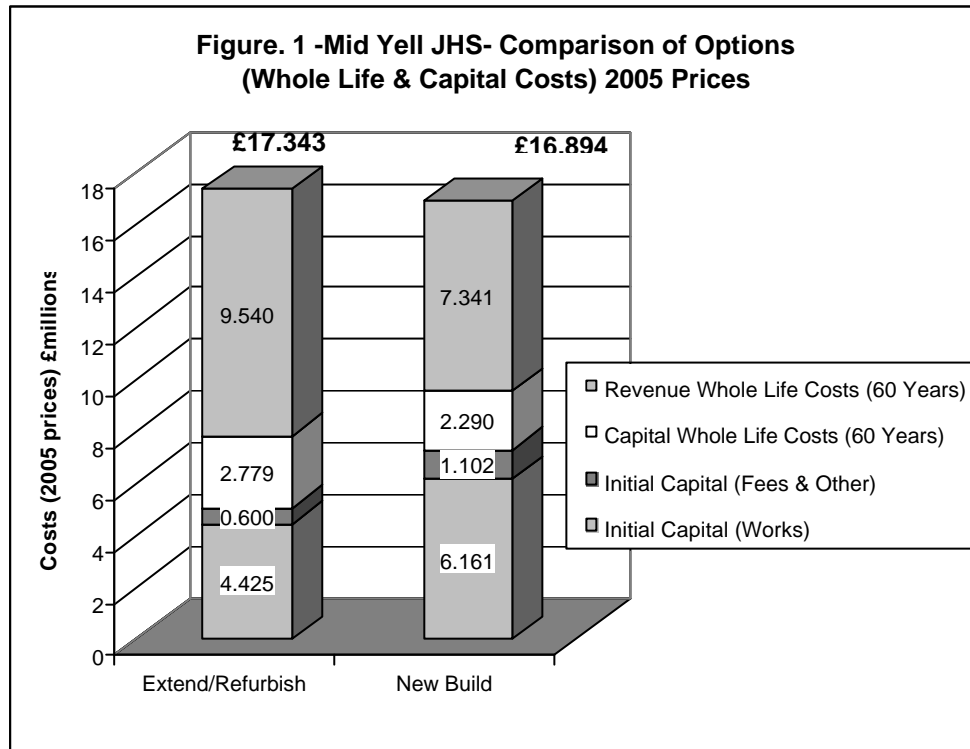
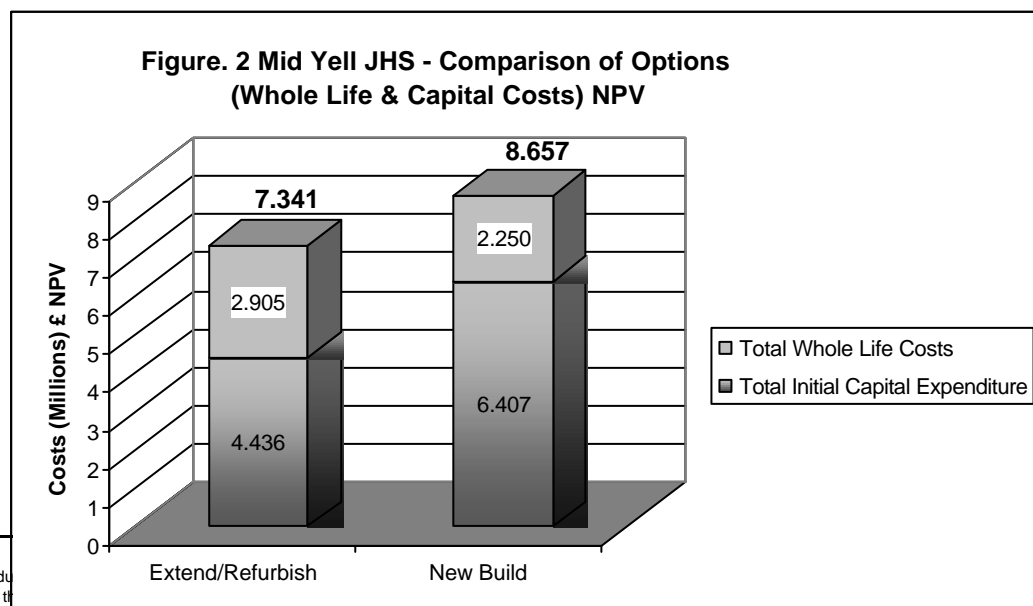


Figure. 2 indicates the effect of this approach on the comparison – note that the sunk costs of fees already spent on the extension/refurbishment option (see 6.2.1) are not included in Figure.2.



¹ Discounting reductions in costs are to be incurred to the most beneficial/appropriate option.

6.2.1 Initial Capital Expenditure

The current total capital cost estimate for the extension/refurbishment option at this outline design stage are £5.025 million.

The current capital cost estimate for the new build option, including costs to abort the contract with the current consultants, is estimated at £7.263 million, £2.238 million greater than the extension/refurbishment option.

The extension/refurbishment option would require £1.164 million (2005 prices) over the original £3.861 million budget (2004 prices).

With £120k of fees already spent pursuing the extension/refurbishment option, £115k could be considered abortive costs if a new build option were pursued. As such the new build option would require £3.517 million (2005 prices) initial capital investment on top of the current budget.

6.2.2 Whole Life Capital & Revenue² Costs

It should be noted that the whole life costing data is limited by a number of assumptions as explained in Appendix. 4, not least the assumed specification of the new build.

However, Figure. 2 indicates that when both the 60 year life whole life and the initial capital expenditure is considered in terms of the options are separated by £1.316 million (NPV) in favour of the extension/ refurbishment.

6.3 Design Quality

Whilst both options could meet the brief, the design quality of the extension/refurbishment option is compromised by the confined site layout in terms of:

- Accessibility – Access requirements met but not ideal
- Playspace – Constricted layout
- Traffic Layout – Road crossing required to carry pedestrians from the car park to the school
- Aesthetic Improvements – Original core not designed with extension in mind
- Clustering – Compromised ability to group facilities

² Revenue in this case refers to: Reactive, Planned & Cyclical Maintenance; Cleaning; Energy; Insurances & Rates

Conversely, the option of new build could facilitate greater design freedom by removing the site constriction and the legacy of the existing building. In addition there is potential to align a new build with the school's image as an emerging new community school.

6.4 Disruption During Construction

The major disparity between the two options is focused on the construction phase; namely the complexity of constructing the extension/ refurbishment option within a confined, live school site. The safe execution of the extension/ refurbishment works would depend on sufficient resourcing from all involved parties and the approved decant plan can only represent a safe environment if these resources are assured.

The major issues of disruption and inconvenience caused by the works stem from the extent of the decants required and the proximity of live classrooms to actual works. In addition, outside playspace will be very severely restricted during the construction phase with no obvious alternatives identified. In addition the sequential construction programme, dictated by critical tasks falling within holiday periods, would allow little float; unplanned disruptions by potential overruns are viewed as a significant risk.

Conversely, construction of a potential new build whilst not without risks, would be set apart from the school, and have a much reduced impact on the existing school during its construction. See Table.1, Appendix 3.

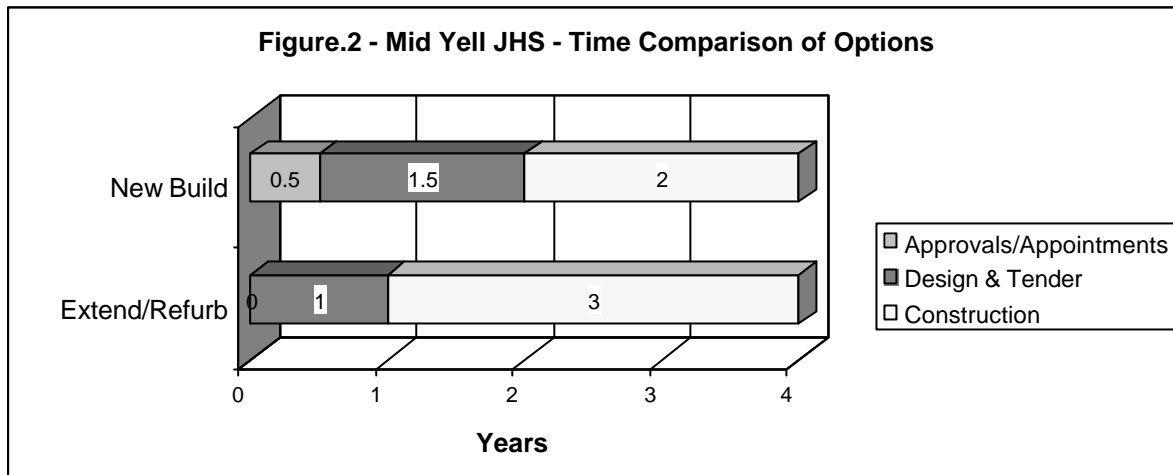
These issues are prominent concerns aired by the staff in Section 7.

6.5 Environmental Impacts

Table.1, Appendix 3, identifies potential environmental impacts, although this is in no way an exhaustive list. Whilst the new build option may provide benefits in energy savings, the extension/refurbishment option would be beneficial in terms of quantity of new materials required and use of an existing site.

6.6 Time

Time estimates to take either option from their current position through to completion of the works are shown in Figure. 2. The comparable overall timescales are explained by the greater lead-in time required for the new build and the extended construction period required on the restricted extension/refurbishment site.



6.7 Risk

Identified risks associated with both options are detailed in the Table.1, Appendix.3, however it is felt that the extension/refurbishment option presents particular risks:

- Ensuring sufficient resources to manage Health and Safety issues during the works
- Restricted, sequential nature of construction programme and lack of float – the potential influence of this on tender price certainty
- Degree of 'unknowns' associated with the refurbishment

The new build option also presents risks, including:

- The number of assumptions made at this stage as there is no design
- Potential issues regarding the fate of the existing building and its influence on progress.

7 Staff Concerns

The school staff, whilst involved in the development process, have expressed particular concerns regarding the extension/ refurbishment option. Appendix. 5 details their thoughts, strongly focused on the prolonged disruption to the school environment during the construction period and the importance of the school within the wider community.

8 Conclusion

The current approval is to take an extension/ refurbishment option forward to detailed design and costing before reporting back to council. The approved extension/ refurbishment option would meet the brief, but represents a compromised design and a protracted, complex construction phase with all its associated risks.

In comparison, a new build option could meet the brief with less design compromise and an isolated construction phase with minimal impact on the running of the school.

Both options would require additional capital expenditure to that currently allocated.

The cost projections suggest that, if initial capital expenditure and whole life costing data are considered, the financial case for new build versus extension/ refurbishment is converging but that the extension/ refurbishment is the least cost option.

9 Recommendation

The recommendation of the Project Team is that:

CPMT consider this report and advise on how to proceed.

Report No: GCE1315/CMPTAug05/EP

Appendices:

Appendix. 1 - Project History

Appendix. 2 - Options

Appendix. 3 - Appraisal Table

Appendix. 4 - Whole Life Costing Data

Appendix. 5 - School concerns

Appendix. 1 - Project History

PROJECT HISTORY – MID YELL JHS	
1960s	<p>Mid Yell Junior High School, built during the 1960s.</p> <p>Two storey classroom wing with mono pitch roof and a single storey storey flat roof construction with a raised central area on three different floor levels.</p> <p>Various additions and alterations have taken place over the years to meet the schools changing requirements.</p>
1992	Re-roofing works were carried out to the main buildings
1995	Major renewal of windows
1997	<p>Feasibility study to identify what improvements were required to the school and how the works would be best carried out.</p> <p><i>Recommendations:</i> Phase 1 – Kitchen Refurbishment and Extension Phase 2 – Two storey extension to the north and refurbishment of part of the existing school. Phase 3 – Demolition of temporary classrooms to the south and single storey extension.</p>
2000	Phase 1 of the works were carried out
2001	Recommendations for Phase 2 and 3 were revisited to update the needs of the school and the cost implications
2003	Cost assumptions were re-worked to provide the £3.861 million current allocation (2004 prices)
2004	<p>Phases 2 and 3 given Council approval to proceed to detailed design during 2004/05 financial year.</p> <p>Project Team & TaskForce identified & briefed</p> <p>Development & Approval of brief (complicated by awaited outcome of Best Value review & emerging Community Schools Agenda) Space requirement increased slightly (reductions made in other areas to offset)</p> <p>Appointment of external consultants to complete design team: External: <i>Architectural Services, Structural Engineer, Services Engineer, Planning Supervisor</i> (Internal: <i>Executive Architect, Quantity Surveyor, Clerk of Works, Project Manager</i>)</p> <p>2 Extension/Refurb options explored</p>

2005	<p>Confirmation of preferred layout for extension/refurb.</p> <p>Specialist surveys on existing building in line with design carried out (Structural, Services, Asbestos)</p> <p>Services requirement extended -deemed to be reaching the end of their life as well as being unable to provide additional capacity. Second opinion concurred. Required replacement throughout all of existing school – affecting all areas.</p> <p>Concerns expressed by Education, School & Design team regarding possible convergence of case for new build versus extend/refurb.</p> <p>Development of approved decant plan based on preferred layout</p> <p>Progress report to CPMT explaining that would be reviewing project .</p> <p>Confirmation of school ownership of adjacent piece of land. 3rd option for refurb/extend explored but dismissed.</p> <p>Presented extend/refurb versus new build case to Project Team who resolved to report back to CPMT; strong school support for new build to avoid disruption. Design work put on hold.</p> <p>Presented report to Task Force for information.</p>
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Appendix. 2 - Options

Appendix. 3 - Appraisal Table

Table. 1 - Mid Yell JHS – Comparison of Options

CRITERIA/ASSUMPTIONS	EXTEND & REFURBISH Refurbish Existing – 1279 sqm <u>Extension – 1955 sqm</u>	NEW BUILD Floor Area – 3234 sqm
1. ACHIEVEMENT OF OBJECTIVES	Could the option meet the project objective 'to improve existing facilities & provide additional capacity to meet changing educational needs of the school'?	
	Yes	Yes Is it better? What about the effect of the construction period?
2. INITIAL CAPITAL EXPENDITURE <i>What is the estimated capital cost?</i> <i>Should 'sunk costs' should be ignored'?</i>	Initial Capital Budget £3.861 (2004 prices) Capital Budget remaining FEES: £480k WORKS: £3.261 BUDGET REMAINING: £3.741	
	<i>Assumptions:</i> <ul style="list-style-type: none"> Based on information available –outline design Uncertain tendering climate 	<i>Assumptions:</i> <ul style="list-style-type: none"> Based on area-based estimates not actual design – 'what could reasonably be estimated' Uncertain tendering climate
	Fees spent already: £120k Est. fees remaining - £480k Est. works costs – £4.425 million <i>ESTIMATED TOTAL COSTS REMAINING: £4.905 million</i> ESTIMATED FINAL COST: £5.025 million NPV= £4.436million	Payments to design team to abort current contract – 11k Est. design fees (incl. £5k saving in transferrable time on extend/refurb option) – £1.102 million Est. works costs – £6.150 million ESTIMATED FINAL COSTS: £7.263 million <i>(excl. possible demolition of existing building £100k)</i> <i>(excl. additional land acquisition costs)</i> NPV=£6.407million

WHOLE LIFE COSTINGS ASSUMPTIONS: <ul style="list-style-type: none"> • Offers outline guidance to indicate likely maintenance and operational costs • Floor areas and materials used within both Schemes are the same • Does not include for unforeseen alterations required to the school buildings due to changes with legislation, curricular teachings or pupil fluctuations. • Extend/Refurb - all service installations will be comprehensively overhauled and where necessary replaced to a standard equal of the New Build Scheme. • Carried out in accordance with current practice and guidance notes published by the institution of Chartered Surveyors <p style="text-align: right;">Supporting Information contained in Appendix. 4</p>		
3. WHOLE LIFE CAPITAL COSTS (60 YEARS) <i>What is the anticipated capital liability for the future?</i>	£2.779 million	£ 2.290 million
4. WHOLE LIFE REVENUE COSTS (60 YEARS) <i>What are the anticipated running & minor maintenance costs for the building?</i>	Revenue in this case refers to: Reactive, Planned & Cyclical Maintenance; Cleaning; Energy; Insurances & Rate	
	£ 9.540 million	£ 7.341 million
3 & 4 as NPV	£2.905 million	£2.250 million
5. DESIGN QUALITY <i>How effective is the design?</i>	<i>Compromises:</i> <ul style="list-style-type: none"> • Playspace – layout & size • Traffic layout – road crossing • Clustering • Flexibility • Accessibility – managed but not ideal • Aesthetics – improvement? 	<i>Potential:</i> <ul style="list-style-type: none"> • Integrated playspace • Preferred traffic management • Accessibility • Clustering • Flexibility • Aesthetics – New Community School
6. DISRUPTION DURING CONSTRUCTION <i>What are the implications for health & safety & disruption during the construction phase?</i>	<i>Health & Safety</i> Managing risks: <ul style="list-style-type: none"> • Planning & Supervision • Cost • Programme 	<i>Health & Safety</i> Separate site means little interaction with school
	<i>Disruption & Inconvenience</i> <ul style="list-style-type: none"> • Decants – moving classrooms within school • Playspace even more confined • Unplanned impacts • Noise, dust & distraction • Inconvenience – traffic 	<i>Disruption & Inconvenience</i> <ul style="list-style-type: none"> • No decants • Some noise & dust • Some impact on traffic
7. ENVIRONMENTAL IMPACTS	<ul style="list-style-type: none"> • Energy consumption – limited ability to improve 	<ul style="list-style-type: none"> • Design for reduced energy consumption

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<i>What is the impact upon the environment?</i>	<ul style="list-style-type: none"> • New materials – extensions • Use of existing site • Some demolition waste 	<ul style="list-style-type: none"> • New materials required -all • Consider sustainability at outset • Major demolition waste?
8. TIME <i>How long until estimated final handover of school?</i>	<p>Finish design/tender – 1 yr Build – 3+ yrs</p> <p>Est. handover: 4+ yrs from approval to continue</p> <p>...but gradual 'move-in' i.e. primary wing complete end of 1st year construction</p>	<p>Approvals/appoint consultants– ½ yr Design –1 1/2 yrs Build – 2 yrs</p> <p>Est. handover: 4 yrs from approval to continue</p> <p>.....wait to move in at the end</p>
9. RISKS <i>What are the major risks?</i>	<ul style="list-style-type: none"> • Resources to manage health & safety • Programme issues – lack of float • Refurbishment unknowns • Uncertain tender outcomes • Land issues –CPO on Plot 1 • Budget insufficient 	<ul style="list-style-type: none"> • Approvals • Land issues – assumes adjacent land, owned by school, is suitable • Fate of existing building dictates progress • Budget insufficient

Appendix. 4 - Whole Life Costing Data

Appendix. 5 - School concerns

REFURBISHMENT CONCERNS EXPRESSED BY SCHOOL STAFF			
Learning & Teaching	Health & Safety	Financial	Implications on the Wider Community
During refurbishment there is no place for ASN. <i>(This would need to be addressed.)</i>	There will be classrooms adjoining the building site. Noise levels.	Physical resources to ensure safety, will cost money in wages.	We need to have a vibrant, purpose built school in order to keep the population in Yell.
The decant stage means that some classes must move twice.	People will have to be employed to ensure pupil safety.	Almost certain delays will increase the costs in both scenarios.	Cradle to grave education is the way forward. A purpose built school would ensure this.
For some pupils their entire Secondary years will be spent on a building site.	Traffic management will be a problem for School and Leisure Centre.	Extra cleaning staff will be required during a refurbishment.	Respect will be gained for a good-looking building.
Impact of replacing services such as electric wiring, etc?		More maintenance required for an old building.	New build much more aesthetically pleasing.
Almost inevitable delays will mean an even longer period of disruption.	Pupils will have extremely limited outside play/social area for at least 3 years. <i>(No alternative space has yet been identified.)</i>	May be more flexibility for Primary/Nursery layout in new build.	The new ferries have already achieved 30% more uptake. This suggests a stability, if not a rise, in the population willing to live in Yell.
There will be classrooms adjoining the building site i.e. through the wall.	Some pupils arrive at the school at 8.30am. Where do they safely go to wait until the school day begins?	How do we quantify the cost of keeping pupils safe while being educated on a building site?	The ferries have meant a better infrastructure for Yell. A new school build could back this up.
If work to technical room overruns (is a risk), pupils will be unable to have practical skills work, impact on Standard Grades.	The single entry point will alter at different stages of the refurbishment.	New build will be more energy saving so lower running costs.	Look at what has been achieved in Unst with some positive Council backing. Can Yell do the same?
Music decant is smaller than existing room – access to storage will be issue	We are a health promoting school. How does this tie in with the total lack of outdoor play areas during the works?	Lifts are costly to maintain. We will need two for a refurbishment.	The site is really too small to adequately cope with all that is required for the school.
Worry about access to the Leisure Centre during refurbishment.	Disabled access is accommodated but is not ideal.	Pupils could sue the Council for having their education hampered.	There is a need for an 'inspirational aspirational' school building. The refurbishment will never be this.
The refurbishment barely meets the project objective, and not at all during the decant stage.	We worry about the increase of asthma during refurbishment, a problem already noted during rewiring. Several of our staff is allergic to dust.	The Mid Yell Junior High School has been promised a refurbishment since 1992. In the last 13 years much has been neglected, making this a much bigger job.	We would like the chance to be an eco school, with a garden and enterprise opportunities. Lack of space on the present site will make this impossible.

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The time factor is most uncertain and surely delays will be more likely during a refurbishment, where there are more unknown factors.	Several of our staff is allergic to dust.	Past experience suggests that a refurbishment will always overspend.	
		There is Government money available for new schools on the UK Mainland.	

MEMO

To: Head of Capital Programme Service

From: Chairman - CPMT

cc: Head of Education
CPMT Members
Emma Patt

If calling please ask for
Ian Millar
Direct Dial: 4686

Medium: E-Mail

Date: 11 August 2005

Our Ref: ICM/DMC

Your Ref:

CPMT Recommendations: 11 August 2005

Mid Yell JHS

A report on refurbishment or replacement for the Mid Yell JHS was considered during extensive discussion.

It was recognised that there were several broad Council initiatives/reviews either in hand or about to start covering ferries, transportation, social work and education that could impinge upon the decision to be made regarding the future of this school.

The view was expressed that a decision should, perhaps, await the outcome of these deliberations. It was concluded, however, that whether the solution was new build or refurbishment that the general location of the school was unlikely to change. Equally it was agreed that the length of the design phase was such that should change be required as a result of any of the ongoing studies that it could be accommodated in that process.

Of the two options, new build would be around £1.3M more expensive than refurbishment in terms of NPV. However, Head of Education considered that while reconstruction was generally feasible, over a three year period the disruption would have a significantly adverse effect on the education of the pupils during that phase.

CPMT agreed that there were social and community factors that the Council would wish to consider, as described in the Appendix 5 to the report.

CPMT concluded that the Head of Capital Programme Services should report to the Services Committee at the next cycle pointing out the economics of the choice together with the other educational, social and community factors and ask them to put a recommendation to Council based on their judgement of all of the factors.

Chairman – CPMT

cpmtrec6

Appendix C

MID YELL JUNIOR HIGH SCHOOL EXTENSION VERSUS NEW BUILD

Educational concerns related to an extension and refurbishment programme at Mid Yell J. H. School.

The Education Service has major concerns about the ability of the service to deliver an acceptable standard of education to pupils at the Mid Yell Junior High School during a refurbishment programme. The need to build an extension on each side of the existing building and then refurbish the existing building over a period of 3 to 4 years would mean continual disruption and lack of amenities for a group of pupils for their entire secondary education. The effects on their education and eventual attainment could only be detrimental and knowing this in advance is something that the Education Service would have to advise parents of before the project started.

The building of extensions adjoining each side of the existing main building would result in the loss of play space and access routes for pupils at the school. The associated risks and noise of creating an adjoining extension would exist throughout these construction phases.

However the refurbishment of the existing school building gives me the greatest cause for concern, as the entire existing building requires refurbishment.

The decant plan for the extension and refurbishment relies heavily upon holiday periods for works to key areas such as the dining hall, canteen, corridors, toilets, as well as practical studies (art, technical, home economics). Relying on the limited holiday periods represents significant risk that, were this work to overrun, provision would have to be found in alternative premises for specialist facilities.

This information would have to be communicated to parents in advance of building work starting to give them a chance to make alternative arrangements for their children, such as moving them to another school for this period, possibilities are Brae High School or Anderson High School.

In addition, with reliance on hitting these windows of opportunity at specific stages of the construction process, there is risk of the whole programme incurring significant delay if these windows of opportunity are missed.

Refurbishment of the remaining classrooms relies on a number of decant moves within the existing school. This represents inconvenience with some classrooms being relocated twice and significant disruption during their decant with lessons being taught alongside/ beneath rooms under major refurbishment.

Building a New School at Mid Yell

Building a new Mid Yell Junior High School on a separate site does not create any of the problems highlighted above, as the new site will be self contained and fenced off from the existing school site. All the facilities of the existing school are available until the new

school is complete and ready for use. Therefore the quality of the Education available to the pupils at Mid Yell Junior High School during the building work should remain at its present high level.

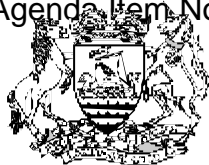
Conclusions

It is obvious that the Education Service will have huge difficulties in trying to maintain an acceptable standard of education for pupils at the Mid Yell Junior High School during an extension and refurbishment programme. The resulting effects on the education of pupils over this period is very difficult to quantify in monetary terms but must be considered against the extra costs involved at this point in time by building new.

It is the unequivocal view of the Education Service that a new build programme is the only possible way that the educational standards within the Mid Yell Junior High School can be maintained while facilities are upgraded.

Alex Jamieson

Head of Education.



REPORT

To: Services Committee

1 September 2005

From: Head of Education

SCHOOL HOLIDAY DATES CONSULTATION

1. Introduction

- 1.1 The Head of Education issued questionnaires to Head Teachers, school staff and parents asking for their views on the proposed holiday dates for the next three sessions, 2006/07 to 2008/09.
- 1.2 The feedback from the questionnaires has been collated and summarised in a brief report (Appendix A) which also states conclusions that may be drawn from the consultation process.
- 1.3 The Services Committee should note that in deciding on local/ occasional holidays at individual schools there is a requirement to consult the School Board which has the power to fix occasional holidays during school term.

2. Proposals

- 2.1 As a result of this consultation process a new set of school dates has been set as outlined in Appendix B.

3. Link to Council Priorities

- 3.1 This report has no explicit link to the Corporate Plan priorities.

4. Policy and Delegated Authority

- 4.1 All matters related to the provision of Education stand referred to the Services Committee (Min Ref: SIC 70/03). The Services Committee has delegated authority to make decisions on matters within approved policy, and for which there is a budget.

- 4.2 The requirement for all education authorities to ensure that schools under their management are open for at least 190 days (excluding Saturdays and Sundays) in each school is set out in the Schools General (Scotland) Regulations 1975 (as amended). Using these Regulations as the basis for determining term dates and holidays, authority to determine schemes for school term dates is delegated to the Services Committee.

5. Recommendations

- 5.1 I recommend that the Services Committee approve the school dates for 2006/2007, 2007/2008 and 2008/2009.

September 2005

Our Ref: AJ/JR/ME

Report No: ED-18-F

APPENDIX A

SCHOOL TERM DATES - 2006/07, 2007/08 and 2008/09

The consultation with all interested parties on school term dates is now complete. The large majority of comments from whole school staff groups, and school boards agreed with the dates proposed and wished them published for all schools.

There were 13 comments from individuals suggesting change, these were:

- that the Easter break was too late in relation to SQA exams (3 submissions)
- that closing on 22 December was too late for teachers travelling south for Christmas (4 submissions)
- that a two-week break in October was too long, and that the break should be shortened (6 submissions)

It is therefore not considered necessary to change the dates proposed because of the very small number of responses from individuals suggesting change. The proposed dates are in line with those agreed by Council in November 2002 following the comprehensive consultation process conducted in that year (Min Ref: SC 125/02).

The proposed dates for 2006/07 until 2008/09 are appended. The arrangements for In-Service days and the five occasional holidays remain as those intimated in Circular Numbers 104/05 and 115/05.

PROPOSED SCHOOL TERM DATES

TERM DATES FOR SESSION 2006-2007

Term 1	Monday 21 st August – Friday 13 th October inclusive	40 days
<i>October holidays</i>	<i>Monday 16th October – Friday 27th October</i>	<i>10 days</i>
Term 2	Monday 30 th October – Friday 22 nd December inclusive	40 days
<i>Christmas holidays</i>	<i>Monday 25th December – Friday 5th January</i>	<i>10 days</i>
Term 3	Monday 8 th January – Friday 30 th March inclusive	60 days
1 <i>Easter holidays</i>	<i>Monday 2nd April – Friday 13th April</i>	<i>10 days</i>
Term 4	Monday 16 th April – Friday 6 th July inclusive	60 days

TERM DATES FOR SESSION 2007-2008

Term 1	Monday 20 th August – Friday 12 th October inclusive	40 days
<i>October holidays</i>	<i>Monday 15th October – Friday 26th October</i>	<i>10 days</i>
Term 2	Monday 29 th October – Friday 21 st December inclusive	40 days
<i>Christmas holidays</i>	<i>Monday 24th December – Friday 4th January</i>	<i>10 days</i>
Term 3	Monday 7 th January – Friday 28 th March inclusive	60 days
<i>Easter holidays</i>	<i>Monday 31st March – Friday 11th April</i>	<i>10 days</i>
Term 4	Monday 14 th April – Friday 4 th July inclusive	60 days

TERM DATES FOR SESSION 2008-2009

Term 1	Monday 18 th August – Friday 10 th October inclusive	40 days
<i>October holidays</i>	<i>Monday 13th October – Friday 24th October</i>	<i>10 days</i>
Term 2	Monday 27 th October – Friday 19 th December inclusive	40 days
2 <i>Christmas holidays</i>	<i>Monday 22nd December – Friday 2nd January</i>	<i>10 days</i>
Term 3	Monday 5 th January – Friday 27 th March inclusive	60 days
<i>Easter holidays</i>	<i>Monday 30th March – Friday 10th April</i>	<i>10 days</i>

Services Committee - Thursday 01 September 2005
Agenda Item No. 02 - Public Report

Term 4

Monday 13th April – Friday 3rd July inclusive

60 days



REPORT

To: Services Committee

1 September 2005

From: Head of Education

EXCLUSION OF PUPILS FROM SCHOOL ATTENDANCE

1. Introduction

1.1 The purpose of this report is to seek approval from Elected Members for an Education Service Policy on the Exclusion of Pupils from School for Disciplinary matters. An executive summary of the proposed policy is attached to this report as Appendix A and the full text of the proposed policy is attached as Appendix B.

2. Link to Council Priorities

2.1 Benefitting People and Communities are key Council Priorities (Corporate Plan Section 1). A policy on school exclusions will support the Education Service in ensuring all individuals are able to make the most of themselves and their talents.

2.2 In particular, it will support the provision of a safe and appropriate learning environment for all pupils in Shetland.

3. Background

3.1 The legal basis for excluding pupils from school and the circumstances under which a pupil may be excluded from school are set out in the Education (Scotland) Act 1980, the Schools General (Scotland) Regulations 1975, as amended.

3.2 The power to exclude - and therefore the legal responsibility for exclusion - rests with the education authority. It is, however, open to an education authority to devolve the power to exclude to senior management level within a school.

- 3.3 Circular 8/03 "Exclusion From School" was issued by the Scottish Executive Education Department on 13 November 2003. This circular updates guidance relating to exclusions from school and clearly identifies the roles and responsibilities of the education authority, the school, the school board, parents and pupils in relation to exclusions from school.
- 3.4 The circular places increased emphasis on ensuring the safety of others and ensuring there exists a positive learning and teaching environment for the whole school.
- 3.5 Decisions on exclusion can now be taken to safeguard the right of all pupils and staff to learn without fear of disruption. The circular recognises the responsibilities pupils and parents must share in maintaining positive behaviour in schools.
- 3.6 The circular introduces the principle of supporting victims of anti-social or violent behaviour while developing approaches such as mediation or restorative justice to reintegrate the excluded pupil into schools in ways that encourage a positive school atmosphere.
- 3.7 The circular makes it clear that there are only two circumstances in which an Education Authority may exclude a pupil from school:
- **The Authority is of the opinion that the parent of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school; or**
 - **In all the circumstances, the Authority considers that to allow the pupil to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there.**

4. Proposals

- 4.1 Each authority must operate under locally produced Exclusion Guidelines, which are consistent with guidelines issued by the Scottish Executive in 2003 under Circular 8/03. It is proposed that this is achieved through the policy attached as Appendix B.
- 4.2 In Shetland, under the proposed policy on exclusions, the power to exclude a child from school attendance is delegated to the Head of Service, Education, who has, in turn, delegated the power to Head Teachers.
- 4.3 The length of an exclusion is not defined in the legislation and is a matter for the discretion of the Authority. It is proposed under the delegated power to Head Teachers that they may exclude an individual pupil for up to a maximum of fifteen working days in any one school session. Normally a single exclusion will be for five days or less.

- 4.4 If a Head Teacher requires, in a single exclusion, to exclude a pupil for more than five days, this should be reported to the Quality Improvement Officer for the school. If a Head Teacher has reached the maximum exclusion of fifteen days for a particular pupil in a school session, and a further exclusion is required the matter must be referred to the Head of Education who will determine the course of action to be taken.
- 4.5 It is proposed to hold training for Head Teachers in the operation of this policy once it is approved.

5. Financial Implications

- 5.1 There are no financial implications arising from this report.

6. Policy and Delegated Authority

- 6.1 All matters related to the provision of Education stand referred to the Services Committee (Min Ref: SIC 70/03). The Services Committee only has delegated authority to make decisions on matters within approved policy, and for which there is a budget.
- 6.2 As the recommendation to approve new procedures falls outwith delegated powers, a decision of the Council is required.

7. Recommendation

- 7.1 I recommend that the Services Committee recommend to the Council to approve the proposals outlined in paragraph 4.

September 2005

Our Ref: AE/ME

Report No: ED-17-F

3 Appendix A

**SHETLAND ISLANDS COUNCIL
COMMUNITY SERVICES DEPARTMENT
EDUCATION SERVICE**

EXCLUSION OF PUPILS FROM SCHOOL ATTENDANCE

EXECUTIVE SUMMARY

Legislative Position

The power to exclude a pupil from school rests with the Education Authority. Each authority must operate under locally produced Exclusion Guidelines, which are consistent with guidelines issued by the Scottish Executive in 2003.

The only circumstances in which an Education Authority (or a school operating under devolved responsibility) may exclude a pupil from school are where:

- **The Authority is of the opinion that the parent of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school; or**
- In all the circumstances, the Authority considers that to allow the pupil to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there.

The length of an exclusion is not defined in the legislation and is a matter for the discretion of the Authority.

There is a right of appeal against any exclusion. An appeal against exclusion may be made first to an appeal committee set up by the Authority and subsequently to the Sheriff.

In relation to a pupil with a Record of Needs, the circumstances under which a pupil may be excluded are the same as they are for a pupil without a Record. However if an exclusion for a pupil with a Record of Needs is being considered, the implications for the school should be carefully considered in terms of the need to ensure that appropriate work is provided together with the support necessary to ensure that this work can be completed.

Shetland Islands Council Education Service Policy Statement on Exclusion

Shetland Islands Council acknowledges the vital partnership between schools and parents for the support, behaviour and guidance of pupils and is committed to supporting Head Teachers in doing everything possible to ensure good behaviour and effective attendance at school.

Pupils' views must be taken into account in accordance with the principles of current relevant legislation.

In implementing the Education Service's Guidelines and Procedures, Head Teachers and other agencies must take into account the pupil's best interests.

All Head Teachers can seek advice on exclusions from their Quality Improvement Officer and should consult with other agencies, as appropriate. **Consideration should always be given to involving the relevant Local Support Network Co-ordinator.**

In Shetland, under the policy on exclusions, the power to exclude a child from school attendance is delegated to the Head of Service, Education, who has, in turn, delegated the power to Head Teachers.

Under delegated power the Head Teacher may exclude an individual pupil for up to a **maximum** of **15** working days in any one school session.

Normally a single exclusion will be for five days or less.

If a head teacher requires, in a single exclusion, to exclude a pupil for more than five days, this should be reported to the Quality Improvement Officer for the school.

When a pupil is excluded from school a date for a re-admission meeting should be offered immediately and schools should make it as easy as possible for parents/carers to liaise with the school. School work should be provided to an excluded pupil.

If a head teacher has reached the maximum exclusion of **15 days** for a particular pupil in a school session, and a further exclusion is required the matter must be referred to the Head of Service who will determine the course of action to be taken.

Shetland Islands Council



Education Service

Education Service

Operational Guidelines on Exclusion from School

September 2005

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These guidelines will be reviewed no later than September 2008.

**SHETLAND ISLANDS COUNCIL
COMMUNITY SERVICES DEPARTMENT
EDUCATION SERVICE
EXCLUSION OF PUPILS FROM SCHOOL ATTENDANCE**

1. Introduction

- 1.1** Under current legislation the power to exclude a pupil from school rests with the Education Authority (The Education Service in Shetland). The Government considers that for this, and for other professional and administrative reasons, each authority should operate under locally produced Exclusion Guidelines, which are consistent with guidelines issued by the Scottish Executive in 2003.
- 1.2** The **Scottish Executive Circular 8/03** provides this guidance to local authorities and to schools. Its introduction exemplifies the context in which Exclusions from schools in Scotland now take place:

"It is vital that the option of exclusion is available to education authorities. It is an important sanction, can act as a deterrent to misbehaviour and is a safeguard for all pupils and staff. Pupils and school staff are entitled to experience education in an environment which is free from disruptive or aggressive behaviour.

As there can be no more severe sanction than exclusion, it must be carefully used in response to serious breaches of discipline or criminal behaviour, the circumstances of which must fall under the legislative criteria.

A positive ethos has been identified in many school improvement studies as being fundamental to raising achievement and is linked to the development of anti-bullying, peer support and other whole school strategies. Schools with a positive ethos encourage achievement, celebrate success, have high expectations of every child, have lower exclusion rates and fewer discipline problems.

Education authorities should seek to minimise the need to use exclusion procedures through promoting a positive and inclusive school ethos, i.e. where all pupils are treated fairly and consistently, and offered an educational experience which they value and which recognises and meets, as far as is practicable, their individual needs. Circular 3/2001 provided guidance on the degree of curricular flexibility available within current guidelines to enable education authorities and schools to take account of local circumstances and meet individual pupil needs.

In considering the handling of any exclusion, the circumstances leading to a decision to exclude a pupil should be carefully considered by authorities. The feelings of teachers and staff who have witnessed, or been the victims of breaches of discipline should be considered when planning for the re-integration of an excluded pupil, where this is the expected conclusion following the period of exclusion. It is good practice when making arrangements for an exclusion to consider whether there are arrangements which should be put in place for staff or other pupils who may have been involved in any incident, or for the wider school community. The atmosphere and ethos of the school could be compromised if the views and feelings of the wider pupil population are not acknowledged and managed appropriately. The evaluation of the way such incidents are managed can enable schools to learn and inform their policies and practices for the benefit of the school.

Within the framework of national guidance and local authority policies/guidelines, schools should have discipline/behaviour policies which encourage and reward good behaviour and include a range of sanctions to deal with indiscipline. As the ultimate sanction available to deal with indiscipline in schools, it is particularly important that any decision to exclude is taken locally, and is a proportionate response in the light of the individual circumstances of the case. It is essential that

such decisions meet the legislative requirements, and that the policy and procedures adopted by education authorities and schools are based on good practice." [Circular 8/03, pg 6-7]

2. The Legislative Position

- 2.1** The power to exclude a pupil from a school and the circumstances under which a pupil may be excluded are set out in Regulation 4 of The Schools General (Scotland) Regulations 1975, as amended (hereinafter referred to as "the 1975 Regulations"). Further detail can be found in Section Two of Circular 8/03.
- 2.2** The only circumstances in which an Education Authority (or a school operating under devolved responsibility) may exclude a pupil from school are where:
- **The Authority is of the opinion that the parent of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school; or**
 - **In all the circumstances, the Authority considers that to allow the pupil to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there.**
- 2.3** The exclusion from school of a pupil other than in conformity with the terms of the 1975 Regulations has no statutory backing. This is the case whether such exclusion is termed "exclusion" or some other term is used, such as "suspension" or "sending a pupil home". Failure to comply with the Regulations in such circumstances may render the Authority open to legal challenge.
- 2.4** The length of an exclusion is not defined in the legislation and accordingly is a matter for the discretion of the Authority. Similarly, the legislation does not differentiate between different types of exclusion. In practice, **exclusion** continues as long as a pupil is excluded from a school but remains on the register of that school. Removal from the register is when the name of the pupil is deleted from the school register having been placed on the roll of another school.
- 2.5** Further statutory provisions relating to procedure to be followed in matters of exclusion, are set out in the 1975 Regulations, i.e., communication of the decision to exclude; availability of the Head Teacher or other teacher to discuss the decision to exclude; the reasons for the decision to exclude; requirements for re-admission to the school; and advising of the right and of the conditions for appeal against the decision. The latest **guidance** on these procedures can be found in the Scottish Executive Circular 8/03 and this should be read in conjunction with these Education Service guidelines.
- 2.6** The right to appeal against an exclusion is conferred by Section 28H of the Education (Scotland) Act 1980 (hereinafter referred to as "the 1980 Act"). An appeal against exclusion may be made first to an appeal committee set up by the Authority under section 28D of the 1980 Act and subsequently to the Sheriff. The Education (Appeal Committee Procedures) (Scotland) Regulations 1982 regulate the procedures of Appeal Committees, including committees set up to hear appeals against exclusion. Further guidance on appeals can be found in Circular 8/03 Section Two, Paragraphs 36-39.

2.7 In relation to a pupil with a Record of Needs, the circumstances under which a pupil may be excluded are the same as they are for a pupil without a Record. Additional considerations do, however, apply. If an exclusion for a pupil with a Record of Needs is being considered, the implications for the school should be carefully considered in terms of the need to ensure that appropriate work is provided together with the support necessary to ensure that this work can be completed. Further advice on this matter can be found in Section Two, Paragraphs 16-21 of Circular 8/2003. **Authorities should note anticipated changes to legislation concerning pupils with special educational needs, following which sections 16-21 of this guidance may be revised accordingly.**

2.8 Regulation 4 of the Education (School and Placing Information) (Scotland) Regulations 1982, as amended, requires that each school makes available the rules, regulations and disciplinary requirements of the school ie their policy on school discipline. This information should be provided in written form, e.g., in the school's Handbook of Information for Parents.

3. Shetland Islands Council, Education Service Policy Statement

NB This should be read in conjunction with the Good Practice Guide which is attached as Appendix 5.

3.1 Shetland Islands Council acknowledges the vital partnership between schools and parents for the support, behaviour and guidance of pupils.

3.2 Pupils' views must be taken into account in accordance with the principles of the UN Convention 1989, the Children (Scotland) Act 1995 and the Standards in Scotland's Schools Act 2000 which provide for the rights and responsibilities of pupils to be exercised in accordance with the age, maturity and understanding of the pupil. The Age of Legal Capacity (Scotland) Act 1991 also gives pupils aged twelve and over a number of rights. Because of this, Head Teachers should keep pupils aged twelve to sixteen fully informed of decisions being taken about them. Pupils over the school leaving age of sixteen have certain statutory rights that require the Council to deal with them directly. If the pupil is over school leaving age, the matter should be discussed with him/her, but this does not preclude the parent/carer being present at the interview if the pupil so wishes.

3.3 In implementing the Education Service's Guidelines and Procedures, Head Teachers and other agencies must take into account the pupil's best interests. Whilst the education and welfare of the individual pupil has to be taken into account, this has to be balanced with the needs and safety of the school as a whole.

3.4 In this respect, the Head Teacher of a secondary department / school should, as a matter of course, consult with members of the Pupil Support Team in the school at the earliest opportunity. All Head Teachers can seek advice on exclusions from their Quality Improvement Officer and should consult with other agencies, as appropriate. **In particular, at the earliest stage of concern about a pupil, consideration should always be given to involving the relevant Local Support Network Co-ordinator.**

3.5 The Education Service is committed to supporting Head Teachers in doing everything possible to ensure good behaviour and effective attendance at school. Where there is indiscipline, Head Teachers **must** use all means at their disposal to bring about improvements in behaviour and this **must**, where appropriate, include extensive contact with parents and other agencies, seeking their support. In this respect full account must be taken of the local authority policy framework, namely the Managing Inclusion Guidelines, the operational guidelines on Promoting Positive Behaviour and the Local Support Network.

3.6 **Four** criteria will be used to judge whether indiscipline is such that exclusion is the most appropriate course of action:

- If the effective education of the pupil in mainstream is impossible given the indiscipline;
- If the level of disruption to the education of other pupils is such that serious action must be taken to prevent this;
- If there is behaviour which is dangerous to pupils and/or staff;
- As a last resort, if the parent/carers is unwilling to co-operate with the school.

4. Exclusions

In Shetland, the power to exclude a child from school attendance is delegated to the Head of Service, Education, who has, in turn, delegated the power to Head Teachers. Under delegated power, a Head Teacher is acting on behalf of the Education Service in any decision on exclusion. It must be emphasised that the delegation of power is to the Head Teacher, or in his/her absence to the teacher deputising for the Head Teacher. Therefore, **only** the Head Teacher, or if absent his/her representative, may sign letters dealing with exclusion matters.

4.1 Head Teachers must ensure that a record is kept detailing incidents of a pupil's difficult behaviour and assessments of progress. It is very important that records of the following are kept:

- All strategies employed to support the pupil to remain in school;
- Notes of meetings, letters, referrals, and reports relating to indiscipline and exclusion.

4.2 In view of the fact that there may well be important and critical events in an appeal case, which may be questioned by the Appeal Committee, reports should be in a form which would be appropriate to this use i.e., dated, legible, preferably typed, and on headed paper.

4.3 Within the requirement of the 1975 Regulations, as amended, where indiscipline is a serious problem the following course of action is available to Head Teachers.

4.4 Under delegated power the Head Teacher may exclude an individual pupil for up to a **maximum** of **15** working days in any one school session. Normally a single exclusion will be for five days or less. If a head teacher considers that a pupil

requires, in a single exclusion, to be excluded for more than five days, this should be reported to the relevant Quality Improvement Officer for the school.

- 4.5** When a pupil is excluded from school a date for a re-admission meeting should be offered immediately. The meeting should be held, where practicable, within **3** days of the exclusion taking place. In any event, the meeting must take place within **7** calendar days.
- 4.6** If parents/carers fail to attend arranged meetings, normally in the school, procedures should be put in place for school representatives and/or other agencies to meet the parents/carers at an alternative, mutually suitable place.
- 4.7** Schools should make it as easy as possible for parents/carers to liaise with the school. Crucial to the success of any strategies will be the willingness of parent/carer, pupil and school to work together. Every effort should be made to welcome parents/carers as active partners in the process of improving behaviour, whilst recognising that changing behaviour is not easy and may require extensive and extended support.
- 4.8** When a pupil is excluded, school work should be provided. See Circular 8/03 Section Two, Paragraphs 41-52.
- 4.9 Exclusion Beyond Fifteen Days in Any One School Session**

If a head teacher has reached the maximum exclusion of **15 days** for a particular pupil in a school session, and a Head Teacher considers that a pupil requires a further exclusion the matter must be referred to the Head of Service who will determine the course of action to be taken.

5. Procedures for Carrying Out the Exclusion of a Pupil From School

NB This should be read in conjunction with the Good Practice Guide which is attached as Appendix 4.

Within the Operational Guidelines Head Teachers may exclude pupils for up to **15** working days. Pupils must be excluded for a specified number of days. It may be appropriate for a pupil to be excluded for one day only. Unless in exceptional circumstances, single exclusions should be for a specific number of days of five or fewer.

- 5.1** In the case of **all** children of statutory school age, the parent/carer should be notified, by telephone or other means, of the decision to exclude before the actual exclusion takes place, i.e., no pupil should be sent home during the school day without discussion with the parent/carer. With regard to Looked After children, the designated Social Worker should also be informed. Where possible the parent/carer should collect the child from school.
- 5.2** In addition to the telephone call noted above, notification should be made by means of a letter, signed by the Head Teacher and taken home by the pupil. This should be confirmed by recorded delivery post or by a hand delivered copy. This letter

should give the decision to exclude, the reason(s) for exclusion and the proposed date, time and place of a re-admission meeting. The pupil with parents/carers should also be offered an opportunity to discuss the matter prior to the re-admission meeting. The re-admission meeting must be with the Head Teacher or designated representative. The legal requirement is that the re-admission meeting is held within **a maximum of 7 calendar days** of the date of the decision to exclude. The details of the proposed re-admission meeting should be included in the letter giving notification of the decision to exclude.

- 5.3** Details of the right of appeal must also be given. It is expected that most exclusions will be resolved and the pupil re-admitted **well within this maximum** timescale. Copy of the text of Appendix 1, which gives parents/carers advice on exclusion, should always accompany the letter sent home.
- 5.4** The letter must also refer to the need to agree conditions for re-admission to school. Good practice in the matter of setting terms of re-admission should involve commitments by the school as well as by the pupil and parent/carer. Where other agencies are involved with the pupil (e.g., Psychological Services, Social Work), a copy of the letter to the parent must be sent to the appropriate officer(s).
- 5.5** The Children (Scotland) Act 1995, as amended, requires that children are consulted regarding matters that concern them. It is a requirement then that the pupil is invited to attend the re-admission meeting and that the pupil's view is recognised at this meeting.
- 5.6** Where the pupil is age twelve or over, the notification of the exclusion must be handed to him/her or sent to him/her by post. A **copy** should be sent to the parent.
- 5.7** A copy of the letter informing the parent/carer of the decision to exclude should also be sent to the Head of Service.

6. Re-admission

A Head Teacher may decide to re-admit a pupil pending discussion with the pupil's parents/carers.

- 6.1** When the Head Teacher discusses the matter with the parent/carer and/or pupil, and the conditions for return are accepted, the Head Teacher will arrange to re-admit the pupil. If a re-admission date has already been indicated and an agreement on re-admission is subsequently made at the interview, the Head Teacher may admit the pupil earlier than the previously stated admission date. It may be that the Head Teacher will wish the parent/carer or pupil to give a written undertaking to co-operate (e.g., in a case where the previous disciplinary record of the pupil has been unsatisfactory). Whether or not a written undertaking is obtained, the Head Teacher should record the agreement made with the parent/carer or pupil in a letter, with a request that they inform him/her if they disagree with the report of their discussions. (Evidence **in writing** that conditions for re-admission have been agreed could be important in the event of an appeal.)
- 6.2** Parents/carers should be advised at their interview with the Head Teacher that the pupil will be re-admitted to school provided the conditions of re-admission are

agreed between the Head Teacher, pupil and the parent/carer, and that a record of the exclusion will be made in the Pupil's Progress Record.

- 6.3** Parents/carers and pupils retain the right to appeal against any decision to exclude according to the procedures described in Section Two, Paragraphs 36-39. The right of appeal lies with the child or the parent, but not both.

6.4 No Agreement on Re-admission

It is expected that in virtually every circumstance the Head Teacher will find the means to offer re-admission through the application of realistic conditions. In the few exceptional cases where this is not the case, the decision is in effect to re-exclude, not to extend an exclusion. Therefore the same information must go again to the pupil and parent/carer as went with notice of the original exclusion.

- 6.5** In exceptional cases, where the Head Teacher has extremely serious reservations about the impact of re-admission on the safety of pupils and staff, the re-admission meeting would take place in the Education Service, and would be attended by a senior officer of the Authority (usually a Quality Improvement Manager). The Head Teacher would convene and chair such a meeting.

6.6 Failure to Attend the Re-admission Meeting

Where a parent/carer fails to keep an appointment to discuss an exclusion, the Head Teacher may send a letter indicating that the pupil may return to school on the understanding that the conditions quoted are met and indicating the entry in the Pupil's Progress Record.

- 6.7** Where a Head Teacher feels that it is imperative to discuss a pupil's behaviour with the parents/carers and the parents/carers fail to keep two appointments, the Head Teacher should make a referral to the Local Support Network Co-ordinator.

7. Exclusion Beyond 15 Days in Any One School Session – Referral to the Head of Service

Should a Head Teacher feel that a pupil requires to be excluded for a period of time which would extend the total number of days they had been excluded that session to more than fifteen, agreement for this must be sought from the Head of Service.

- 7.1** On receipt of such a request, the Head of Service will have the matter further investigated by appropriate personnel from the Education Service Management Team, in conjunction with the Local Support Network co-ordinator. Subsequent to this consultation, the Head of Service may take one of the following actions:
- Grant the exclusion of the pupil from school for a further agreed period;
 - Arrange for the pupil's return to his/her own school with attendant support strategies;
 - Agree with the parent/carer and pupil for the pupil's transfer to another Primary or Secondary School/department in consultation with the excluding Head Teacher and the Head Teacher of the new school. (This action would be

unlikely if a hosting arrangement had already failed. For guidance on hosting arrangements, see Appendix 3).

8. Appeal against Exclusion

If the parent/carers or pupil decides to appeal against a temporary exclusion this should not affect the pupil's re-admission. For further advice on appeals please see Circular 8/2003 Section Two Paragraphs 36-39.

9. Recording

9.1 Recording in the School Register

9.1.1 The School Register (Phoenix) should record every exclusion for individual pupils using the letter 'E'. No pupil's name should be removed from the Register until placed on the roll of another school.

9.2 Recording on the Pupil's Progress Record Card

9.2.1 If procedures for exclusion are invoked for a pupil, the fact should be recorded on the pupil's Progress Record Card under "Head Teacher's Remarks".

9.2.2 If the parent/carers or pupil appeals against the exclusion, details of the outcome must be entered in the Progress Record File. If the parent's/carers or pupil's appeal against exclusion is upheld either by the Appeals Committee or the Sheriff, any reference to the exclusion in the Pupil's Progress Record File **must be deleted**.

9.2.3 In the Head Teacher's letter to the parent/carers following an exclusion, the details of the entry in the Pupil's Progress Record File have to be quoted. In view of the above, the entry should be kept as simple as possible. It will also be helpful if the terminology of the Scottish Executive Incident Form is used (see Appendix 2), for example: *William was excluded from school on (DATE) because of his persistent disobedience.*

10. Keeping the Education Service Informed

10.1 A copy of the letter, informing the pupil and/or parent/carers of the decision to exclude, **must** be sent to the Head of Service on the day of the exclusion.

10.2 Following the re-admission meeting, the Incident Report Form: Record of a Single Exclusion (see Appendix 2) **must** be completed and sent to the Head of Service. This is required by the Scottish Executive.

EXCLUDING CHILDREN FROM SCHOOL – NOTES FOR PARENTS AND CARERS

What does exclusion mean?

Exclusion means that your child is not allowed to attend school for a set period of time. We only exclude children when the case is very serious.

Why has my child been excluded?

Children are excluded when their day-to-day behaviour makes it necessary to remove them from school for a period of time. This could be because:

- your child's behaviour makes it impossible for us to teach him/her in a class with other pupils;
- your child's behaviour makes it very difficult for other pupils in the class to learn and work;
- your child's behaviour is dangerous to other pupils or members of staff;
- you, as parent/carer, have been unwilling to co-operate with the school.

Who decides to exclude a child?

The Head Teacher decides whether to exclude a child, after consulting with the child's teacher(s). In a secondary school/department the Head Teacher would also consult with Pupil Support teachers. Schools may also consult the Local Support Network Co-ordinator.

How long will my child be excluded?

Normally a single exclusion will be for no longer than five days before we arrange a 're-admission meeting' with you. For the duration of his/her exclusion, your child must not come into school, or be in the school grounds at any time, unless for the purposes of an agreed meeting.

How do schools let parents or carers know that their child has been excluded?

If your child is being excluded during the school day we will phone you. If we cannot get in touch with you, at home or at work, or your emergency contact, we will send a letter home with your child at the end of the school day, explaining:

- why your child has been excluded;
- how long s/he is being excluded;
- the date of the 're-admission meeting'.

This letter will be followed up with another letter posted, by recorded delivery, to your home.

What is a re-admission meeting?

We arrange a re-admission meeting within five days of your child's exclusion. At the meeting, we talk to you about why your child was excluded and how we can work together to ensure that your child has a successful return to school. Parents/carers **and** the child should attend the re-admission meeting. The meeting is usually held at your child's school.

Can I bring someone else with me to the meeting?

You can bring a friend to support you, or someone who will help you discuss your child's welfare with us. This could be someone from an advocacy group, an interpreter or signer. Please let us know before the meeting who you would like to bring along.

Who else will be at the meeting?

The Depute Head Teacher or Head Teacher chairs the meeting. In secondary schools / departments, your child's Pupil Support Teacher will normally attend the meeting. We will also invite anyone else involved with your child's welfare to come along if they can, for example, a social worker or the Local Support Network Co-ordinator. Because it is very important to get your child back to school as soon as possible, we will go ahead with the meeting even if everyone cannot come to the meeting.

What will happen at the meeting?

We will tell you why we excluded your child. This will cover your child's day-to-day behaviour and particular incidents that have led us to take this action. We would like to hear your views and those of your child. We will discuss ways in which your child can change his/her behaviour. We will agree targets with you to help your child return to school successfully. We will ask you and/or your child to sign an agreement. The agreement will set out how your child must behave when s/he returns to school.

Are details of my child's exclusion kept on record?

Yes. Copies of the following letters will be kept in your child's file:

- the exclusion letter;
- the letter outlining the agreements you made at the re-admission meeting about your child going back to school.

Copies of these letters are sent to the Education Service in Lerwick.

What if I can't attend the re-admission meeting?

If you can't come to the meeting, please phone the school as soon as you can so that we can arrange another time with you.

What if a parent/carers doesn't attend the re-admission meeting?

If a parent/carers doesn't attend the meeting, then the child may not be allowed to return to school. We will write to you with a date and time for another meeting. We will keep copies of this letter in your child's file and at the Education Service in Lerwick.

What contact will my child have with the school while s/he is excluded?

Your child must not come into school or onto the school grounds during the exclusion. The school will, as appropriate, provide work for your child to do at home. Arrangements will be made with you about when and where the work is to be collected.

How will the school help my child once s/he goes back to school?

When your child comes back to school, various measures will be put in place to help you and your child meet the targets agreed at the re-admission meeting. This could include some time in a support environment outside the classroom setting or your child might be supported in the class.

How can I help?

Your support for the school is vital – we will always welcome your help. While your child is excluded, you can discuss with the school what led up to your child's exclusion, and how you can encourage your child to change his/her behaviour. Phone the school to talk or arrange a meeting. In a secondary school/department this would be with your child's Pupil Support Teacher. We need your continuing support, so once your child is back at school, we would be happy to discuss how your child is getting on.

What happens if my child keeps on being excluded from school?

This doesn't happen very often. The school will have done everything possible to help your child improve his/her behaviour. If we don't feel that this approach is working, then we might decide that your child needs to be educated in another local school. The Head of Service, Education would be involved in this decision. You and your child would be involved in all discussions.

Can I appeal against my child's exclusion?

Yes. There is no time limit for an appeal.

Appeals against decisions to exclude can be referred to an Education Appeal Committee. The Council is obliged to set up and maintain such a committee. It consists of two councillors and one layperson. The appeals committee will hold a hearing within 28 days of receipt of written confirmation of the wish to appeal an exclusion. Detailed explanation

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of the procedure to be followed at the hearing will be provided by the Council at that time, but anyone appealing an exclusion is advised to seek their own independent legal advice.

Should you wish to appeal, you must do so, in writing, to:

Clerk to the Appeals Sub-Committee
4 Market Street
LERWICK
Shetland
ZE1 0JN

Where can I get independent advice and support?

- Your local Citizens Advice Bureau
- Scottish Parent Teacher Council

Incident Report Form Record of Single Exclusion

School: _____

**Primary,
Secondary or
Special:** _____

**Pupil's
Postcode:** _____

Pupil Name: _____

**Date of
Exclusion:** _____

Year Group		
Circumstances of Exclusion (A)*		
Incident in Class?	Y	N
Temporary or Removed from Register?		
If Temporary, Length of Exclusion in Days (C)*		
Ethnic Group (B)*		
Sex	M	F
Previous Exclusion?	Y	N
Free School Meals Entitlement?	Y	N

A Codes for Circumstances

-
- 1 Fighting
- 2 Physical Abuse of Fellow Pupils
- 3 Physical Abuse of Members of Staff
- 4 Verbal Abuse of Fellow Pupils
- 5 Verbal Abuse of Members of Staff
- 6 Aggressive or Threatening Behaviour
- 7 General or Persistent Disobedience
- 8 Insolent or Offensive Behaviour
- 9 Drug Related Incident
- 10 Racist Incident
- 11 Lack of Parental Co-operation
- 12 Other, please specify

B Codes for Ethnic Background

-
- 1 White UK
- 2 White Other
- 3 Black African
- 4 Black Caribbean
- 5 Black Other
- 6 Asian Indian
- 7 Asian Pakistani
- 8 Asian Bangladeshi
- 9 Asian Chinese
- 10 Asian Other

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Record of Needs?	Y	N
If looked after under the Children (Scotland) Act 1995, is the child looked after...	at home?	away from home?
Appeal?	Y	N
Appeal Successful?	Y	N

- 11 Mixed
- 12 Occupational Traveller
- 13 Gypsy Traveller
- 14 Other Traveller
- 15 Other
- 16 Not disclosed

C Length of exclusion to be recorded in days, and half-days where appropriate.

***See codes opposite**

HOSTING ARRANGEMENTS

When a pupil is finding it difficult to maintain a placement in a mainstream school, one strategy that can be used is a “hosting” arrangement between two educational establishments. One of these may be a placement in the Additional Support Base full or part-time. It is likely that the pupil will be at Stage 3, at least, of the Managing Inclusion Guidelines before this will be considered.

The objectives of “hosting” are:

- To sustain children in mainstream education and reduce any loss of time to a minimum; and
- To provide support to “fresh start” excluded pupils and, therefore, enhance the likelihood of success in their new school.

If it is decided that a pupil can no longer receive all of his/her education in a particular mainstream school (the “base school”) and it is recommended that he receive all or part his/her education in another school (the “host” school), then the “base” school will retain responsibility for the pupil as all the knowledge and expertise regarding him/her rests in the “base” school.

4 Criteria for Referral

The pupil has been excluded on a number of occasions and it has become impossible to find effective strategies to maintain a place in the “base” school. **Clear evidence** that a **wide range of strategies** have already been tried will be available.

Particular circumstances indicated that a “fresh start” was the appropriate strategy.

The pupil has been the subject of a Local Support Network Meeting, at which it has been recommended that a “fresh start” in another mainstream school would be appropriate or a placement part-time or full-time in the Additional Support Base would be appropriate.

Procedures

The Local Support Co-ordinator will make initial contact with the “host” establishment to inform the school about the pupil and discuss possible hosting arrangements.

The Local Support Co-ordinator will make arrangements for the Head Teachers, or their representatives, to meet to discuss arrangements and to put a clear timescale for action in place.

5 Aspects which should be defined at an early stage of the process are as follows:

- success criteria;
- contact person at “host” establishment;

- review procedures;
- visiting the “base” school;
- coursing arrangements;
- attendance procedures;
- support strategies including outside agencies.

6 Success Criteria

Clear success criteria will be established and agreed between the “base” establishment and the “host” establishment in consultation with the pupil and parent/carer.

Examples of success criteria are:

- good attendance;
- good discipline record;
- progression in subjects.

Acceptance Procedures

The “host” Head Teacher will write formally to the “base” Head Teacher agreeing to the arrangements.

Placement conditions will be agreed between the schools or school /Base, signed by both establishments, the pupil, the parent/carer and the Local Support Co-ordinator.

7 Review Procedures

Arrangements are to be reviewed appropriately. An initial review date must be set when the arrangement is put in place. A meeting will be called by the Local Support Co-ordinator and should be attended by a representative of the “host” school, the “base” school, the pupil and parent/carer. If it is relevant for other persons to attend, e.g., educational psychologist, they should also be invited.

If the arrangements are not working they will be changed at this stage. This might mean changes in support arrangements.

At this initial review a date for a second review meeting must be set. At this stage, if the arrangements in the “host” school are still positive, the pupil should be considered for enrolment at the “host” school.

If the arrangements have broken down the following options are available:

- return to “base” school;
- move to another “host” school;
- referral to the Reporter to the Children’s Panel.

9 Outside Agencies

If a pupil has been working with an outside agency, this should continue in the “host” school.

10 Roles and Responsibilities

11 “Base” School

- To provide full reports about the pupil from school staff and all relevant outside agencies.
- To liaise fully with the “host” school and the Local Support Co-ordinator in decisions about the best way forward.

“Host” School

- To be as flexible as possible in integrating the pupil into the “host” school.
- To keep the “base” school and the Local Support Co-ordinator informed about the pupil’s progress.
- To alert the “base” school at the first sign of the placement breaking down in order to draw on their knowledge and expertise.

Parents/Carers

- To co-operate fully with the “host” school and attempt to establish good school/parent contacts as soon as possible.

Pupils

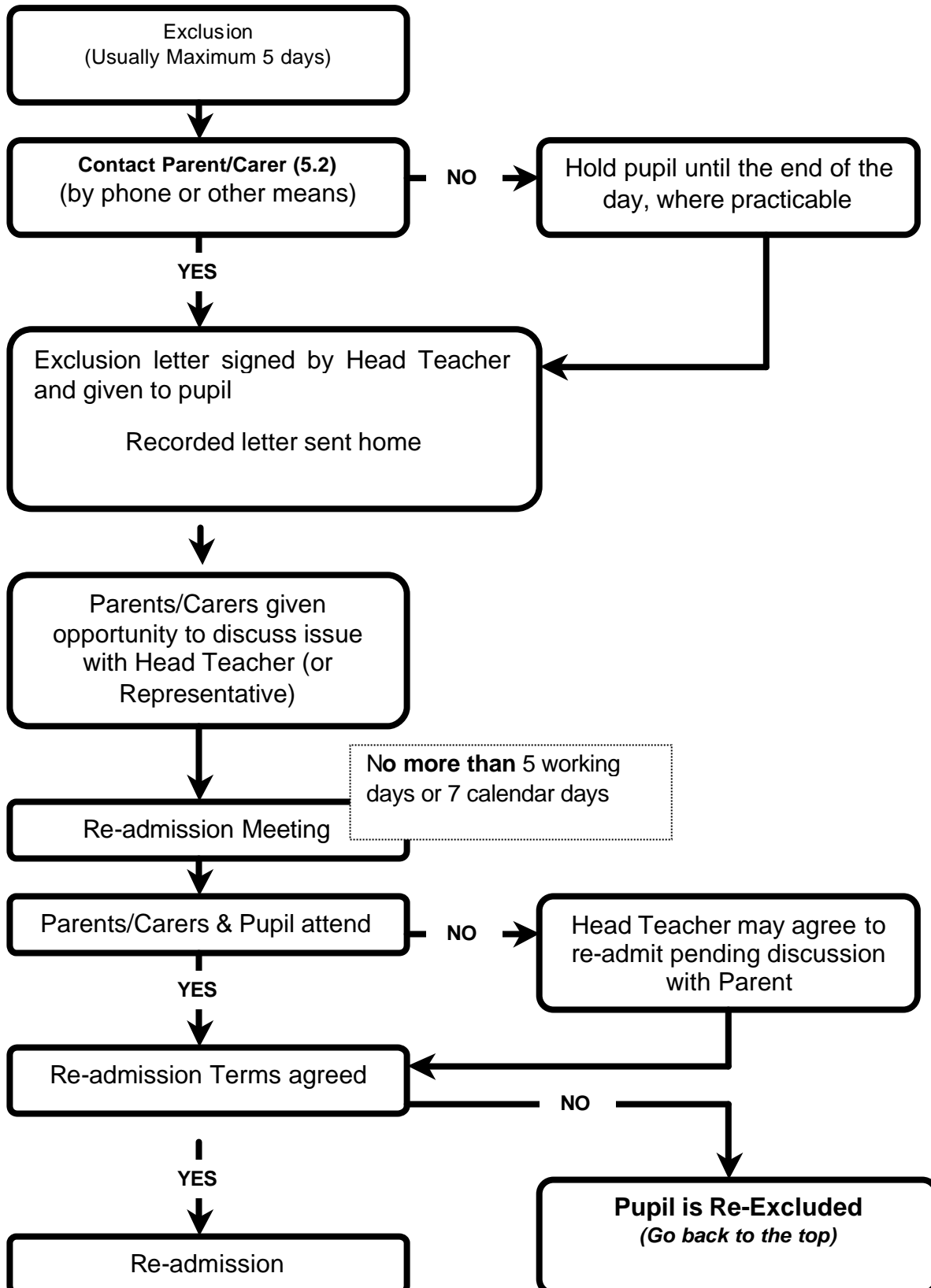
- To co-operate fully with the structures in the “host” school.
- To make the best attempt possible to meet the agreed criteria for success.

Education Service

- To support schools in working together to agree and implement “hosting” arrangements which meet the needs of the pupil successfully.

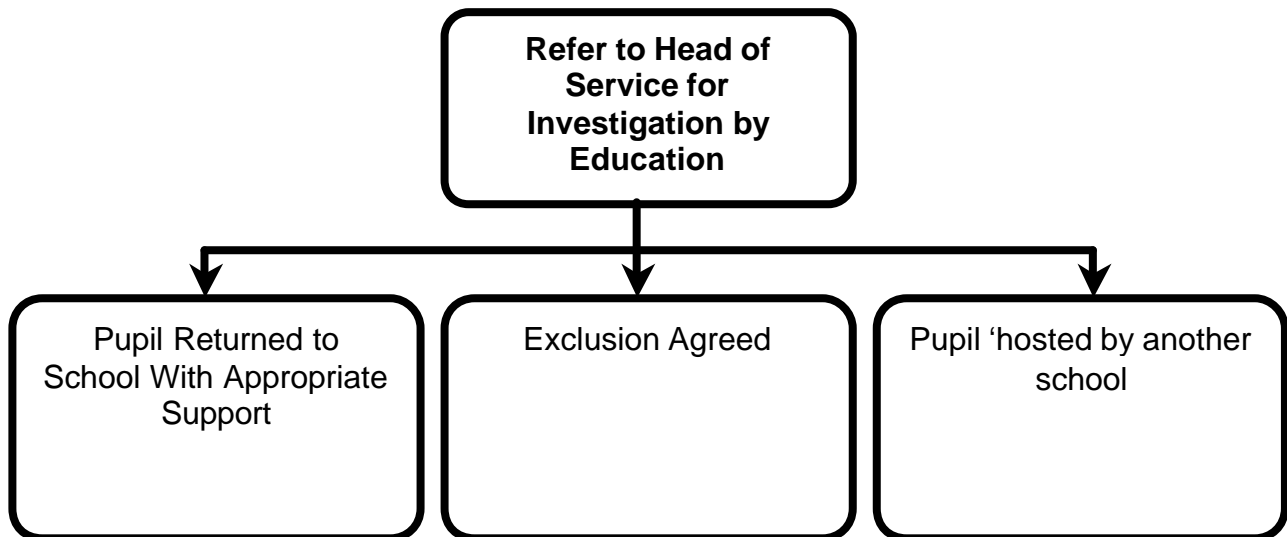
**SHETLAND ISLANDS COUNCIL
COMMUNITY SERVICES DEPARTMENT
EDUCATION SERVICE**

Exclusion Procedures (Up to fifteen days in any single school session)



**SHETLAND ISLANDS COUNCIL
COMMUNITY SERVICES DEPARTMENT
EDUCATION SERVICE**

Exclusion Procedures(beyond the total of fifteen days in any one school session)



**Shetland Islands Council
Community Services Department
Education Service**

EXCLUSION OF PUPILS FROM SCHOOL ATTENDANCE FOR DISCIPLINARY REASONS

Good Practice Guide

The following provides guidance to schools on implementing the key stages of the policy document.

It features **elements** of procedure which are not required to be part of the Education Service policy, but which aim to support head teachers further in the practicalities of implementing the policy.

It should be noted that the Education Service encourages any school that has a concern about a pupil's behaviour, or any other aspect of their welfare, to make contact with the Local Support Co-ordinator, at the earliest possible opportunity.

Primary Schools/ Departments

When considering an Exclusion:

The Head Teacher interviews pupils and contacts family to:

- Alert pupil to seriousness of situation and possibility of exclusion;
- Seek alternative to exclusion in negotiation with pupil and parent eg internal exclusion, restoration task;
- Assess effect on pupil and family of exclusion.

When implementing an Exclusion

1. The Head Teacher informs parent by phone.
2. The pupil is isolated and given work to do.
3. An Exclusion letter is prepared by Head Teacher or Deputy.
4. The pupil is sent home at the end of the school day with a copy of the Exclusion letter.
5. Another copy of the Exclusion letter is hand delivered to pupil's home address or sent by Recorded Delivery.
6. The school gives work to the parent / carer for the pupil to do during the exclusion.
7. The school maintains contact with the pupil and parent / carer during the exclusion.

When re-admitting a Pupil

1. The Head Teacher meets pupil to discuss readiness to return to school.
2. If the pupil is ready, the Head Teacher holds a re-admission meeting with the pupil and parent / carer.
3. If the pupil is not ready, the pupil is re-excluded and the school maintains contact with the pupil until issues have been overcome.

4. When the pupil returns to school, a fixed date is agreed for a meeting with the pupil and parent/carer to discuss progress.

Secondary Schools / Departments

When considering an Exclusion:

A member of the Senior Management interviews pupils and contacts family to:

- Alert pupil to seriousness of situation and possibility of exclusion;
- Seek alternative to exclusion in negotiation with pupil and parent eg internal exclusion, restoration task;
- Assess effect on pupil and family of exclusion.

When implementing an Exclusion

1. The Pupil Support Teacher informs parent by phone.
2. The pupil is isolated and given work to do.
3. An Exclusion letter is prepared by Head Teacher or Deputy.
4. The pupil is sent home at the end of the school day with a copy of the Exclusion letter.
5. Another copy of the Exclusion letter is hand delivered to pupil's home address or sent by Recorded Delivery.
6. The school gives work to the parent / carer for the pupil to do during their exclusion.
7. The Pupil Support Teacher maintains contact with the pupil and parent / carer during the exclusion.

When re-admitting a Pupil

1. The Head Teacher and/or Senior Management Team holds a re-admission meeting with the pupil and parent / carer.
2. If the pupil is not ready, the pupil is re-excluded and the school maintains contact with the pupil until issues have been overcome.
3. If the pupil is not ready, the pupil is re-excluded and the school maintains contact with the pupil until issues have been overcome.



REPORT

To: Services Committee

1 September 2005

From: Sport and Leisure Service Manager
Community Development Services
Community Services Department

**CAPITAL GRANTS TO VOLUNTARY ORGANISATIONS
ADDITIONAL RESOURCES FOR WATER BASED FACILITIES**

1. Introduction

- 1.1 The purpose of this report is to request that the Services Committee recommend to Shetland Islands Council that they approve, for inclusion in the Council's Capital Programme, a budget of £1,635,421 for water based facilities throughout Shetland over a 5 year period.

2. Background

- 2.1 Community Development, formerly the Leisure and Recreation Department, has for many years supported community organisations throughout Shetland to undertake large water based projects, including the provision of grant assistance towards the cost of constructing new marinas.
- 2.2 In 2000, the Council agreed to reprioritise the capital programme at its next review to identify a specific water based budget of £250,000 for each of the next 3 financial years, and that applications for grant assistance for water based facilities be considered on their individual merits, subject to funding being made available (Min Ref: 151/00).
- 2.3 In 2002, the Council further agreed to allocate additional budget resources of £250,000 towards the provision of new marinas over three financial years 2001/02, 2002/03 and 2003/04 from the Council's Reserve Fund i.e. £750,000 in total (Min Ref: 35/01).
- 2.4 In addition to this, the Council also agreed to introduce new criteria to the Capital Grant Aid Scheme for new marinas. At a meeting of the Services Committee on 15 May 2002 a report entitled "Capital Grants to Voluntary Organisations, Proposal for Financial Assistance to New Marinas" was considered and approved by members. In this report the existing policy on the development of new marinas was amended to allow community groups

to apply for grant assistance of up to 80% up to a maximum of £300,000 (Min Ref: 57/02).

- 2.5 All other types of capital projects are considered under the existing Capital Grant Scheme policy that allows grant assistance of up to 75% up to a maximum of £100,000 (Min Ref: 31/04). This level of funding applies to the projects seeking to develop existing marinas/piers.
- 2.6 As a result of the New Marinas Budget being introduced, and the Capital Grants scheme guidelines being revised to increase the level of grant assistance available to groups then three new marinas have been constructed at:
- Skeld
 - Aithsvoe
 - Voe

3. Present Position

- 3.1 Since completion of the New Marinas Budget, which was used to fund the marinas above, there have been many requests from Council Members and voluntary organisations to re-establish a water based capital budget to provide funding for the outstanding water based projects throughout Shetland. Therefore, in order to gauge the level of demand for this type of project, Community Development recently undertook an audit of the water-based facilities throughout Shetland. Questionnaires were sent to 31 local marina groups and pier trust committees to establish their current and future plans for their proposed project or existing facility. Eighteen groups responded to the questionnaire.
- 3.2 Of the 18 responses received, 11 organisations indicated that they had plans to either construct a new marina or to develop/upgrade an existing facility.
- 3.3 The information obtained from the questionnaires and other supporting evidence was used to support a report which was presented to the Capital Projects Management Team (CPMT) on 1st August 2005, requesting that a Capital Programme Budget of up to £1,635,421 be approved for water based facilities in Shetland. A copy of this report and its Appendix, which identifies the groups and their projects are attached as Appendix 1 to this report.
- 3.4 Initially a decision from the CPMT on this request was deferred pending the supply of further information, which included consulting the Planning Service on whether the locations of the proposed marinas was in accordance with their strategic plans for the geographical spread of new marinas in Shetland. This additional information was duly supplied and at a subsequent meeting on 11th August 2005 the CPMT agreed that a budget of £1,635,421 for the construction of new marinas and refurbishment of existing water based facilities should be recommended to Council for inclusion in the Capital Programme. The CPMT were also of the opinion that given the reasonable spread of new marinas that would be achieved through this funding, once the budget was fully spent that there should be no further funding agreed for new marinas.
- 3.5 In addition, the CPMT further agreed that it should be recommended to Council that the new Water Based Facilities Budget, if approved, should also be available to fund Feasibility and Design Grant applications for these projects, under the current Council criteria and guidelines for applications under these schemes. If approved this would include the current scheme of delegation to Officers to approve grants under these schemes.

4. Proposals

- 4.1 That the Services Committee recommends to Shetland Islands Council that a budget of up to £1, 635,421 be approved for inclusion in the Council's Capital Programme for the financial years 2006/07 to 2009/10.
- 4.2 That the Services Committee recommends to Shetland Islands Council that once the Water based Facilities Budget is fully spent that there should be no further funding agreed for new marinas.
- 4.3 That the Services Committee recommends to Shetland Islands Council that the Water Based Budget, if approved, should be available to fund Feasibility and Design Grant applications for these projects under the current Council criteria and guidelines for applications under these schemes. If approved this would include the current scheme of delegation to Officers to approve grants under these schemes.

5. Link to Corporate Improvement Plan

- 5.1 The recommendations in this report are specifically related to the Corporate Improvement Plan, which in its "Benefiting People and Communities - Active Citizenship" section has an outcome target of "Bring forwards plans for the further development of Community Marinas in Shetland". Therefore, this report seeks to meet this target within the agreed timescale for this action.

6. Financial Implications

- 6.1 CPMT has considered this proposal and, in view of the comments by planning, considers that the programme would complete a strategic distribution of marinas throughout the islands for local residents and visiting yachts. They recommend inclusion in the capital programme in the sum of £1,635,421 in the following financial years for new build marinas and refurbishment of existing ones.

2006/07	2007/08	2008/09	2009/10
£778,329	£757,562	£37,843	£61,687

- 6.2 However, they recommend that as this will complete the overall provision of marinas, the Council cap the programme once these projects are completed.
- 6.3 Members should note that the allocation of funds to each financial year above is based on a best estimate of how projects might develop. However, the allocation of these funds is based on the assumption that groups will be able to achieve all necessary statutory consents and will be able to secure match funding for their projects including their own share of the project costs.
- 6.4 From Appendix A of the attached report it can be seen that the current New Marinas and Grant to Voluntary Organisations Grant Aid Scheme criteria and guidelines have been used to assess the amount of grant assistance that could be available for each project i.e. for new marinas a grant of up to 80% up to a maximum of £300,000 and for other projects a grant of up to 75% up to a maximum of £100,000. However, Members should note that for some of the projects in Appendix A, it is possible that even with an offer of the current maximum grant as identified above, that some projects will still not be able to proceed unless they can either reduce the cost or scale of their project or secure substantial amounts of external funding, which is fairly unlikely given the priorities of most external funders.

7. Policy and Delegated Authority

- 7.1 The Council has a general policy to continue to promote improvement in the range and quality of community facilities and services in the Islands for all sections of the population (Min Ref.: 15/93).
- 7.2 All projects for inclusion in the capital programme are referred to the Council for Approval (min Ref 122/03).
- 7.3 Members should note that should the proposal in 4.3 be approved then delegated authority will be given to the Head of Community Development, or his nominee to approve Feasibility and Design Grant applications under the current scheme of delegation, from the new Water Based Facilities Budget.

8. Recommendations

- 8.1 I recommend that the Services Committee recommend to Shetland Islands Council to approve the proposals in section 4 of this report.

August 2005 Report No: CD-175-F

Our Ref: NW/lal



Shetland Islands Council

REPORT

To: Capital Project Management Team

1 August 2005

From: Sport and Leisure Service Manager
Community Development Service
Community Services Department

Capital Grants to Voluntary Organisations

12 Additional resources for water-based facilities

Executive Summary

This report sets out the project business case for providing additional resources to construct new and upgrade existing marinas and other water based facilities throughout Shetland. Following a recent audit of local marina provision by the Council's Community Development Service, it has been established that a significant demand for new marinas continues to exist. The audit also highlights a number existing marina projects/water based facilities that are seeking funding to upgrade and develop their facilities.

This report also outlines the current demand for water-based facilities and recommends that CPMT allocate a budget of £1,635,421 from the Capital Programme to be used for a programme of water-based facilities. It is proposed that CPMT release funding to Community Development to manage and that this additional resources be used specifically for water-based projects.

1. Introduction

1.1 Community Development, formerly the Leisure and Recreation Department, has for many years supported community organisations throughout Shetland to undertake large water based projects, including the provision of grant assistance towards the cost of constructing new marinas.

1.2 In 2000, the Council agreed to reprioritise the capital programme at its next review to identify a specific water based budget of £250,000 for each of the next 3 financial years, and that individual applications for grant assistance for water based facilities be considered on their individual merit, subject to funding being made available (Min Ref: 151/00).

1.3 In 2002, the Council further agreed to allocate additional budget resources of £250,000 towards the provision of new marinas over three financial years 2001/02, 2002/03 and 2003/04 from the Council's Reserve Fund i.e. £750,000 in total (Min Ref: 35/01).

1.4 In addition to this, the Council also agreed to introduce new criteria to the Capital Grant Aid Scheme for new marinas. At a meeting of the Services Committee on 15 May 2002 a report entitled "Capital Grants to Voluntary Organisations, Proposal for Financial Assistance to New Marinas" was considered and approved by members. In this report the existing policy on the development of New Marinas was amended to allow community groups to apply for grant assistance of up to 80% up to a maximum of £300,000 (Min Ref: 57/02).

1.5 All other types of capital projects are considered under the existing Capital Grant Scheme policy that allows grant assistance of up to 75% up to a maximum of £100,000 (Min Ref: 31/04). This level of funding applies to the projects seeking to develop existing marinas/piers.

1.6 As a result of the New Marinas budget being introduced, and the Capital Grants scheme guidelines being revised to increase the level of grant assistance available to groups then three new marinas have been constructed at:

- Skeld
- Aithsvoe
- Voe

1.7 Following an increasing number of recent enquiries from marina organisations, Community Development recently undertook an audit of the water-based facilities throughout Shetland. 31 local marina groups and pier trust committees were issued with a questionnaire of which 18 groups responded.

1.8 Of the 18 responses received 11 organisations indicated that they had plans for either constructing a new marina or to develop/upgrade an existing facility. A list of organisations that responded including a brief summary of key information is attached as Appendix A.

1.9 From Appendix A members will note that many of the responses are from organisations that currently have a marina and are seeking to further extend their facilities. However, for information members should note that there is no marina provision in the following areas, which if funding became available could form the basis of a priority list to ensure that new marinas are developed where none currently exist. These are as follows:

- Toft - Toft Marina Association
- Brae - Delting Boating Club Marina Users Association
- Hamnavoe - Hamnavoe Waterfront Development Association
- Grutting - Grutting Marina Users Association
- Burravoe - Burravoe Pier Trust
- Hillswick – H.E.A.R.D.

2. Statutory Requirements

2.1 While there is no statutory requirement for the provision of water based facilities, the Council as a leading provider of sport and leisure facilities “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, inside or outside their area, such facilities for recreational, sporting, cultural or social activities as they consider appropriate.” Local Government etc. (Scotland) Act of 1994.

2.2 However Marina projects require a number of statutory consents and licences before any construction work commences. The following consents are required:

Statutory Requirements

- Town and Country Planning (Scotland) Act
- Town and Country Planning (General Permitted Development) (Scotland) Act
- Food and Environment Protection Act 1985
- Coastal Protection Act 1949 (section 34)
- Zetland County Council Act 1974

Non-Statutory Requirements

- Crown Estates – Application for seabed lease
- Shetland Islands Council Works Licence

3. Links to Corporate Plan and Services Plans

3.1 This request has links to a number of strategic documents including the Council’s Corporate Plan. This request will improve the safety of small boat owners whether commercial or leisure craft by “ensuring our society is vibrant, healthy and safe, and one in which everyone is able to take part.”

3.2 In addition to the Corporate Plan, this Project Business Case links well to the Community Development Service Plan for 2005/06 that has a service development target to “establish demand for new marinas and seek funding from the Council to take forward.”

4. Benefits to Other Services (Internal/External)

4.1 Should this Business Case be approved, Community Development will then work in partnership with communities and the marina users representatives to develop new marinas in areas of Shetland where none currently exist. These facilities will provide local boat owners with safe, sheltered locations to moor their small pleasure and commercial vessels. Communities will also have a facility that can be used for a number of other water-based activities including sailing, yoal rowing and deep-sea angling.

- 4.2 The provision of new marinas will provide suitable berthing arrangements for visiting yachts and pleasure craft while in Shetland. This is an initiative, which is being promoted through the Council's Regeneration Partnership and is seeking to develop as a holiday package targeted at maritime visitors to Shetland.
- 4.3 Marinas also provide economic benefits for local communities through increased levels of activity and use of these facilities by small part time commercial fishing boats using the sheltered locations as a base to operate from. Evidence of this increased level of activity can be seen at the 3 most recent marinas built: Skeld, Cunningsburgh and Voe where many small fishing boats are using these facilities as a base for their operations.

5. Definition and Justification of Service

- 5.1 Marinas have long been in existence in Shetland and typically consist of a large breakwater formed from heavy rock armour, which is strategically placed in a sheltered voe or inlet to protect the pontoon berths. Many of the marinas also provide access roads and car parking space for users.
- 5.2 Community Development has recently received an increasing number of enquiries from marina groups seeking funding for a range of water based capital projects. The department's existing Capital Grant Aid Scheme is heavily over subscribed and at present there is a waiting list with over 40 projects on it. The current waiting list includes a number of water-based projects.
- 5.3 However due to the considerable cost of undertaking marina projects and the lack of external funding opportunities available for them, it has been recognised that there is little chance of groups raising the necessary finance to complete their projects. Therefore these types of projects invariably get a lower priority than other community projects such as village halls from the Council.
- 5.4 The organisations that have responded to the audit have supplied evidence that each project has considerable community support, with individuals having already lodged deposits towards the cost of purchasing a berth as confirmation of this support. In addition, many public meetings and consultation exercises have been carried out to determine the level of support for these facilities.
- 5.5 The communities identified at 1.9 above that are seeking to develop new marinas currently do not have any safe boating facilities in close proximity, and most of the other existing marinas have waiting lists for individuals looking to purchase a berth. Failure to provide a new marina will mean that boat owners in these communities continue to be disadvantaged and face the prospect of mooring boats in exposed and/or dangerous locations.

6. Socio-Economic Considerations

- 6.1 As an island community Shetland has always had an affinity with the sea. As part of the local heritage of the island, many generations have participated in water-based activities as a leisure pursuit and many individuals in Shetland still own small pleasure craft.
- 6.2 This proposal would complete the current demand for marinas across Shetland in a number of strategically based sites. In social terms it will provide safe water based facilities for a range of leisure activities to take place at, as well as providing Communities with an asset they can be proud of.
- 6.3 In economic terms, as previously stated in paragraph 4.3 marinas provide safe locations for small commercial fishing boats to operate from, thus making a contribution to employment in rural communities. Marinas also provide facilities for visiting yachts and leisure craft and this can benefit other local businesses and organisations such as community shops.
- 6.4 Marina projects also provide a boost to the Shetland economy as the funding raised and grant aid secured is spent locally on contractors, suppliers and professional consultants.

7. Stakeholder and Client Consultation

- 7.1 Staff from Community Development have consulted with local marina associations and pier trusts in order to gauge the level of demand for grant assistance towards water based facilities with the primary focus being on new marinas. Questionnaires were sent to 31 organisations and 18 replies were received, 11 of which indicated they have projects, which they are seeking funding for. The responses are summarised in Appendix A.
- 7.2 A number of elected members have also contacted Community Development to offer their support for this Business Case based on the amount of requests for these types of facilities in their respective constituencies.
- 7.3 At present Community Development is producing community profiles throughout Shetland and to date a number of profiles have identified the need for a new marina, or upgraded water based facilities within their area.

8. Participation by Others

- 8.1 Community Development staff has liaised with the community groups detailed in Appendix A to gather information on each project. In all cases the community organisations would be the lead organisation for its own project, working in partnership with local community councils and other community groups and commercial operators in their area.

8.2 In order to develop their project a number of the organisations have already employed professional consultants to further develop their plans and provide indicative capital costs for construction.

9. Project Options to Meet Identified Service Needs

9.1 In order to meet the identified service need a number of financial options have been considered;

- a) The direct provision of marinas/water based facilities by the Council in order to lease berths/water-based facilities to boat owners. However this option has been ruled out as it is believed that there are greater benefits for the Council by retaining the involvement of a community organisation to lead the development of the facility and thereafter the ongoing maintenance of the facility.
- b) The renting or leasing of marinas/water based facilities. However this option has been ruled out as there is no marina/water-based facilities available to rent or lease.
- c) Providing no financial support for marinas/water based facilities. However this option has been ruled out due to the level of demand expressed in support of this business case and the potential dangers to boat owners throughout Shetland. However without additional resources being made available through support of this Business Case then it is highly unlikely that any of the projects will be undertaken
- d) Grant Assistance to Voluntary Organisations. This is the preferred option in order to meet the identified service need as it is a tried and tested method of developing marinas/water-based facilities throughout Shetland. This option ensures that there is community involvement and ownership in the construction and ongoing maintenance of each facility. In addition the cost of the new facility is shared with the lead community organisation, thus reducing the financial contribution from Shetland Islands Council.

9.2 Having considered the technical options to meet the identified service needs in this business case, it has been concluded that there are no alternative options to consider other than the current option, which is to provide additional resources for grant aid to community organisations.

10. Funding (Capital and Revenue)

10.1 From Appendix A it can be seen that the total cost of providing new marinas has been estimated at £2,613,399 including VAT and for other water based facilities the estimated construction cost is £709,581 including VAT. However should this Business Case be successful and additional resources be made available for these projects then the actual level of funding required

from Shetland Islands Council would be £1,383,300 of grant assistance for new marinas, which is based on the current new marinas grant aid criteria i.e. a maximum grant of 80% up to a maximum of £300,000 and £252,121 for existing marinas/water based facilities which is based on the current grants to voluntary organisations – General criteria i.e. a maximum grant of 75% up to a maximum of £100,000.

- 10.2 Over the last 5 years in which the marinas at Aithsvoe, Skeld and Voe have been constructed it has been established that marina projects are unlikely to secure external funding, as these facilities are not given a high priority by the major funding bodies. As a result these projects have relied on high levels of grant assistance from Shetland Islands Council to ensure that they are achieved. However, in order complete the funding package for each project there are sources of local funding that can be achieved through Shetland Enterprise, and local Community Councils. In addition, it is a requirement of the grant aid schemes that the community organisation leading the project should contribute a minimum of 10% of the total project costs.
- 10.3 Following completion of the marina/water based facility there are no revenue commitments for Shetland Islands Council as these are all met by the community organisation in ownership of the facility.

11. Risk Analysis

- 11.1 Risks will be considered in more detail during the development of each project.

12. Timing

- 12.1 Due to the nature of marinas, it is more appropriate to carry out work during the summer months when the weather is more favourable and longer daylight is available.
- 12.2 Taking the above weather window into consideration and the fact that each project has a number of tasks to undertake such as fund raising, securing statutory consents and tender action then it is projected that the earliest a new marina project could realistically begin construction would be from April 2006.
- 12.3 It is estimated that a new marina project could take up to 30 weeks to complete. Therefore, given that there are a limited number of local contractors who are equipped to undertake these types of works then it is considered that a maximum of two new marina projects per Council financial year could take place and would require a maximum of £700,000 per Council financial year i.e. £600,000 for new marinas and £100,000 for existing marinas/water based facilities.

- 12.4 Should CPMT agree to support this Business Case and identify funds from the Council's capital programme for new marinas/water based facilities then Community Development would take the lead in developing these projects in consultation with the various community organisations. However the profiling of these funds will be dependant on the group's capacity to meet its own share of the capital costs, the availability of contractors to undertake the works and the limited weather window for undertaking these works.
- 12.5 It is projected that the timescale to complete all of the projects in Appendix A will take up to 4 years to complete, starting in Council financial year 2006/07 going through to 2009/10.

13. Brief for Future Study

- 13.1 If these projects are to be developed then detailed Feasibility Studies will be required for each project. However the projects at Brae, Toft and Hamnavoe have already carried out detailed Feasibility and Design works and are at an advanced stage of development.
- 13.2 The remaining projects in Appendix A are not at such an advanced stage and would require professional input to further develop their projects.

14. Third Party Review

- 14.1 A Third Party Review should be defined and/or instructed by CPMT.

15. Conclusions

- 15.1 The demand for new marinas/water based facilities and also developing existing marinas/water based facilities has been clearly demonstrated by the recent Audit of Marina Provision carried out by Community Development.
- 15.2 However without additional resources being made available through support of this Business Case then it is highly unlikely that any of the projects will be undertaken.
- 15.3 Therefore CPMT should consider whether they are prepared to support the Business Case for all of the projects identified in Appendix A, or whether to provide additional resources for the areas where there are no marina/water based facility at present.
- 15.4 Should support be approved for this Business Case In full, then a budget of £1,635,421 over a four/five year period will be required.
- 15.5 Given Community Development's experience of developing capital projects in partnership with the voluntary sector then should this Business Case be approved then it is proposed that Community Development take the lead in

developing these projects in partnership with the various community organisations.

16. Recommendations

It is recommended that CPMT approve;

- 16.1 A budget of up to £1,383,300 towards the cost of constructing 6 new marinas/water-based facilities as detailed in Appendix A;;
- 16.2 A budget funding of up to £252,121 towards the cost of developing 5 existing marinas/water-based facilities as detailed in Appendix A;
- 16.3 That the authority for decision making for the water-based facilities budget be delegated to the Council's Services Committee as per paragraphs 1.4 and 1.5 (Min Ref 57/02);
- 16.4 That the Executive Director – Community Services, or her nominee, be given delegated authority to devise a capital programme for marinas/water-based facilities, and amend the programme if required to as a result of any new unknown factors;
- 16.5 That all projects be subject to the standard capital grant scheme conditions (Min Ref: 31/04).

Our Ref: NWW/MD/F6.1
Date: 1 August 2005

Appendix A

Table 1 – Constructing new marinas/water-based facilities

Organisation Name	Project Description	Timescale	Pr
Delting Boating Club Marina Users Association	Construction of a 52-berth marina including provision of a breakwater, car-parking facilities, and boat lay down area; launch site, and disabled facilities.	Project could start after tender action (i.e. 6 weeks)	
Toft Marina Users Association	Construction of a 16-berth marina including provision of a breakwater and car-parking facilities.	Project could start in Spring of 2006.	
Hamnavoe Waterfront Development Association	Construction of 43-berth marina and breakwater.	Breakwater to be complete during 2006, and marina works complete in 2007.	
Gruting Marina Users Association	Construction of a 20-berth marina including provision of pier and slipway.	Project could commence within 18 months.	
Hilswick Marina Group (H.E.A.R.D.)	Construction of a slipway, access road and adjacent car parking provision.	Project could commence within 12 months.	
Burravoe Pier Trust	Construction of a breakwater on North East side of marina to provide improved shelter for boats.	Project could commence within 18 months.	
Funding total (Including VAT)			

Appendix A (Cont)

Table 2 – Developing existing marinas/water-based facilities

Organisation Name	Project Description	Timescale	Pr
Sandwich Social and Economic Development Company	Re-construct the Sandsayre Pier that is in imminent danger of collapse.	Project scheduled to happen in 2006, subject to funding	
Lerwick Marina Users Association	Increase the number of berths by 6-8, plus 4 large berths for visiting boats.	Work can commence immediately.	
Scalloway Marina Users Association	Construction of a concrete plinth within marina boundary for use as boat lay down area / maintenance.	Project could commence within 12 months.	

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Symbister Marina Users Association	Increase the number of berths available by providing additional pontoons. Also intend to replace a number of older pontoons that need of constant maintenance.	Project cannot happen until Whalsay ferry is re-located.	
Fetlar Boating, Angling and Recreation Club	Purchase and restoration of existing dilapidated pier at Hubie, Fetlar. Project also includes refurbishment of boatshed and provision of pontoons for summer use.	Project could commence within twelve months.	
Funding total (including VAT)			

Appendix A (Cont)

Table 3 *

Organisation Name	Reason Given
Aithsvoe Marina Association	The committee have just recently completed their new marina and have no plans to develop marina further.
Baltasound Marina Association	The committee have no plans to develop marina further.
Broonie's Taing Pier Trust	The committee have no plans to develop marina further.
East Voe Marina Users Association	The committee did have plans to expand existing marina capacity, but due to the new marinas recently built at Skeld and Cunningsburgh demand for this proposal has reduced considerably.
Out Skerries Marina Users Association	The committee have no plans to develop marina further.
Walls Marina Users Association	The committee have no plans to develop marina further.
Uyeasound Waterfront Trust	The committee have no plans to develop marina at present. However if the SIC agree to build a new pier at Uyeasound then provision of a small marina would be desirable.

* Table 3 details the organisations who returned questionnaire forms confirming that they do not have any projects seeking funding.



REPORT

To: Services Committee

1 September 2005

From: Community Care Manager

Report No: SW19-05F
Deferred Payment Scheme

1. Introduction

- 1.1 Deferred payments were introduced from 1 July 2002 under the Community Care and Health (Scotland) Act 2002. They allow people to avoid selling their homes up-front to meet their care home fees by entering into a legal agreement to have part of their fees paid by their local authority. Their debt would then be settled from their estate, or sooner if the property is sold.
- 1.2 This report introduces and seeks approval for a Deferred Payment Scheme for Shetland.

2. Links to Council Priorities

- 2.1 *Improving Health*
Provision of a Deferred Payment Scheme will help reduce levels of anxiety experienced by people moving into residential care.
- 2.2 *Social Justice*
Forcing people to sell their homes up-front to pay for their care is perceived as unfair. Deferred Payments gives people moving into residential care the option to retain their own home during their lifetime.

3. Background

- 3.1 The Council currently allows people who take up permanent residence in a care home to retain their property and secures repayment of the debt, which accrues from the resident's estate, by seeking permission from Services Committee to place a charging order on the property.

- 3.2 This approach was approved by Social Work Committee at its meeting on 25 July 1994 (Min. Ref. SW50/94.)
- 3.3 Since that time two charging orders have been put in place.
- 3.4 The charging orders are applied on properties under the terms of the Health and Social Services and Social Security Adjudication Act 1983, which provides for situations where residents are unwilling to pay their assessed contribution towards their care costs and where a debt arises as a consequence.
- 3.5 Deferred Payments gives residents the option to enter into an agreement voluntarily rather than have a charging order imposed.
- 3.6 The Scottish Executive has made funding available to local authorities since 2002 to support deferred payments. Shetland's allocation in 2005/2006 is £12,950.
- 3.7 Eligibility criteria for Deferred Payment Agreements are set out by the Scottish Executive in Circular No 13/2004 and are included here at Appendix 1.

4. Proposals

- 4.1 It is proposed that residents who meet the eligibility criteria at Appendix 1 are routinely offered the option of entering into a Deferred Payment Agreement with the Council to avoid having to sell their property up-front to meet their full assessed contribution towards their care costs.
- 4.2 A copy of the proposed Deferred Payment Agreement and of the Standard Security to be associated with that agreement is attached at Appendix 2.
- 4.3 If residents choose to opt for deferred payments, they would be responsible for obtaining a valuation of the property. The Council would reserve the right to obtain its own valuation of the property if there is some doubt as to its value. The valuation will be made at the time of the initial financial assessment as this is the point at which the property should otherwise be sold in order to pay the assessed contribution to the cost of care. There would be no re-evaluation of the property once the resident had entered into the agreement. The Deferred Payment Agreement would apply to the resident's main residence only.
- 4.4 Charging orders would continue to be used in cases where the resident is unwilling to pay their contribution or enter into a Deferred Payments Agreement with the Council.
- 4.5 It is proposed that authority to administer the scheme, including setting up charging orders for non-payment, is delegated to the Head of Social Work.

5. Financial Implications

- 5.1 Currently we have only one client accessing the Deferred Payments Scheme so the estimated cost in 2005/2006 is low.
- 5.2 A previous client in the scheme would have cost approximately £14,000 per annum, but their circumstances recently changed and a Deferred Payment is no longer required. The estimated cost for 2005/2006 can be met from within the existing budget provision of £12,950.
- 5.3 It is expected that funding for Deferred Payments Schemes will continue to be built into local authority allocations from the Scottish Executive in future years.

6. Policy and Delegated Authority

- 6.1 All Social Work matters stand referred to the Services Committee. The Committee has delegated authority to make decisions on matters within its remit and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision (Min. Ref. SIC 70/03.) As the recommendations in this report propose a change to existing policy, a decision of the Council is required.
- 6.2 Currently any decision to impose a charging order on a resident's property in order to secure payment of their assessed contribution to the cost of their care is remitted to Services Committee. This report seeks delegated authority to the Head of Social Work for these decisions.

7. Conclusions

- 7.1 The Scottish Executive expects every local authority to operate a Deferred Payments Scheme and has provided funding towards the cost of these schemes.
- 7.2 Deferred Payments allow residents in care homes to avoid selling their own homes up front to pay their care home fees.
- 7.3 The Scheme proposed in this report complies with Scottish Executive regulations and guidance.

8. Recommendations

I recommend that Services Committee recommend to the Council a Deferred Payment Scheme for Shetland as set out in Section 4 above and delegate authority to the Head of Social Work to administer the Scheme, including the setting up of charging orders for non-payment..

Eligibility for Deferred Payment Agreements

Eligibility is restricted to any person who:

- a) has been assessed as needing a care home place and for whom the Shetland Islands Council has agreed to provide or has secured the provision of a residential place;
- b) has capital at or below the lower capital limit (currently £12,000) when his or her resources are assessed via a financial assessment under the National Assistance (Assessment of Resources) Regulations 1992 (as amended) but excluding his or her home from that assessment;
- c) would not normally have his or her home disregarded from such a financial assessment, (such as the first 12 weeks of permanent residential care; residential care on a temporary basis; where the resident's home is occupied by his or her spouse or partner or a relative of family member who is aged 60 or over or is incapacitated; or where the authority uses its discretion to disregard the home while a former carer continues to live there);
- d) does not wish to sell his or her home or is unable to sell it quickly enough to pay for his or her care home fees;
- e) owns his or her home and can grant the authority a standard security against this property, to secure a reasonable estimate of the total amount which will be owed – i.e. the total of any deferred payments plus any subsequent interest payable;
- f) has a residence which is already subject to one or more standard securities and the Shetland Islands Council is satisfied that the person has sufficient income to meet the costs of existing securities; and at the same time make the assessed contribution to care costs;
- g) complies with any further eligibility criteria imposed or recommended by the Scottish Executive at the time of the application and
- h) has provided the Shetland Islands Council with a valuation of the property at the date of the application for a deferred payment. The valuation must be provided by a person who is, in the reasonable opinion of Shetland Islands Council, qualified to make such a valuation.

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DEFERRED PAYMENT AGREEMENT
(COMMUNITY CARE AND HEALTH (SCOTLAND)
ACT 2002)

between

Shetland Islands Council established under the
Local Government etc (Scotland) Act 1994 and
having their principal offices at the Town Hall,
Lerwick, Shetland

("The Council")

and

***1** residing at

***2** ("the resident")

1. The resident is or shall be living in a care home and is required to pay for this accommodation in terms of National Assistance (Assessment of Resources) Regulations 1992 as amended (the "1992 Regulations").
2. The resident is the owner of ***3** ("the property"). The resident has capital at or below the lower Capital limit when his/her resources are assessed under the 1992 Regulations but excluding the property from the assessment. The resident would normally occupy the property as their main residence. The resident does not wish to sell the property but wishes to enter into a deferred payment agreement in terms of the Council's deferred payment scheme. In terms of the deferred payment agreement, the Council shall meet part of the resident's care home charges during this agreement and the Council shall be reimbursed from the resident's estate on the resident's death. The terms of the deferred payment scheme have been explained to and understood by, the resident.
3. The resident shall pay ***4** per week or such other sum as may be agreed from time to time with the Council's Financial Assessment Officer. The remainder of the charges due in terms of the 1992 Regulations shall be deferred in terms of the Deferred Payment Scheme, subject to a maximum ***5**. The resident undertakes to grant a standard security over the property to a value of ***6** in terms of the draft attached hereto
4. The resident shall ensure that the property is insured for the full market value against the usual risks and that it is maintained to a reasonable standard throughout the period of this agreement. The resident shall exhibit the insurance policy and proof that it is in force when requested to do so by the Council. The resident shall allow the Council entry to the property for the purposes of inspecting the condition. The resident shall arrange for any necessary repairs required to the property in the opinion of the Council within a timescale appropriate to the nature of the repairs required.

5. The resident shall not lease the property without obtaining approval from the Council of the terms and conditions of the let.
6. This agreement shall take effect from *7. The agreement can be terminated by the resident by written notice at anytime, provided always that the resident makes full payment of any sums deferred in terms of this agreement. If the resident does not terminate this agreement beforehand then the agreement shall terminate 56 days after the date of the residents death.
7. The Council can terminate this agreement on giving 28 days notice to that effect in the event that the resident is in breach of any condition of this agreement. In this case, the Council reserves the right to impose a charging order on the property under the terms of Section 23 of the Health and Social Services and Social Security Adjudication Act 1983 in order to ensure payment of the debt accruing.
8. The Council shall not charge interest on the sums deferred in terms of this agreement until either:
 - (1) the agreement is terminated by the resident, or
 - (2) 56 days after the date of the resident's death, or
 - (3) the agreement is terminated by the Council because of a breach of conditions by the resident.

When interest is due it shall be charged at a reasonable rate as determined by the Council.

This agreement is signed by the resident and the Council

.....
Resident

.....
For the Council.

.....
Date

.....
Date

13 Miscellaneous Directory: stansec-dpa

This is the draft Standard Security referred to in the deferred payment agreement with Shetland Islands Council.

I, * formerly of *2 and now residing at *3, considering that I have entered into a Deferred Payment Agreement dated * in terms of the Community Care and Health (Scotland) Act 2002 with the Shetland Islands Council, established under the Local Government etc. (Scotland) Act 1994 and having their principal offices at the Town Hall, Lerwick, Shetland (hereinafter referred to as “the Council”), therefore in security of the deferred payments and any interest thereon payable to the Council in terms of the said Deferred Payment Agreement, I grant a Standard Security in favour of the Council over ALL and WHOLE that plot or area of ground at *4 in the Parish of *5 Shetland Islands Area and for the purpose of registration of writs in the County of Zetland extending to *6 all as the said plot or area of ground is more particularly described in and disposed by *7; together with *8; The standard conditions specified in Schedule Three to the Conveyance and Feudal Reform (Scotland) Act 1970 and any lawful variation thereof operative for the time being shall apply; And I grant warrandice; And I consent to registration for execution: IN WITNESS WHEREOF

Ref: *

STANDARD SECURITY

by

*9

in favour of

SHETLAND ISLANDS COUNCIL

Re: A Deferred Payment Agreement

Subjects: *11

2005

B C Hill
Acting Divisional Manager - Legal
Executive Services Department
Shetland Islands Council
Hayfield House
Hayfield Lane
LERWICK
Shetland
ZE1 0QD

FAS: 7155



REPORT

To: Services Committee

1 September 2005

From: Community Care Manager

Report No: SW21-05F
CSD Telephone Rental Payments

1. Introduction

- 1.1 This report presents additional information regarding the payment of telephone rental charges for a small number of Social Work clients.
- 1.2 The report was requested by Members at the meeting of Shetland Islands Council on 30 March 2005 (Min. Ref. SIC 39/05) and includes options for consideration by Members.

2. Links to Council Priorities

- 2.1 *Social Justice*
The current arrangements whereby some people receive help with their telephone rental payments means that resources are not necessarily being allocated fairly or targeted at those most in need of support.

3. Background

- 3.1 The Social Work Service has for a number of years made payments to cover the telephone rental charges for some people in order to meet their assessed needs under the terms of the Chronically Sick and Disabled Persons (Scotland) Act 1972. The Act requires the local authority to establish whether it is necessary to provide or assist a person to obtain a telephone or special equipment to use the telephone in order to meet their individual assessed needs.

- 3.2 In the vast majority of cases, the identified need is to be able to call for help in an emergency and more recently the Social Work Service has provided the Community Alarm Service to meet that need.
- 3.3 The Community Alarm Service requires a telephone line to be installed and installation costs are paid where no line previously existed. Telephone rental is generally not paid for clients who have the Community Alarm installed.
- 3.4 Currently there are 738 Clients with a community alarm. There are 18 people whose telephone rental is paid and of those 11 also have the community alarm.
- 3.5 As part of the budget cuts exercise for the 2004/2005 budgets, it was agreed by Council that telephone rental charges should not be paid by the Social Work Service (Min. Ref. SIC 110/04.)
- 3.6 This decision has not been implemented because of concerns raised by the Social Work Spokesperson and other elected Members that to do so would cause hardship for those clients who continue to have their telephone rental paid for them.
- 3.7 The needs of each individual who currently has their telephone rental paid by Social Work have been re-assessed and the current position in each case is summarised in Appendix 1. It can be seen from this information that 5 are unclear as to why payment is being made. There is one case where the client feels they may have some difficulty in meeting the cost themselves.
- 3.8 There are currently no explicit eligibility criteria for granting special assistance with telephone rental to some individuals and not to others and it is clear from the information in Appendix 1 that there is now no consistency in this area.
- 3.9 If the Council wishes to continue to make payments to cover the telephone rental charges for some individuals then clear, reasonable, objective criteria must be set for this.
- 3.10 No other local authority makes payments to cover clients' telephone rental charges. People with low incomes would still be expected to pay these charges and the national benefits schemes are deemed adequate for this purpose.

4. **Proposals**

- 4.1 A number of options regarding telephone rental payments are identified below for consideration by Members.
 - 4.1.1 *Option 1 – Status Quo*
Consultation with Legal Services has confirmed that the status quo is not an option as the inconsistencies arising mean that the current situation is unfair and could leave the Council open to challenge. It is also inconsistent with the Council's priorities as set out in the Corporate Plan 2004-2008.

4.1.2 *Option 2 – Implement New Eligibility Criteria*

If the same criteria were used as for the Community Alarm Scheme, this would increase the number of telephone rental payments made from 18 to 745 assuming that all current recipients of the payment would meet the criteria at an annual cost of approximately £85,520. More restrictive criteria could be considered. The information in Appendix 1 would suggest that an additional criteria could be formulated around social inclusion for example where the client also has mental health problems, however, in the only case where the client felt they would have difficulty with making the payment the issue is a financial one rather than their assessed care needs.

4.1.4 *Option 3 – Cease Payment of Telephone Rental*

In this case, further work could be done in any cases where this may cause financial hardship in order to maximise the client's income from benefits, which would be expected to cover basic household expenses including telephone rental payments.

- 4.2 There is no change proposed to the Community Alarm Scheme. The Community Alarm Scheme continues to be the service offered to clients at risk so that they can call for help in an emergency. Clients who have the Community Alarm Service installed pay their telephone rental and all telephone call charges.

5. **Financial Implications**

- 5.1 There is currently no budget for the payment of telephone rental charges. There is an anticipated overspend of £2,100 in 2005/2006, assuming the cut is implemented with effect from 1 January 2006.
- 5.2 The cost of paying telephone rental charges for all clients with a community alarm would be approximately £85,520 per annum. There is no budget provision for this.
- 5.3 **Members should note that the General Fund Revenue Estimates and Council Tax Setting Report F-002-F states that the budget is £5.878 million in deficit and all service areas are required to undertake a critical review of cost implications to their services, in order to identify savings and achieve a balanced budget.**

6. Policy and Delegated Authority

- 6.1 **All Social Work matters stand referred to the Services Committee (Min. Ref: SIC70/03.) The Committee only has delegated authority to implement decisions relating to matters within its remits for which the overall objectives have been approved by the Council, in addition to appropriate budgetary provision.**
- 6.2 **Service Committee does not have delegated authority to change the decision taken by Council to stop making telephone rental payments. If Services Committee wishes to change this decision, then they can make a recommendation to Council.**

7. Conclusions

- 7.1 The current situation with regards to the payment of telephone rental for some clients is unfair.**
- 7.2 If payments are to continue, then clear eligibility criteria need to be set.**
- 7.3 If the criteria includes all clients who receive community alarm, as would seem likely because of their assessed needs, then an additional £85,520 per annum would be required.**
- 7.4 The need to continue to make savings in Council spend is real and although the saving on previous budget provision in this area is small, (2004/2005 budget for CSD phones was £2,800), the cost of a more equitable service is likely to be considerable.**
- 7.5 The payment of telephone rental charges does not of itself meet the assessed social care needs of vulnerable people in the community.**

8. Recommendations

- 8.1 I recommend that Services Committee considers the information presented in this report and recommend that Council:**
 - a) confirms the original budget saving as per the minute of 30 June 2004 (Min. Ref. SIC 110/04);**
 - b) notes that 18 people will no longer have their telephone rental charges paid by the Council; and**
 - c) notes that where an individual's assessed needs indicate that they are at risk due to frailty or disability and as a result would need to be able to summon assistance in an emergency, the Community Alarm service will be offered.**

Date: 1 September 2005
Our Ref: CF/AN/SW21-05

Report No: SW21-05F

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ID No	Location	Also In Receipt of Community Alarm (Homelink)?	Original recipient of Payment?	Circumstances of original payment.	Other comments
1	Central Mainland	Yes	No	Payment was received due to terminal illness of partner.	Partner is now deceased and payment was transferred to current recipient – no assessment of need made for this action. Recipient feels they manage finances well and will accept whatever decision is made regarding CSD payments.
2	Central Mainland	Yes	Yes	Payment originally made due to financial hardship and following hospital treatment.	Medical therapy completed, financial circumstances also altered.
3	Central Mainland	No – declined offer	Yes	Payment received due to terminal illness of partner. Partner now deceased.	Recipient registered disabled.
4	Central Mainland	Yes	Yes	Payment originally received due to two dependants with learning and physical disabilities.	Both dependants are now deceased. No assessment made of current recipients changed needs.
5	Central Mainland	No – declined offer due to good physical health.	Yes	To provide social support and contact, due to MH problems.	Recipient felt they may notice a difference if payment ceased but stated they would not necessarily struggle to finance this out of their current income.
6	Outer Isle	Yes – Accepted offer on visit	Yes	Payment originally received following illness of partner.	Partner now deceased. No assessment made of current recipients changed needs.
7	Outer Isle	Yes	Yes	Originally arranged to assist discharge from hospital following intensive treatment, 20-30 yrs ago.	Recipient did not request payment and stated they did not feel they had needed this. Was given “all clear” from hospital many years ago. Felt able to fund the cost of line rental themselves
8	Central	No –	Yes	Recipient was	Condition is now clear.

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	Mainland	declined offer		undergoing intensive hospital treatment.	Recipient has no concerns about funding line rental themselves.
ID No	Location	Also In Receipt of Community Alarm (Homelink)?	Original recipient of Payment?	Circumstances of original payment.	Other comments
9	West Mainland	Yes	Unclear	Recipient lived with sibling until their death last year. Initially offered payments about 20 years ago although there is some uncertainty about why the payments commenced and who they were intended for.	Recipient lives in a very remote area and is virtually housebound due to frailty. Recipient stated they are acutely aware of only one income since the death of their sibling.
10	Central Mainland	Yes	Yes	Recipient received payment following death of partner.	Recipient is registered disabled.
11	Central Mainland	No	Yes	Unclear of circumstances, was on strong medication at time and cannot remember.	Recipient is in regular contact with CPN who has confirmed that they do not see recipient would be at any sort of risk by not having phone rental paid.
12	Central Mainland	No	Yes	Recipient believed this was originally set up to allow them to have regular contact with CMHT and family.	Recipient is in regular contact with CPN who has confirmed that they do not think recipient would be at any risk without this payment. CPN stated that when payment was originally set up recipient was misusing alcohol heavily.
13	Central Mainland	No	Yes	Unclear of circumstances.	Recipient has contact with CMHT who confirmed that they would not be at risk without this payment.
14	Central Mainland	Yes	Yes	Originally received service about 30 years when he first became ill and required to contact the nurse and doctor, at this time family members had to use	Recipient felt they could pay phone line rental as they are kept well-informed of benefits available.

				the telephone kiosk for this.	
ID No	Location	Also In Receipt of Community Alarm (Homelink)?	Original recipient of Payment?	Circumstances of original payment.	Other comments
15	Central Mainland	Yes	Yes	Unclear of circumstances	Recipient stated they can easily afford to pay and could not understand why it has been paid to them for so long.
16	North Mainland	No – refused offer	Yes	First received when child, with learning difficulties, went to school. At this time the family did not have a phone and this scheme enabled them to have one.	Child is receiving full benefit entitlement; family can meet costs of rental.
17	Central Mainland	Yes	Yes	To assist with set up of Community Alarm due to outstanding phone bills with BT and credit rating.	Requires Community Alarm. There may be bills which have been archived and would be triggered by recipient taking over payment, but account is currently in recipients name so this may not happen. Recipient may be asked to pay in instalments in advance, if any old bills are indeed triggered. However they told care manager they could afford to pay by direct debit if this was the case.
18	Outer Isle	Yes	Yes	Partner qualified for payment	Care manager confirmed, there is no financial implications if this couple do not receive payment.



Shetland Islands Council

REPORT

**To: Services Committee
Executive Committee**

**1 September 2005
6 September 2005**

From: Head of Finance

HOUSING REVENUE ACCOUNT (HRA) DEBT Report No: F-033-F

1.0 Introduction

- 1.1 The purpose of this report is to inform Members of the background and impact of HRA debt following a request made at Service Committee on 16 June 2005.

2.0 Links to Corporate Priorities

- 2.1 This report links to Section 2 –Organising our Business of the Corporate Plan in particular Planning and Prioritising, ensuring we define our priorities, so that we can sustain the services we want to provide and help develop our economy.

3.0 History of Housing Debt

- 3.1 The HRA debt was incurred to build the large number of new houses that were required in the oil boom years to accommodate the influx of workers. At the same time maintenance on existing properties fell behind as the boom used up resources. As a consequence the Council had to continue to sustain a high level of borrowing afterwards to maintain the stock. The debt was encouraged by Government who wished to secure oil revenue at the earliest opportunity and encouraged the Council to use the Housing Support Grant system as a means of assisting to repay the debt.
- 3.2 The Council is required to operate a Loans Fund under Schedule 3, Paragraph 12 (1) of the Local Government (Scotland) Act 1975 and with regard to accounting guidance issued by the Local Authority (Scotland) Accounts Advisory Committee.
- 3.3 It has been Council policy since 1992 that the Council should be debt free, other than the HRA. This means that non-HRA capital expenditure is funded from current revenue, capital receipts and grants are from capital reserves and not from borrowings. The HRA has not gone debt free, partly because it

does not have the resources to pay off debt early, and partly because it attracts significant financial support from the Scottish Executive (in the form of Housing Support Grant, or HSG) as a result of being in debt.

- 3.4 Therefore HRA capital expenditure is partially funded by capital receipts and grants, any balance is funded by borrowing from the Council's Loans Fund. These borrowings are called Loans Fund Advances and are repaid by the HRA to the Loans Fund over an agreed period, typically between 40 and 60 years depending upon the nature of the expenditure being funded. The Loans Fund also charges interest and expenses to the HRA on the advances outstanding. The level of interest and expenses varies with the rates of interest the Loans Fund itself has to pay plus its cost of operation.
- 3.5 Although the HRA makes its borrowings from the Loans Fund (and is required by law to do so), there is no requirement for the Council to necessarily borrow externally to match the capital spending by the HRA. The Loans Fund uses money from a variety of sources to ensure that the cash is available to fund the capital expenditure. As the Council has large reserves held in a number of funds, the Loans Fund borrows from these reserves to cover the HRA capital expenditure. It pays these reserves a fair market rate of interest on borrowings.
- 3.6 It is important to note that because the Council has these reserves then it is not permitted to borrow long term from external bodies as such borrowings would be deemed to be 'borrowing to invest', which the Council does not have the power to do.
- 3.7 As at 31 March 2005, the HRA had outstanding advances of £51.3m. The HRA pays debt charges to the Loans Fund each year. These consist of three elements:

- (1) principal repayments – instalments to pay back the advances made
- (2) interest – interest payments on the total sum advanced
- (3) expenses – to cover the running costs of the Loans Fund

In 2004/05 the total of these three elements amounted to £4.37m. Attached as Appendix A is a graph showing the debt repayment since 1984. Appendix B shows the annual outstanding debt over this same period of time.

4.0 Housing Support Grant (HSG)

- 4.1 Historically HSG was to bridge the gap between the amount of eligible expenditure and the amount of relevant income which it is reasonable for a local authority to incur/receive on the Housing Revenue Account (HRA). Eligible expenditure comprises of loan charges, supervision and management, rents lost and other expenditure. Relevant income includes rents, brought forward balances on the HRA and income from other sources.
- 4.2 Each year the Scottish Executive deducts from the Housing Support Grant we receive annually an adjustment to take account of any changes in the factors used as a basis for calculating the original grant. This is done 2 years retrospectively. In particular changes to the interest rate applied by the

Scottish Executive for borrowing (historically been higher than the internal borrowing by the SIC HRA) and numbers of Council dwellings. This adjustment has always been limited to some extent, in the past this was less than it is now. This means that we gain each year if there is a difference in the base factors estimated and the actuals.

- 4.3 Prior to 2000/01 the amount the SIC had to pay back was a minimum of £354 per dwelling (total repayment approximately £0.75 million per annum). This resulted in the Council putting in place a clawback mechanism, to ensure that rents were not overly burdened in any particular year by prior year adjustments. From 2000/01 onwards the amount per dwelling reduced to £110 per dwelling (total repayment approximately £0.2 million per annum) on a temporary basis. However, since that time no change to the amount per house has been made.

For example, the difference in interest rates and house numbers may have resulted in an adjustment for the year of £0.9 million, prior to 2000/01 this would have resulted in the a repayment to the Scottish Executive of £0.75 million. The Scottish Executive would have only had to limit the loss in HSG by £0.15 million. After 2001/02 using the same example the Scottish Executive would limit the loss in HSG to the SIC by £0.7 million (£0.9m less £0.2m).

- 4.4 From 2004/05, no additional contributions from the HRA have been made to the HSG Abatement (reserve which meets the cost of clawback). This has resulted in a reduced or nil draw on the Housing Repairs & Renewals Fund (this is the fund used to balance the HRA when a deficit occurs). At present it is deemed that there is sufficient in the HSG Abatement reserve to meet the clawback requirement for approximately 15 years. The current balance is £3.8m.

5.0 Impact on HRA and Other Council Reserves/Services

- 5.1 Housing Support Grant for 2005/06 is currently £2.45m, which funds 52% of the debt charges currently levied of £4.68m. Approximately 29% of the 2005/06 budget is required to fund debt. The removal of debt would result in £2.23m available for reinvestment and/or rents reduction. This available income would essentially be able to pay for the planned programme of capital investment and would lessen the need for further borrowing.
- 5.2 An advantage of having no debt, depending upon the future rent levels (assuming that there would be sufficient income raised to meet all expenditure), is that there would no longer be a need to inject non-HRA funds into the Housing Repairs & Renewals Fund. In fact, any surplus HRA income raised could be paid into the Fund and used for future HRA expenditure. However, It should be noted that there has not been an injection of non-HRA funds into the Housing Repairs & Renewals Fund for several years.
- 5.3 To repay from non-HRA Reserves all internal HRA loans outstanding would severely impact upon the amount of Reserves the Council has to fund capital investment and ongoing revenue expenditure.

5.4 As at 31 March 2005, the reserves invested in the Loans Fund are:-

Capital Fund	£45.02m
Repairs & Renewals Fund	£ 4.43m
Reserve Fund	£ 5.73m
Insurance Fund	£ 0.03m
HRA Repairs & Renewals Fund	£ 0.62m
Harbour Funds	(£ 5.95m)
PBRF	£ 0.74m
Marine Fund	£ 0.01m
Quarry R&R Fund	£ 0.12m

Total **£50.75m**

5.5 If the HRA were debt free the Council would lose £2.45 million per annum in Housing Support Grant and this will have a detrimental impact on Council Reserves as this annual income will no longer be received into balances or the interest earned thereon.

5.6 The overall effect of this reduction in Council Reserves would result in reduced ability for the Council to provide for future services either revenue or infrastructure.

6.0 Housing Quality Standard

6.1 The Council has to ensure that its properties reach the Scottish Housing Quality Standard (SHQS) by 2015 and maintain it thereafter. This will result in a requirement for extra borrowing in the future to fund the necessary investment in the housing stock. However, assuming HSG continues it is expected that this can be contained within existing limits and see the debt reducing gradually overall.

7.0 Other Current Government Issues

7.1 Debt Repayment by Scottish Executive

7.1.1 In April 2005, Councillor Mitchell and the Head of Housing met with civil servants, at that meeting Carol Golden stated that the Scottish Executive had money set aside for debt repayment in Shetland if there was a stock transfer, but there could be no guarantees that this money would always be available.

7.2 Housing Support Grant Future

7.2.1 In Scotland, the only two councils still in receipt of Housing Support Grant are Eilean Siar and Shetland. At present this is paid as a result of the Housing Support Grant (Scotland) Order 2005. There have been no formal announcements that this support will be withdrawn

however, it is annually approved and could be subject to removal at short notice. However this would only likely be in line with a stock transfer. Eilean Siar is due to ballot their tenants on stock transfer proposals this autumn.

7.3 Future Funding of Council Housing

7.3.1 A recent report to the House of Commons "Report on the inquiry into the future funding of Council Housing 2004/05" (which has been supported by MPs who have signed an Early Day Motion EDM48) has recommended that to make choice a reality for tenants government has to provide a level playing field between the different options available i.e. Stock Transfer/Private Finance Initiative/Arms Length Management (ALMO)/Local Authority Retention. The main recommendations were:-

- a) Give Local Authorities the same rights as Registered Social Landlords (RSLs) to borrow against stock and rental income;
- b) Write off historic debt or take direct control of maintaining the cost of debt and remove this element from the housing subsidy system, making housing finance fairer and much simpler;
- c) Increase the management and maintenance allowance and the major repairs allowance to enable councils to maintain their stock;
- d) Create an investment allowance as a revenue stream to allow councils still in investment need to make use of prudential borrowing;

7.3.2 It is clear from the House of Commons report and the backing from MPs that there is support for change in how debt and investment is managed and that there is a need for a further option to allow local authorities to retain stock on a level playing field. However, this is still at a tentative stage in England. There is no guarantee this will be replicated in Scotland regardless of the outcome but it is worth noting given the position the SIC finds itself in respect of debt repayment by the Scottish Executive.

7.3.3 In addition there is controversy in England at present about HRA surpluses from some Councils' being used to support the rent requirements in others. This may add to pressure to review the HRA subsidy system, which in turn may have an impact on future HSG provision.

8.0 Policy and Delegated Authority

8.1 This report is being presented to the Executive Committee in terms of its remit for financial policy and monitoring, and to Services Committee because of its responsibility for the Housing service. As this report is for noting only there are no policy and delegated authority issues to be addressed.

9.0 Conclusions

- 9.1 Unless the HRA can obtain resources from the rest of the Council or from the Scottish Executive to write off debt it must borrow from the Council's Loans Fund.

For as long as the Council has reserves the Loans Fund must borrow from the Council's reserves, and it must pay a fair market interest rate on those borrowings (which is what happens).

The only way the Council could bring the present situation to an end would be if it chose to use its reserves to write off the HRA debt. Such a massive subsidy to Council house tenants would allow their rents to pay for the annual programme of investment without incurring further debt and/or reduce rents, but would have the following adverse effects:

- 9.1.1 Shetland's entitlement to Housing Support Grant would cease, ending an inflow into the local economy currently worth £2.45 million per annum;
 - 9.1.2 tenants' entitlement to Housing Benefits would be reduced meaning that part of the rent reduction would benefit the UK Treasury, and not the Shetland community and economy;
 - 9.1.3 writing off HRA debt would use up £51.3 million (about one sixth) of the Council's reserves, and would reduce annual returns on investments by about £4 million per annum thereafter;
 - 9.1.4 the Council already has spending plans for all the current earnings on its reserves, and also for investing a significant part of their capital in infrastructure investment, and therefore using them to write off HRA debt would oblige the Council to cut back on other revenue and investment plans;
- 9.2 I therefore conclude that in present circumstances there isn't a sound case for using Council reserves to write off HRA debt. This conclusion should, of course, be revisited in any of these main circumstances change at some future date.

10.0 Recommendations

- 10.1 I recommend that the Services Committee and the Executive Committee note this report.