



## **REPORT**

**To: Infrastructure Committee**

**8 March 2011**

**From: Service Manager – Trading Standards  
Environment and Building Services  
Infrastructure Services Department**

### **SMOKING PREVENTION AND REDUCTION WORK WITH YOUNG PEOPLE**

#### **1 Introduction**

- 1.1 This report is brought in response to the commitment in paragraph 7.1.2 of report ES-11-09-F, presented to the Infrastructure Committee on 10 March 2009 (Min Ref: 21/09), to report back to the Committee following review of the Health Improvement Officer post within the Trading Standards Service.
- 1.2 The report seeks the Infrastructure Committee's approval to make this post permanent, but with a reduction from full time to 0.75 FTE.

#### **2 Link to Council Priorities and Risk**

- 2.1 This work supports the Corporate Plan priorities of *Improving Health* and *Active Citizenship*, and also contributes to the NI 17 Single Outcome Agreement target to reduce the proportion of adults who smoke.
- 2.2 This work also makes a major contribution to enabling the Council to manage the risks associated with its legal and performance obligations in relation to preventing young people from accessing tobacco products.
- 2.3 The proposed reduction in hours will contribute towards the Council's budget strategy to reduce costs to a more sustainable level.

#### **3 Background**

- 3.1 In May 2008, the Scottish Government announced a package of additional funding for local authorities to support enhanced enforcement of tobacco sales law, mainly by increasing the amount of test purchasing using young volunteers, as part of the overall programme of measures set out in the Government's long-term Smoking Prevention Action Plan *Scotland's Future is Smoke-free*. In Shetland, this work forms part of the multi-agency local Tobacco Control Strategy and Action Plan (Min Ref: 02/08).

- 3.2 This additional funding was initially on a temporary basis, but has now been included in the ongoing local government finance settlement figures.
- 3.3 In March 2009, the Committee approved the appointment of a temporary Health Improvement Officer to significantly enhance the work to reduce the levels of smoking by young people in Shetland (Min Ref: 21/09).
- 3.4 The first post holder began work with the Trading Standards Service in July 2009. In May 2010 the Infrastructure Committee received an update on, and expressed support for, the work being undertaken (Min Ref: 29/10).
- 3.5 The post has recently become vacant, and the Service has taken this opportunity to review the ways in which this work is carried out in the light of the Council's budget strategy and the Scottish Government's continuing funding provision.

#### **4 Work Completed to Date and Ongoing Requirements**

- 4.1 The main priorities of the Health Improvement Officer's work have been to carry out tobacco education sessions in secondary schools, and to facilitate test purchasing for tobacco by recruiting, training and supporting sixteen year old volunteers.
- 4.2 The Health Improvement Officer (in partnership with NHS Shetland) also carried out research into the current provision of tobacco education in Shetland's schools, in order to assess what additional support might assist in helping to ensure that every pupil receives appropriate education in this area in line with the new Curriculum for Excellence.
- 4.3 This research identified Curriculum for Excellence 'Health and Wellbeing' learning outcomes and experiences requiring further support and improvement with respect to tobacco education resources. Teachers expressed strong support for partnership delivery of tobacco education with external agencies such as health professionals and the Trading Standards Service - preferring visits from external speakers and the development of teaching materials to external training of teachers. Responding teachers unanimously called for the development of a supplementary tobacco education pack referenced to the new Curriculum for Excellence in Scotland, and NHS Shetland is funding the production of such a pack based on the resources put together by the Health Improvement Officer.

- 4.4 We also took the opportunity, while in contact with staff in secondary schools, to investigate the current provision of consumer education – and, in particular, to highlight the availability of new teaching resources which have been developed by the Office of Fair Trading. As with tobacco education, teachers expressed strong support for partnership delivery of consumer education with external agencies such as the Trading Standards Service – again preferring visits from external speakers and the development of teaching materials to external training of teachers. Our experience in 2010 is that this area dovetails very effectively with our tobacco education work.
- 4.5 The main provisions of the Tobacco and Primary Medical Services (Scotland) Act 2010 begin to come into force on 1 April 2011, including the duty on each local authority to carry out an annual programme of enforcement action in its area. This duty sits alongside the existing Scottish Government targets to attempt test purchases at 10% of Shetland's tobacco retailers and carry out advice sessions with at least 20% of Shetland's tobacco retailers each year.

## **5 Financial Implications**

- 5.1 The Scottish Government's funding for Shetland Islands Council to support enhanced enforcement of tobacco sales law is £19,872 per year, included as part of the local government finance settlement figures.
- 5.2 In 2009-2010, NHS Shetland was able to contribute £8,000 (from the funding it received for work to reduce levels of smoking) to support the funding of the Health Improvement Officer post for the first year.
- 5.3 Through efficiencies and savings, the Trading Standards Service was able to continue this post full-time in 2010-2011 (despite NHS Shetland being unable to make an ongoing funding contribution).
- 5.4 As part of the Council's current savings exercise, the Service has proposed to reduce this to a 0.75 FTE post (making an annual saving of £6,886) as part of its strategy to achieve an ongoing and sustainable 5% reduction in its budget.
- 5.5 The full cost of the proposed 0.75 FTE post is £20,659 for 2011-2012, which was included and approved as part of the Estimates Report to Council on 10 February 2011.

## **6 Recommendation from Vacancy Management Panel**

- 6.1 I was asked to put the details of this post to the Vacancy Management Panel, prior to bringing this report to the Infrastructure Committee. The Panel, at its meeting on 10 February 2011, made the following recommendation. Hold until Committee approval and review of Infrastructure complete.

## **7 Policy and Delegated Authority**

- 7.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit, “Section 12.0 of the Council’s Scheme of Delegations” and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision. However, a Council decision is required to change a post from temporary to permanent.

## **8 Conclusions**

- 8.1 The Health Improvement Officer post was initially created as a temporary position for up to two years, subject to a review of its effectiveness during that period.
- 8.2 This was facilitated by additional Scottish Government funding to support enhanced work to reduce the levels of smoking by young people, and this funding has now been included as part of the ongoing local government finance settlement figures.
- 8.3 The review has confirmed that the work carried out by the initial holder of the post has made a valuable and essential contribution, by undertaking and enabling activities targeted to reduce the levels of smoking by young people in Shetland.
- 8.4 I believe that this post is necessary for the Trading Standards Service to maintain the work which we carry out to discharge the Council’s enforcement duties and, in partnership with NHS Shetland, to reduce the levels of smoking by young people.
- 8.5 However, as part of the Service’s contribution to the Council’s budget strategy, I believe that this post could be sustainably reduced to 0.75 FTE.

## **9 Recommendations**

I recommend that the Infrastructure Committee :

- 9.1 Recommend that the Council approve the conversion of the temporary full-time Health Improvement Officer post to a permanent 0.75 FTE post.
- 9.2 Recommend that the Council, subject to approval of 9.1, fill this post on a temporary basis until the review of Infrastructure Services (Min. Ref. 15/11) is complete.

Report Number: ES-01-11-F



## **REPORT**

**To: Infrastructure Committee**

**08 March 2011**

**From: Service Manager – Environmental Health  
Environment and Building Services  
Infrastructure Services Department**

### **HEALTH AND SAFETY EXECUTIVE PROPOSED CHANGES TO HEALTH AND SAFETY REGULATIONS**

#### **1 Introduction**

- 1.1 The Health and Safety Executive (HSE) have contacted local authorities to seek their political views on their proposed changes to Health and Safety Regulations, which will also impact on local authorities.

#### **2 Link to Council Priorities and Risk**

- 2.1 The Council's role in ensuring workplaces are safe, delivers on Community Safety outcomes in the Single Outcome Agreement. The Council has a statutory duty to make adequate arrangements for the enforcement of Health and Safety provisions, in accordance with such guidance as the HSE may issue. The report highlights that the HSE are proposing changes to the Health and Safety Inspection Regime.
- 2.2 In addition the proposals from the HSE, will have an impact on the internal Health and Safety Management systems within the Council, however, Safety and Risk Services will cover this aspect in a report to the next Central Safety Consultative Committee.

#### **3 Background**

- 3.1 Both the HSE and local authorities have a role in the enforcement of health and safety in workplaces. The Health and Safety (Enforcing Authority) Regulations 1998 allocates the enforcement of health and safety legislation at different premises between local authorities and HSE. Local authorities are the principal enforcing authority in retailing, wholesale distribution, warehousing, hotel and catering premises, offices, and the consumer/leisure industries.
- 3.2 The HSE have written to Local Government Regulation seeking local authorities political views on the proposals, which will affect the way that local authorities enforce health and safety in workplaces. A copy of the letter and the proposals are attached as Appendix 1.

- 3.3 Shetland Islands Council have worked hard to educate and support businesses in the Local Authority enforced Sector to achieve compliance with Health and Safety law. Feedback from inspections would suggest that businesses visited broadly welcome the inspections and seek advice when necessary between visits, attend training and drop in sessions. As an Island without any permanent HSE presence Environmental Health have been approached at business drop-ins to give similar support to businesses in the HSE enforced sector who have very rare contact with the HSE. This indicates that there is not the same level of support from the HSE available to local businesses.
- 3.4 The HSE is proposing that a “cost recovery regime” is implemented, as detailed in their letter. This means that businesses will be charged for any faults, which have resulted in their enforcement agency needing to take action. A move to Cost Recovery will significantly alter the relationship Shetland Islands Council has with local businesses and will damage the openness in communication between business and regulators. Those who report accidents or seek advice risk being inspected and subject to Cost Recovery. Those that are not coming to the attention of their enforcement authority may perceive that there is no benefit in continuing to commit the same level of resources to Health and Safety.
- 3.5 The HSE are also proposing reducing the number of inspections to businesses. The HSE’s research (RR386) into the impact of recession and economic recovery on Health and Safety recognises that injury rates initially fall in a recession and will then start to rise in response to recovery, although a prolonged recession may result in increased pressure for corner cutting by management resulting in a rise in accidents. Reducing proactive inspections when evidence suggests that businesses are under pressure to cut corners and reduce overheads is not an adequate response to protect the health and safety.
- 3.6 Health and Safety research evidences that there is a direct correlation between the level of inspections and occupational accidents and inspection activity influences behaviour of employers. The All-Party Parliamentary Group on Occupational Safety and Health published a report on the impact of the proposed cuts to the HSE including an analysis of 44 research papers on the impact of inspections which confirms that there is strong evidence that when companies are given orders or fines as the result of inspections, the rate and severity of injuries are decreased.
- 3.7 The All Party group also concludes “changing behaviour and reducing injury and illness rates is best achieved by a mixture of enforcement, support, guidance, advice and information”. If any one of these is reduced it is likely to reduce the effectiveness of the others.

- 3.8 This impact was also confirmed by a study by the Occupational Safety and Health Administration in the US, which showed that inspections imposing penalties produced a 22 per cent decline in injuries during the following weeks. The TUC recently published a report that shows that 61 per cent of employers are believed to have made improvements because of the possibility of a visit by an inspector. The European Agency for Health and Safety at work shows that inspections of high-risk business by regional inspectorates can reduce accidents by more than 25%.
- 3.9 Inspecting Officers confirm that most businesses want to be compliant with the law but their capacity, knowledge and skills create a barrier. The proactive inspection regime has been instrumental in building capacity and awareness in businesses in Shetland. Since focusing resources on a comprehensive proactive inspection programme Officers have seen year on year improvements in the management of Health and Safety in premises. Regular inspections and regular contact with businesses has created this improvement. Workplaces in Shetland are safer and businesses have largely embedded a health and safety culture. The feedback received from businesses inspected by Environmental Health is that officers understand their businesses, are helpful and that the service they receive from Environmental Health is excellent or good.
- 3.10 The HSE have already altered the approach that they and local authorities take to inspections during this financial year. It is anticipated that, with this recent move to more risk based and hazard spotting inspections, there will be a gradual decline in the standards that have been achieved and maintained through the inspection programme. This move had already reduced the Health and Safety programme of inspections by 70%, with the residual programme focused on the poorer performing businesses, reducing inspections for those that have achieved compliance. Reducing inspections further will be detrimental to the Health, Safety and Welfare of people in Shetland.
- 3.11 Local authorities have been encouraged to create political support for Health and Safety at a local level and have been subject to criticism from the HSE for the low profile that Health and Safety enforcement has in many local authorities. Reducing the proactive inspection regime will further undermine the commitment within local authorities to Health and Safety.
- 3.12 Reducing inspections and reducing resources in this area could send the message to businesses that Health and Safety isn't important, and they can therefore reduce their own commitment and resources allocated to Health and Safety. There is an evidence base that inspections reduce accidents.

## **4 Financial Implications**

- 4.1 The proposal to implement cost recovery may increase income into the service which should cover the cost of the intervention and enforcement actions taken. The reduction in inspections could enable the service to review its resources, however it should be noted that Environmental Health has an increasing workload across its responsibilities and new duties, with no increase in resources, in other areas. A reduction in proactive inspections will require more resources for the investigation of accidents, workplace complaints and resultant enforcement activity. This means therefore that resources will be redirected rather than result in any resource savings to the service.

## **5 Policy and Delegated Authority**

- 5.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit, Section 12.0 of the Council's Scheme of Delegations, and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

## **6 Conclusions**

- 6.1 Members are requested to consider the implications of the proposal to alter Health and Safety enforcement priorities and the move to a cost recovery model.
- 6.2 Evidence from research analysis shows that inspections reduce accidents, both in number and in severity of outcome. The reduction of inspections proposed will reduce the health and safety in premises.
- 6.3 The proposal to move to cost recovery has the potential to impact on the improvements in health and safety that the support, advice and guidance given by officers has achieved locally, if there is no local discretion on how it can be applied. Businesses can be supported to compliance with guidance and advice, and only when this fails, then the use of other, including financial penalties may be considered. This combined with the reduction in inspections reduces the opportunities to informally achieve and maintain compliance.

## **7 Recommendation**

- 7.1 I recommend that the Infrastructure Committee:

- 7.1.1 Note the contents of the HSE letter and approve the response as summarised in paragraphs 6.1 - 6.3.



Derek Allen Esq  
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2 February 2011

*Dear Derek,*

#### **CHANGES TO HEALTH AND SAFETY REGULATION**

We have discussed the changes which HSE proposes to make to its own regulation of Health and Safety in the light of the reduction in resources for the Spending Review period and the Coalition Government's approach to regulation. These are summarised in the attached note and the HSE Board would be grateful if Local Authorities, as co-regulators in health and safety, could indicate at the political level if they are content to follow the same way forward. We understand Ministers may seek to make an announcement on this issue around the beginning of March

The HSE Board, as indicated, is also very willing to enter into discussions with local authority colleagues as to whether we might jointly undertake further IT based web initiatives to help business in general and small business in particular to comply in a practical manner with their legal obligations for health and safety.

From the Chief Executive

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**GEOFFREY PODGER  
CHIEF EXECUTIVE**

## **HSE PROPOSED CHANGES TO HEALTH AND SAFETY REGULATIONS**

### **Proposed Reduction in Pro – Active Inspections**

1. In the light of the Government's commitment "to move away from tick-box inspection towards more risk based enforcement," the HSE Board has reviewed its current pattern of proactive inspection to see where this could be better focused whilst ensuring that the necessary deterrence in the health and safety system is maintained essentially through the threat and reality of effective enforcement against those who fail to adequately control significant risks and are in breach of the law.
2. It is not intended to reduce inspection in the high hazard areas which operate under permissioning regimes (principally nuclear, chemicals and off-shore). HSE will however continue to modernise its approach to inspection in those sectors in consultation with both sides of industry.
3. Of the remaining sectors (largely but not exclusively the responsibility of the Field Operations Directorate), HSE has identified three categorizations:-
  - (i) Sectors which present significant risk and where in our judgement pro-active inspection remains necessary as part of the overall regulatory approach.
  - (ii) Sectors where there remains significant risk but proactive inspection is not considered a necessary or useful component of future interventions.
  - (iii) Sectors where, under the new approach, proactive inspection is not justified in terms of relative cost-effectiveness.
4. The categorizations set out above will inevitably change in their composition e.g. as an industrial sector in category (i) improves its health and safety record, it can then potentially be moved to category (iii).
5. The cessation of pro-active inspection in categories (ii) and (iii) as set out in paragraph 3 above will enable the reduction of HSE inspections by 1/3 from 2011/12 onwards in relation to the previously planned level. Inspection in areas (ii) and (iii) will be either for enforcement purposes or to follow up complaints where such an intervention appears necessary (HSE already has tight criteria for this). It is assumed that a reduction of this order will be maintained for the whole of the SR10 period although, as previously explained, the HSE Board will be duty bound to review the impact of this change of approach. HSE's belief however is that this should not result in other than possible changes in prioritisation for proactive inspection and that the overall number of such inspections should remain constant at the lower level.

6. The HSE Board anticipates that LAs as co-regulators will also wish to reflect HMG's approach to regulation. Our suggested way forward is:-
- (i) Joint LGR/HSE guidance to local authorities as to how to better prioritise local authority inspection in the light of financial and other resource constraint;
  - (ii) A joint LGR/HSE initiative to provide better targeted web based information to provide tailor made information on compliance with health and safety law to fill in part the gap that will otherwise be left by the reduction in local authority visits;
  - (iii) A consequential commitment to reduce LA proactive inspection by at least 65,000 visits per annum which will amount to a one third reduction in the current total.

#### Cost recovery

7. By the way of background HSE currently recovers approximately one third of its costs from industry (just under £83m in 2009/10). It recovers its costs for:
- Safety case assessment, inspection and approvals for on-shore major hazards, gas transportation, off shore oil and gas; and
  - Performing a wide range of statutory functions in areas such as licensing activities, approving equipment and conducting testing associated with such approvals.

Most of this cost recovery is from major hazard industries.

8. HSE also recovers its costs for the regulation of chemical substances with the purpose of protecting people and the environment. This mainly relates to biocides and pesticides where HSE's statutory duties include regulating the use of the substances, approval of new substances, revocation of permission to use and enforcement.
9. HSE will bring forward proposals to Ministers to extend cost recovery from:
- Those who do not comply with health and safety law in the workplace (fee for fault – see below). Where companies operate in material breach of the legal framework, they often achieve short-term competitive advantage over those operating lawfully. Fee for fault should create a more level playing field for those businesses that comply with the law and reinforces the message that good health and safety is good business: and
  - All other major hazard industries where HSE directs resource to provide assurance that the businesses are operating safely in high risk environments. This will standardise HSE's approach to all major hazard industries.

10. In addition, HSE intends to recover costs for its role as a 'statutory consultee' on health and safety implications of various planning applications at and around Major Hazard sites; and where it provides its expertise at either national or international level.

### **Fee for fault**

11. Fee for fault would apply only to those who are in material breach of health and safety law. It would apply to all premises where HSE does not recover its costs through major hazard cost recovery regimes.
12. HSE would propose to recover its cost where an intervention of any type (e.g. inspection, investigation of incident or complaint) shows there has been a material breach of the law that warrants remedial action (in accordance with HSE's existing Enforcement Policy Statement and Enforcement Management Model). HSE would then recover the full economic cost of the visit and any follow-up costs. However costs of a successful prosecution would be claimed through the courts where a defendant is found guilty, as is currently the case (in England and Wales). The business would be informed at the initial intervention that there is a material breach, or possible breach, and that HSE will/may recover its costs. HSE's existing appeals process would allow businesses to appeal in relation to costs.
13. Recognising that in other fields LAs are already moving to cost recovery. The HSE Board's suggestion is that Local Authorities should also seek cost recovery in relation to inspections on a fee for fault basis as outlined above. This would appear in the LA regulated sector to have the same advantages of preserving a level playing field on compliance for business and exempting from cost recovery those businesses which are meeting their legal obligations (there is no suggestion of cost recovery for purely technical breaches). The income derived from such cost recovery will hopefully enable local authorities to continue to support proportionate regulatory activity in the health and safety area and also prevent a perverse incentive for business to seek to transfer into the local authority rather than HSE regulatory sector if only the latter is subject to fee for fault.



## **REPORT**

**To: Infrastructure Committee**

**8 March 2011**

**From: Service Manager – Environmental Health  
Environment and Building Services  
Infrastructure Services Department**

### **ANTISOCIAL BEHAVIOUR STRATEGY**

#### **1 Introduction**

- 1.1 The Antisocial Behaviour etc (Scotland) Act 2004 placed a duty on each local authority and Chief Constable to jointly prepare, publish, review and revise a strategy to tackle ASB in the authority's area. This report seeks Member's approval of the draft Antisocial Behaviour Strategy, so that it can be circulated for consultation. The final Strategy will be reported to Committee for approval before it is published.

#### **2 Link to Council Priorities and Risk**

- 2.1 The Council's role in tackling Antisocial Behaviour, with its partners helps to deliver the *Community Safety* outcomes in the Single Outcome Agreement. The Council has a statutory duty to publish a Strategy. Failure to develop a strategy would leave the Council non compliant with a statutory duty.

#### **3 Background**

- 3.1 The Antisocial Behaviour etc (Scotland) Act 2004 placed a duty on each local authority and Chief Constable to jointly prepare, publish, review and revise a strategy to tackle ASB in the authority's area. This is the second strategy developed in Shetland.
- 3.2 The Antisocial Behaviour etc (Scotland) Act 2004 states that a person engages in ASB if they "act in a manner that causes or is likely to cause alarm or distress; or pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household."
- 3.3 As detailed in the Strategy, Shetland has a very low level of Antisocial Behaviour (ASB) complaints. These tend to be primarily neighbour nuisance complaints. The majority of complaints are resolved following the first contact with the person who has been alleged to act in an antisocial manner.

- 3.4 The perception and fear of ASB is greater than the incidence of ASB. A key role for the multi agency ASB Working Group is to implement activity and approaches build community cohesion, engagement and capacity as the long-term solution to addressing fear of ASB.
- 3.5 The action plan to the strategy attached in Appendix 1 details the actions that the multi agency working group have identified as improvements to the current approaches and working practices.
- 3.6 If members approve this draft of the Strategy it will be subject to consultation with Community Councils, Local Service Delivery Groups, residents and tenants associations, Council Services, Youth Voice and wider public. The Strategy will be amended following the consultation process. The amended Strategy will be reported to Committee for final approval before implementation.

#### **4 Financial Implications**

- 4.1 The Antisocial Behaviour response in Shetland relies on resources from many Council Services, other agencies including the voluntary sector. It is recognised in this strategy that the impact of reducing public and voluntary sector budgets has potential to affect the ongoing delivery of an effective multiagency response to ASB in Shetland.
- 4.2 This Strategy can be delivered without additional resources and the ASB Working Group will, as budgetary pressures take effect, focus attention on maintaining an effective response to ASB by deploying resources effectively across all partners.

#### **5 Policy and Delegated Authority**

- 5.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit, Section 12.0 of the Council's Scheme of Delegations, and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

#### **6 Conclusions**

- 6.1 The Council has a duty to prepare an ASB Strategy. A draft strategy document is attached as Appendix 1 to be circulated for consultation, subject to Member approval. Members will have the opportunity to approve the final report before it is published.

## **7 Recommendation**

7.1 I recommend that the Infrastructure Committee:

7.1.1 Note the contents of the draft Strategy; and

7.1.2 approve that it be issued as a consultation draft.

Report Number: ES-06-11-F





**Shetland Islands**  
**Antisocial Behaviour Strategy**  
2011 – 2014

Antisocial behaviour (ASB) is the term used to describe a range of issues which cause distress to communities and make them feel unsafe - from vandalism, to noisy neighbours and abusive behaviour. It is the visible symptom of deep-rooted problems, which adversely affect some individuals in Shetland such as lack of opportunity and the pervasive effects of alcohol, drugs, poverty and deprivation.

It is only by addressing underlying issues such as substance misuse and poverty, and by creating more choices and chances for people to make a positive impact and maximize their potential that a long term solution to ASB will be delivered.

This is the second antisocial behaviour strategy published in Shetland. The Antisocial Behaviour etc (Scotland) Act 2004 placed a duty on each local authority and Chief Constable to jointly prepare, publish, review and revise a strategy to tackle ASB in the authority's area. The Act provided a new range of legal tools to enable local authorities and other agencies to tackle antisocial behaviour more effectively.

The previous strategy enabled the Council and its partners to develop a range of services and initiatives to address ASB by working with communities to increase cohesion and capacity to address problem behaviour. There is a strong emphasis in the Shetland approach on multi-agency problem solving focusing on prevention and early intervention of ASB.

### **Aims of the Strategy**

This strategy seeks to build on the achievements of the previous strategy and outlines how the partners will continue to work together towards long-term sustainable solutions to ASB.

The aims are to:

- Prevent ASB;
- divert individuals from being involved in ASB;
- intervene as early as possible and proportionally resolve emerging problems;
- share relevant information appropriately and promptly to inform our decisions; and
- use the full range of resources and powers available to all partners to address the problematic behaviour.

In preparing the ASB Strategy there is a statutory requirement to consult the Principal Reporter, the designated representative of the Scottish Children's Reporter Administration in the Local Authority area, Registered Social

Landlords and local communities. We have also consulted widely with other partners who are working to tackle ASB, in developing the strategy.

## **Equal Opportunities**

The Council is committed to providing equality of opportunity to all employees and to service users.

The Equality Act 2010, which aims to support progress on equality by harmonising and strengthening all previous discrimination law, extends the previous strands of antidiscrimination (race, gender and disability) to produce what is now known as “protected characteristics”. The characteristics, which are now protected under equality law, are:

- Gender (and Pregnancy and Maternity)
- Disability
- Race
- Age
- Sexual Orientation (and Gender Reassigned)
- Religion and Belief

The Equality Act 2010 states that a public authority must have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

## **Definition of Antisocial Behaviour**

The Antisocial Behaviour etc (Scotland) Act 2004 states that a person engages in ASB if they:

- “act in a manner that causes or is likely to cause alarm or distress; or
- pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household.”

In this definition “conduct” would include speech and “a course of conduct” must involve conduct on at least two occasions. The expression “likely to cause” means that someone other than a victim of the ASB is able to give evidence about whether the behaviour is antisocial or not.

## The National Framework

In March 2009 the National Antisocial Behaviour Framework 'Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland' was published by the Scottish Government, which provides the framework for working collaboratively with national and local partners to prevent ASB in Scotland. 'Promoting Positive Outcomes' has four principles to direct activity to address ASB:

- **Prevention:** focuses on addressing the causes of the problem through preventative work;
- **Integration:** by working together better to achieve shared outcomes;
- **Engagement:** to engage communities in a meaningful way in the development of national and local strategies and keep them informed of progress; and
- **Communication:** to communicate better as partners to ensure positive, co-ordinated and evidence-based messages are shared with the public.

The framework identifies that ASB cannot be understood or resolved in isolation. The response to ASB nationally and locally needs to reflect the wider community safety agenda. This approach includes how we tackle more serious criminal behaviour at one end of the spectrum and how we divert and engage young people into positive opportunities at the other.

The framework also makes clear that it will create the right strategic direction, policy linkages and local actions necessary to allow prevention to become the focus when tackling ASB. The framework cannot on its own resolve all of the deep-seated problems of society. It forms part of a set of national social policy frameworks, which provide a platform for addressing the underlying causes of unacceptable behaviour such as poverty and deprivation, health inequalities, substance misuse and low educational outcomes for children.

These Social Frameworks are:

- Achieving Our Potential: A Framework to Tackle Poverty and Income Inequality in Scotland (Nov 2008).
- Equally Well: Report on the Ministerial Task Force on Health Inequalities (June 2008) and the Equally Well Review (2010.)
- Early Years Framework (Dec 2008).

Underpinned by the following detailed Frameworks:

- The Road to Recovery: A New Approach to Tackling Scotland's Drug Problem (May 2008).

- Preventing Offending by Young People: A Framework for Action (June 2008).
- Changing Scotland's Relationship with Alcohol: A Framework for Action (Dec 2008).
- Youth Framework (Early 2009).

The national ASB Framework places a strong emphasis on prevention and early intervention to address ASB at the earliest possible stage. It advocates enforcement only as a last resort, where offenders persistently fail to respond to these earlier measures. This supports the approach that has been implemented in Shetland since the Act came into force.

### **The Local Framework**

The Community Planning Partnership (CPP) set the high level strategic direction for Shetland, and monitor achievement of their vision in areas of strategic significance. The Single Outcome Agreement (SOA) articulates the vision, details the collaborative actions required to deliver the vision and monitors achievement against the original baseline data.

The Community Safety Partnership (CSP) is the strategic partnership responsible for effective delivery of the "Safer" elements in the SOA and sets out the strategic priorities for improving Community Safety in Shetland.

The Antisocial Behaviour Working Group brings together the key partners who have a role in tackling ASB in Shetland. They report formally to the CSP on delivery against the ASB strategy and highlight new and emerging issues, which will require a strategic response.

The ASB Working Group membership is:

- Shetland Islands Council
  - Antisocial Behaviour Co-ordinator
  - Environmental Health
  - Community Safety Officer
  - Housing
  - Bridges
  - Youth Services
  - Education
  - Community Work
  - Social Work
- Northern Constabulary
- Community Mediation
- Hjaltland Housing Association
- Children's Reporter
- Procurator Fiscal
- Shetland Tenants Forum

- Community Alcohol and Drugs Service Shetland (CADSS)
- Shetland Youth Information Service (SYIS)
- Victim Support
- NHS Shetland

## Shetland Profile

The Shetland Islands are the most northerly islands in Great Britain, with a population of 22,210 covering an area of 567 square miles, with 1,697 miles of coastline. Shetland comprises more than 100 islands, 15 of which are inhabited.

The Scottish Index of Multiple Deprivation (SIMD) 2009 identifies that Shetland is not a highly deprived local authority and ranks highly in relation to income, employment, health, housing and education/skills training. It should be noted however that there are individuals in Shetland who experience deprivation and social exclusion. The number of income-deprived individuals is 1860, or 8.5% of the population.

## Profile of ASB in Shetland

<u>Initial Assessments</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>
Number of ASB Complaints	110	100	84	90	68
ASB Cases Opened	35	42	37	31	27
Complaint not ASB	75	58	47	59	41
Where more info required	5	5	15	27	12

The ASB Coordinator receives on average 90 complaints per annum with a small increase year on year. The majority of complaints received are not assessed to be ASB once the full details of the complaint have been taken. Around 50% of the cases not assessed to be ASB are because the complaint is mainly about noise, which is referred to Environmental Health. The other non-ASB complaints received include persons seeking advice but not wishing for their complaint to be investigated, cases where there is no current ASB although a past history is reported, cases where the complainer decides to resolve it themselves using mediation or the complainer chooses another informal solution following advice.

The most common types of antisocial behaviour reported in Shetland:-

- Excessive noise from stereos and parties.
- Intimidating or threatening behaviour.
- Drunk and disorderly behaviour.
- Fights.
- Drug related incidents.
- Excessive vehicular/pedestrian traffic created by activities at a particular premises or location.

Most complaints are a combination of behaviours, which combined together are unacceptable to the complainer. The complaints are logged by the ASB Coordinator and rated into categories as detailed below:

- **Extreme Behaviour** – This includes drug dealing, acts of violence, harassment and abuse, and other serious threatening and intimidating behaviour.
- **Serious Behaviour** – This includes frequent serious disturbances, abusive behaviour, vandalism and damage to property.
- **General Nuisance** – This includes family disputes affecting neighbours, pet control, occasional disturbances and the behaviour of children and visitors.

The ASB Coordinator identifies other agencies that can assist with any complaint regardless of whether it is determined to be ASB. The table below details the numbers of referrals made to other agencies:

<b>Referrals</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>Percent</b>	<b>Totals</b>
Number of referrals made	84	73	49	49	28	100.00	283
Referrals made at initial stage	72	54	33	39	27	79.51	225
Community Mediation	14	18	10	5	2	17.31	49
Environmental Health	37	26	12	20	6	35.69	101
NSWs	8	6	2	0	5	7.42	21
Housing	4	6	8	1	13	11.31	32
Police	8	7	7	10	0	11.31	32
Art Therapy	-	2	2	5	1	3.53	10
Roads Service	0	2	1	2	0	1.77	5
Planning	0	2	1	2	0	1.77	5
Victim Support	5	3	3	0	0	3.89	11
Social Work	7	1	0	3	1	4.24	12
Advocacy	-	-	1	1	0	0.71	2
Youth Services	-	-	1	0	0	0.35	1
NHS	-	-	1	0	0	0.35	1
GIRFEC Notification	1	-	-	-	-	0.35	1
Bridges	1	-	-	-	-	0.35	1

#### **Gender Break Down of ASB Cases investigated by the Council**

<b>Year</b>	No of Females Accused	No of Males Accused	No of Females Affected	No of Males Affected
2009/2010	18	30	34	29
%	37.50	62.50	53.97	46.03
2008/2009	14	24	27	18
%	36.84	63.16	60.00	40.00

This data breakdown shows that men are significantly more likely to be accused of ASB than women whereas women are slightly more likely to report that they are affected by ASB than men.

#### **Age Break Down of ASB Cases received by the Council**

<b>Year</b>	<b>Accused U16</b>	<b>Accused 16-18</b>	<b>Accused 19-25</b>	<b>Accused 25-60</b>	<b>Accused 60+</b>
2009/2010	8	14	10	16	7
%	14.55	25.45	18.18	29.09	12.73
2008/2009	3	4	4	25	3
%	7.69	10.26	10.26	64.10	7.69

This data shows that any age group can be accused of ASB and that it is not, as media stories sometimes imply, an issue only caused by young people.

<b>Year</b>	<b>Affected U16</b>	<b>Affected 16-18</b>	<b>Affected 19-25</b>	<b>Affected 25-60</b>	<b>Affected 60+</b>
2009/2010	10	9	15	31	5
%	14.29	12.86	21.43	44.29	7.14
2008/2009	9	4	6	29	2
%	18.00	8.00	12.00	58.00	4.00

This age profile shows that any person in the community of any age group can be affected by ASB.

#### **Types of problematic behaviour alleged when ASB Case opened**

<b>Year</b>	<b>Verbal Abuse</b>	<b>Noise</b>	<b>Violence</b>	<b>Drugs</b>	<b>Alcohol</b>	<b>Visitors</b>	<b>Parties</b>	<b>Mental Health</b>
2009/2010	8	20	6	2	12	19	5	5
%	17.02	42.55	12.77	4.26	25.53	40.43	10.64	10.64
2008/2009	5	22	3	4	6	18	3	1
%	13.51	59.46	8.11	10.81	16.22	48.65	8.11	2.70

It has been noted that noise tends to be the trigger for people lodging a complaint with the Council about their neighbour. The number and behaviour of visitors coming and going from residential property tends to raise concerns from neighbours, this can be especially difficult to resolve, as some householders do not realise they can be held responsible for controlling their visitors behaviour in the vicinity of their home.

The ASB Budget is used to deliver the Neighbourhood Support Workers (NSWs) service. The NSWs are especially important in addressing public perceptions and concerns about ASB. They have developed a high profile with residents groups, young people, Hall Committees, other council and voluntary services. They are tasked with carrying out area patrols, which are targeted based on intelligence of issues that are of concern to the public. These patrols are a means of early identification of issues, which may give rise to complaints of ASB. The NSWs also have an important role in youth engagement, environmental and citizenship education and delivering diversionary activities such as midnight football.



The NSWs and the Youth Service Detached Workers have been proactively engaging young people in areas where they congregate in Lerwick. This engagement role and the interaction between the two services is still developing and will be key to improvements in early intervention and diversion during the life of this strategy.

The following table details the issues noted during NSW patrols and the referrals they have made to other services.

Publicly Perceived ASB	06/07	07/08	08/09	09/10	Totals
Abandoned Vehicles	28	37	24	38	127
Alcohol	10	16	18	27	71
Break in prevention	26	20	3	4	53
Conflict between persons	9	9	11	9	38
Dangerous Driving	6	3	7	8	24
Drugs	1	4	8	7	20
Graffiti	33	18	17	31	99
Needles		2	1		3
Noise	18	9	7	11	45
Nuisance Behaviour	57	67	46	84	254
Suspicious Behaviour	11	23	27	36	97
Underage smoking	1	1	1	4	7
Vandalisms	49	22	19	26	116

## **Noise**

Environmental Health and the Northern Constabulary have a well-established procedure to address noise. This enables Environmental Health to use its powers to address noise occurring outside office hours, which has resulted in a call to the Police. The Police provide details of each noise complaint they receive and provide a statement of what was occurring when they responded to the call. This enables Environmental Health to gather additional evidence to issue Statutory Notices and Fixed Penalty Notices to prevent further nuisance to neighbours.

Noise Complaints	Number
From the financial years 2006 to 2010	1146
Reported via the Police	910*
Reported via ASB Investigations	49*
Reported Directly from the Public	195

\*8 duplications with another category

There have been an average of 287 noise complaints per year over the last 4 years. Most of the noise complaints tend to relate to incidents, which take place outside office hours and at the weekend. The main reasons for noise complaints appear to be a conflict in lifestyles and persons not being aware of the impact the noise they are creating has on their neighbours. Over 50% of ASB complaints are triggered by some sort of noise disturbance.

The table below details how effective the approach has been in addressing noise complaints. The first three contacts from Environmental Health, which may include the issue of a formal notice, are the most likely to succeed at stopping further noise problems. The third, fourth and fifth letters may include Fixed Penalty Notices requiring the householder to pay £150. The majority of noise complaints are resolved on first contact.

Addresses Receiving	Number	Addresses Left	% Success	% Left
At least 1 Noise Letter	439			
1 Noise Letter	259	180	59.00	41
2 Noise Letters	66	114	36.67	26
3 Noise Letters	35	79	30.70	18
4 Noise Letters	17	62	21.52	14
5 Noise Letters	17	45	27.42	10
6 Noise Letters	8	37	12.50	8
7 Noise Letters	7	30	18.92	7
8 Noise Letters	5	25	16.67	6

The service is attempting to make personal contact with people who are causing noise disturbance at the initial stage, to explain the problem, provide advice and support and try to intervene earlier to prevent further neighbour disturbance. The impact of this approach cannot yet be determined from the data trends, although it is anticipated that it should reduce the number of complaints, which aren't resolved on initial contact further.

### **Environmental Crimes – General**

The Council also receives complaints about issues, which are considered to be environmental crimes rather than ASB. These issues severely affect how positively people feel about their community and therefore are closely related to ASB and perceptions of safety. Environmental Crime affects resident's sense of safety, their mental health and wellbeing, reduces individuals health outcomes and can make people feel more likely to be targeted by ASB. Whilst litter and dog fouling are areas of great concern for the public Shetland consistently achieves some of the best scores in Scotland in the Cleanliness Index.

	2009/2010	2008/2009
Abandoned Vehicles	110	88
Dog Fouling	27 (resulting in 127 letters + 180 letters engagement activity)	22 (resulting 37 letters)
Littering	203	110
Stray Dogs	41	31

### **Crime**

Shetland is a safe community with low levels of crime. In the Your Voice (Autumn 2009) survey, 72% of respondents felt that there is little crime in Shetland, 21% felt that there is a lot of crime in Shetland and 6% felt otherwise. The most prevalent crimes that respondents were worried about were antisocial/disorderly behaviour, theft and associated crimes, vandalism, physical abuse and drink/drug related incidents.

Northern Constabulary Community Consultation Report 2009 showed that 72% (241 respondents) rated Shetland as being “ a very safe place to live (compared to 55% at Force area) and a further 25% (77 respondents) felt that it was a “fairly safe area”. Generally 97% rated themselves very satisfied or fairly satisfied.

### **Fear of Crime and Perceptions of ASB**

It is apparent that whilst crime and ASB rates are low in Shetland, there is a perception and fear of crime and ASB that is not reflected in the actual statistics. It is important therefore that this strategy includes interventions to reduce the perception of ASB in the community. Strategies that increase community cohesion, promote social inclusion, build trust, tolerance, mutual understanding and respect, such as mediation are proven to decrease perceptions of ASB in the longer term, whereas short term area based initiatives such as public information strategies, environmental improvements and community warden patrols help improve perceptions of ASB.

The ASB statistics confirm that ASB is not a significant issue in Shetland in terms of numbers of cases however the impact on individuals, families and communities where it does occur is severe. Some people affected by ASB feel targeted and fearful of what may happen next even after the situation has been resolved. They may consider moving from a community to improve the situation.

Antisocial behaviour complaints often result from the conflicting lifestyles of a group of residents. They are very rarely deliberately targeted, it is often collateral damage but that does not alter the alarm that the people affected experience. Those accused of ASB have complex social circumstances and may suffer from drink, drug or mental health issues and their inability to control their behaviour results in their neighbours feeling distressed enough to seek formal assistance from the Council.

When relationships have deteriorated and there is little trust between the parties it becomes harder to resolve the complaint positively without one of the parties moving. The approach taken to resolving antisocial behaviour is to try to support the individual to resolve the causes of their behaviour in order to ensure they have a more positive outcome. It is essential to also ensure that the person affected is also supported to cope with their experience and report incidences as they happen.

This shows the importance of early identification. Communities have a role in identifying ASB early and providing information about issues that concern them in their community. The multi agency ASB Working Group have recognised that community empowerment can lead to better outcomes for individuals, reinvigorated local democracy and improved quality of life. The Scottish Government is supporting an “assets approach” to Community Capacity Building. This recognises the strengths and abilities of individuals

and communities to take control over how to tackle their own problems. The assets approach produces positive health outcomes, reduces crime and ASB and residents will also experience an increase in their skills and capacities and general aspirations. Community-led solutions to ASB have the potential to deliver long-term outcomes and can reduce the demands on services. Deploying resources in the short term to build community capacity will reduce the impact on public services in the long term.

The Participatory Budgeting (PB) pilot carried out in Staney Hill- *Wir Community, Wir Choice*, was an example of a process which supported the community to solve their own problems. This project provided the community with a budget and they decided how to allocate it to meet their community needs. PB was effective in Staney Hill for the following reasons:

- The community consultation has enabled the Community Association, the Council and a range of other organisations to better understand the needs of residents in the area.
- Local people have been involved in directly setting the local priorities for the area.
- It has demonstrated a different way for the Council and other agencies to work with residents, which gives local people a real choice about what happens in their community.
- The Community Association are now able to deliver projects that would not have progressed otherwise.
- The community have identified their own needs and issues, and are also involved in developing and delivering solutions - rather than asking the Council to deliver additional or new services.
- The Community Association now has a clear remit from the community and are working through an action plan to meet community needs.
- The Community Association has increased confidence, skills and capacity as individuals and as a organisation.
- There has been improved communication between a range of services and the Association, in negotiating and planning solutions to identified needs.
- The Pilot has attracted positive press and interest from other communities within Shetland.

- The Pilot has highlighted what's good about the community, and created a positive image in an area which has suffered stigma in the past.
- The attendance at the Voting Day exceeded expectations and that of all previous local public meetings.
- There was a wide range of attendees at the Voting Day including residents who do not normally attend events or public meetings in the area, and residents from traditionally excluded groups.
- Many of the negative assumptions held by services about the area have been broken down.
- Elected Members who attended the voting day were able to engage positively with the community and sit alongside residents engaging in a democratic process.
- The funding process was streamlined and clear to those applying – with clear and transparent links to the needs identified by the community.

The Anti Social Behaviour Working Group wish to continue to use a PB approach in communities as well as applying an assets approach to working with communities that are experiencing or have experienced antisocial behaviour.

## SWOT Analysis of ASB Working Group, Processes and Interventions

### Strengths

- Interagency problem solving.
- Strong partnership.
- Good communication, support and trust between partners.
- Range of skills, experience and knowledge across partners.
- Range of Investigating Officers across Services.
- Tailoring the key worker to the needs of the client.
- Early Intervention Focus.
- Effective processes for problem solving.
- Flexible working styles.
- Solution focused.
- Information Sharing and Service updates.
- Ability to test ideas and think creatively.
- Supportive approach to ASB interventions for both person responsible and person affected by ASB.
- Impartial assessment of complaints.
- Clarity in assessing issue, signposting and identifying support.
- Regular Investigating officer training and updates.
- Focus on community cohesion and community involvement including exploring more participatory budgeting.

### Weaknesses

- Gaps in attendance from some services.
- Consistency of induction for new staff.
- Fear for some of ASB Working Group that confidentiality isn't guaranteed in problem solving approach.
- Accessibility of style of letters and communication methods.
- Community fear of complaining or over tolerance of behaviours.
- Assumption that when diary sheets stop ASB stops.
- Over reliance on ASB process rather than solution focused or person focused approaches.
- Training tends to focus on processes rather than skills of Investigating Officers or overall purpose of interventions.
- Limited services for therapy and emotional support mechanisms.
- How can we capture the concerns of those who don't complain?
- Undeveloped role of Community Workers in addressing ASB.
- Reducing resources for diversion activities.
- Ability to manage stigma in small community.
- Helping people to settle back into community and leave past behind.
- Ability to counter national press with local good news.

### Opportunities

- Extending skills of Investigating Officers- questioning, coaching, solution focused meetings.

- Anger Management Training enabling delivery of anger management course locally using staff from local agencies.
- Options to extend Participatory Budgeting pilot and work differently with communities.
- Increased opportunities to work with Community Work to build community capacity and cohesion.
- Fairer Shetland Framework to tackle poverty and deprivation and route causes of ASB.
- Building capacity to undertake Community Problem Solving.
- Get clients to solve their own solutions.
- Development of good news stories.
- Building Community links through Local Service Delivery Groups, Community Work, Community Councils, tenants and residents groups.
- Build links with other agencies to increase understanding of their role in addressing ASB.
- Building GIRFEC and WYFY into existing processes.

#### **Threats**

- Resourcing difficulties for key partners.
- Reducing funding for partners in services and voluntary sector.
- More protective and less sharing as resources reduce.
- Loss of expertise and knowledge as key staff lost.
- Ability to maintain positive relationships in the Working Group.
- Difficulty ensuring appropriate make up of Working Group as resources and capacity in member agencies reduces.

#### **Key Achievements from Last ASB Strategy**

- Multi-agency ASB Working Group (ASBWG) convened.
- Neighbourhood Support Workers (NSWs) Service reviewed, posts made permanent and scope widened to cover areas outside Lerwick.
- Information Sharing Protocols implemented and reviewed.
- ASB Investigation Procedure implemented, amended and reviewed regularly.
- Single point of contact for all ASB complaints through ASB Coordinator.
- Range of diversionary activities delivered to engage young people at risk of being involved in ASB.
- Early Identification project to identify young people at risk of becoming involved in ASB and ensure intervention plans are implemented.
- Problem solving approach implemented through case conferences and ASBWG.
- Participatory Budgeting (PB) pilot in Staney Hill working with community to identify and solve their own problems increasing cohesion.
- Investigating Officers identified across range of services.

- Supportive approach to person responsible for ASB to try to tackle the cause of ASB rather than just the symptoms.
- Supported approach to person affected by ASB in order to build coping strategies and additional support networks.
- Mobile CCTV purchased and deployed to support investigations.
- 6 Monthly Investigating Officer training and update sessions implemented.
- Youth Services Outreach Posts developed.
- ASB awareness raising across Services.
- Effective mechanisms for signposting and referrals between agencies.



### **Action Plan 2011-2015**

<b>Action</b>	<b>Outcome</b>
Review with services who attends Working Group.	More effective decision making and Information Sharing.
Build further links between NSWs and the Youth Service Detached Workers.	Maximize early intervention and diversion from ASB.
Explore means of developing mentors and community role models.	Support those involved in ASB or at Risk of ASB to more positive outcomes.
Extend Participatory Budgeting Pilot to new communities and communities of interest.	Increase community cohesion, capacity and increase engagement in community decision making.
Address links between Bullying and wider ASB issues .	Maximise effectiveness of early intervention.
Develop greater capacity for community problem solving by applying an assets approach to deliver community led solutions.	Increase community cohesion, capacity and address perceptions and fear of ASB.
Investigating Officer Training to extend skills confidence and capacity of officers.	Maximise effectiveness of early intervention.
GIRFEC to be integrated into existing ASB procedures.	Ensure appropriate support for children and young people harmed by or involved in ASB.
Review Communication methods and style of letters.	Maximise effectiveness of early intervention
Improve Access to Children and Young persons Counselling Services.	Ensure appropriate support for children and young people harmed by or involved in ASB.
Early identification of children at risk through NSWs and Detached Youth Workers.	Maximise effectiveness of early intervention.
Develop anger management programme.	Ensure appropriate support for children and young people harmed by or involved in ASB.
Provide a range of models of parenting and family support to respond to ASB issues.	Deliver a preventative response and a treatment at different stages of child development.

Continue Multi agency Solution Focused meetings to develop case by case solutions.	Develop Case by Case person centric solutions to tackle ASB.
ASB Working Group will continue to support diversionary activities by offering funding or support in kind to partners.	Maximise effectiveness of early intervention and diversion from ASB.
Intensive work with targeted children, young people, adults and families affected by intergenerational cycles of complex problems.	Tackle the causes of ASB rather than the symptoms.
Target families of adult offenders who are either themselves parents or are older siblings living within or impacting upon an existing family unit	Tackle the causes of ASB rather than the symptoms.
Implement Restorative Practices standard in Shetland schools.	Maximise effectiveness of early intervention and diversion from ASB.
Continue to use Community Mediation as independent organisation to resolve disputes, negotiate ABCs and deliver Restorative Justice.	Maximise effectiveness of early intervention and diversion from ASB.
ASB Partners tackle stigma as a block to effective rehabilitation.	Tackle the causes of ASB rather than the symptoms.
Review effectiveness of current rehabilitation after ASB and develop new solutions.	Tackle the causes of ASB rather than the symptoms.



## **REPORT**

**To: Infrastructure Committee**

**8 March 2011**

**From: Service Manager – Environmental Health  
Environment and Building Services  
Infrastructure Services Department**

### **REVIEW OF UK FOOD SAFETY OFFICIAL CONTROLS DELIVERY**

#### **1 Introduction**

- 1.1 The Board of the Food Standards Agency considered and agreed a proposal to review the delivery of food safety official controls in the UK. The review will consider a centralized model of delivery as well as options for making improvements to the existing system.

#### **2 Link to Council Priorities and Risk**

- 2.1 The Council's role in ensuring food is safe to eat helps to deliver Health outcomes in the Single Outcome Agreement. The Council has a statutory duty to inspect premises for Food Hygiene. The report highlights that the FSA's review includes an option for the centralisation of delivery of these powers. The impact of the identified risks are discussed in Section 3.

#### **3 Background**

- 3.1 The Food Standards Agency (FSA) Board considered a report on 25 January 2011, which is attached as Appendix 1. The report stated that "There is a growing body of evidence that the current complex and inconsistent delivery model, coupled with declining resources at Local Authority level and uncertainty about good performance being sustained or poor performance improving amongst food businesses, that the current model does not give the FSA, as the central competent authority, evidence or assurance that delivery is effective."
- 3.3 The report concluded that "It is now right and timely to undertake a review of the current delivery model and explore and develop an alternative delivery model that is more nationally consistent and involves four national bodies."
- 3.4 Although the whole tone of the paper had an obvious centralist agenda, the Board's discussion on 25 January 2011 was more measured and recognised that the review should not have any pre-judged outcomes. The Board made it clear that the review should include consideration of how the current system might be improved.

The discussion also raised some of the benefits of local authority delivery including accessibility, flexibility, economy and combination / synergy with other functions provided by local authorities. Issues of potential conflict between a centralist approach and localism were raised and discussed during questions.

- 3.5 The FSA have subsequently issued a letter on 8 February 2011 to all Chief Executives (Appendix 2) acknowledging that the content of the report that had been presented at their Board meeting had caused disquiet and concern amongst local authority staff. It also reinforced the support for the work of local authorities and assured local authorities that whilst centralised model of delivery was being considered, they remained open-minded about the result of the review.
- 3.6 In assessing how Shetland is served by other centralised enforcement agencies such as HSE, who have no presence in Shetland and SEPA who have a local office with increasingly centralised management and support and reducing staff numbers, it is apparent that centralisation would threaten the interventions available to businesses in Shetland. As resources have been cut centrally, Shetland has seen cuts in management, inspections and less capacity to support and guide businesses to compliance before enforcement action is taken. Reducing the support to businesses and reducing the availability of Food inspectors will put public health at risk.
- 3.7 The Environmental Health department receive good feedback from all businesses inspected, indicating that officers are helpful, understand the business and overall opinions of the service is that it is excellent or good. The service provides advice and support to all businesses to ensure compliance, and only when this fails to be effective is enforcement action taken. The Service has been regularly audited by the FSA and these audits do not indicate that the local authority is failing in delivering its Food Safety Official Controls.
- 3.8 The review is to be finalised by FSA staff in July 2011. Consultation will commence with the Society of Chief Officers of Environmental Health Scotland meeting in early March and it would be beneficial if members could provide an early view on the centralisation/localism debate, although it is recognised that the information available on the “range of delivery options” under review is limited. I will be attending this forum and can represent the Council’s views.
- 3.9 It should be noted that Environmental Health staff working in Food Safety, whilst having main areas of responsibility, have a wider role than the delivery of Official Controls. They undertake Public Health work, they enforce legislation on littering, dog fouling, smoking, alcohol licensing, statutory nuisances, pollution and health and safety. They would also have a role in emergency responses to disease outbreaks, animal health and pollution incidents. Centralising the Food Safety

function would reduce Shetland Islands Council's capacity and resilience to respond to incidents. The limited economies of scale that exist by having functionally flexible staff able to enforce a range of legislation would be removed by centralising a single Environmental Health function away from local authorities.

#### **4 Financial Implications**

- 4.1 The impact of the review could result in the centralisation of Food Safety Controls from local authorities to the Food Standards Agency. This would result in a reduced budget allocation to local authorities although how significant this impact will be is as yet unknown.

#### **5 Policy and Delegated Authority**

- 5.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit, Section 12.0 of the Council's Scheme of Delegations, and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

#### **6 Conclusions**

- 6.1 Members are requested to consider the implications of the FSA review of Food Safety Official Controls and provide a steer for officers who will be engaged in the initial consultation meetings in early March. Once more information is provided by the FSA, a formal response will be drafted for consideration and approval by Committee.

#### **7 Recommendation**

- 7.1 I recommend that the Infrastructure Committee:
  - 7.1.1 Note the contents of the FSA Board paper and the subsequent letter from the FSA, and provide a steer for officers involved in initial consultations on the review of Food Safety Official Controls.

Report Number: ES-07-11-F



## FOOD SAFETY OFFICIAL CONTROLS DELIVERY

Report by Alison Gleadle, Director of Food Safety

### 1 SUMMARY

- 1.1 The Food Standards Agency is the UK's central competent authority (CCA) for official controls on food safety. These controls are currently delivered through a variety of means: FSA employees; other Government Departments; contractors; and (mostly) local authorities. These delivery responsibilities vary across the four countries of the UK. This range of responsibility for food safety brings complexity. The FSA, as the UK's competent authority, wishes to consider how best to secure efficiency, consistency, resilience and sustainability in this essential public health protection function.
- 1.2 The Board is asked to:
- Note the evidence that supports the need to review the current food safety delivery regime;
  - Agree that the Executive should review the current delivery model and compare it to an alternative delivery model that involves four national bodies; and
  - Agree to consider the results of the review and proposals for action at its open meeting in July 2011.

### 2 INTRODUCTION

- 2.1 The FSA is the CCA responsible for official controls on food safety in the UK. The current delivery model of these official controls is extremely complex, multi-tiered and involves many different groups. It is further complicated by the fact that delivery responsibilities are different across the four countries of the UK. **Annex A** summarises the division of responsibilities for all food and feed official controls, including those for which other government departments are the CCA. For those brave enough, the complexity is described in even greater detail in **Annex B**.
- 2.2 As the competent authority the FSA is responsible to protecting the interests of consumers in relation to food. To do this it needs a system that ensures food business operators are able to fulfil their obligations for safe food production. In the current climate of increased financial pressures it is timely to consider how best to secure efficiency, consistency, resilience and sustainability in this fundamental public health protection function.
- 2.3 Other Governments in the UK have started to question the current delivery regime. The Board will recall that in August 2010, the First Minister for Wales

asked the FSA to review food law enforcement in Wales. He asked if consumers in Wales are adequately protected and asked for an evaluation of other possible models of delivering food law enforcement. The interim report to the First Minister is attached to this paper at **Annex C – INFO 11/01/01**. The final report will be submitted to the First Minister by the end of February 2011.

### **3 STRATEGIC AIMS**

- 3.1 This work goes to the heart of the FSA's statutory purpose of protecting public health from risks which may arise in the consumption of food, including risks caused by the way it is produced or supplied.
- 3.2 It would directly address current Outcome 5: "Regulation is effective, risk-based and proportionate, is clear about the responsibilities of food business operators, and protects consumers and their interest from fraud and other risks.", and support the proposed Outcome "Enforcement is efficient, consistent, risk-based and proportionate and is focused on improving public health."

### **4 DISCUSSION**

- 4.1 The FSA's core principles for the delivery of official controls are:
- Most effort on interventions of greatest impact on consumer protection,
  - Controls across the UK should be coherent and consistent,
  - Should be clear accountability for delivery of official controls,
  - Efficiency should be maximized, and
  - Stakeholders should know who is responsible for what.
- 4.2 The complexity of the current model makes it extremely difficult to achieve these core principles, particularly in securing delivery on a consistent and coherent basis.
- 4.3 In the UK, 434 local authorities, employing nearly 2,900 highly qualified, professional enforcement officers and over 600 administrative staff, at a cost of £190 million are responsible for ensuring food safety compliance in over 560,000 premises. These are made up of approximately 400,000 catering and restaurant businesses; 130,000 retailers; and 16,000 food manufacturers and others.
- 4.4 The UK food sector is one of the most sophisticated and developed in the world. The current official control delivery arrangements do not mirror the modern food supply chain, which operates across LA boundaries. Food businesses range from multi-nationals and global brands to artisan owner/producers. The turnover of food businesses in the UK can be over 20 per cent each year in metropolitan areas.



- 4.5 Local authorities carry out over ½ million on-site food hygiene and standards checks each year, with the highest risk businesses likely to receive more frequent visits. Local authorities take over 150,000 enforcement actions annually. These are primarily written warning letters, but also more formal interventions.
- 4.6 Despite these resources and interventions:
- Persistent non-compliance is high in some parts of the food chain. As many as 24 per cent of all takeaways were non compliant at two consecutive inspections;
  - The rate that standards improve varies by business type. 66 per cent of non-compliant supermarkets had improved by the next inspection, compared to just 35 per cent of takeaways; and
  - Overall compliance and therefore consumer protection is not improving over time. Across all food businesses: for every one that improves, another declines.
- 4.7 **Annex D** contains information about current delivery of official controls by LAs from available data, commenting further on overall resourcing, performance and resilience. Key issues relate to:
- staffing levels: 2008/09 data confirms that 8% of positions allocated for official control delivery within LAs remain unfilled; and
  - considerable variance in enforcement action taken: just under a quarter of LAs took no action against establishments falling below the broad compliance level; approximately 7% of all food premises remain unrated; and 6% of risk categories A, B and C had overdue interventions.
- 4.8 The first of the FSA's core principles references consumer protection. Official controls must deliver consumer protection and secure public health benefits. However, given the complexity in terms of inputs and the responsibilities of a wide range of contributors it is not possible to validate the role official control delivery has in securing those benefits. We therefore work on the basis of food business operator compliance as a proxy for effective official controls outcomes (mainly in relation to food hygiene). This is discussed further in **Annex E**.
- 4.9 **Financial pressures.** Local Authorities are facing an unprecedented cut in their funding. Spending cuts currently suggested go way beyond the conventional efficiency drives often seen in the past. LAs will have to make hard decisions as to whether functions are reduced or are even to continue. This view is shared by the Local Government Association, the Front Line First Task Force and the Chartered Institute of Public Finance and Accountancy (CIPFA). All are

concerned that LAs will have to consider all options with no preconditions to protect or provide services. These concerns are shared across the UK.

- 4.10 Although the full extent of the financial settlement for LAs is not yet fully understood, it is clear that in addition to an immediate reduction in Local Government spending of 2 per cent, the Revenue Support Grant will be incrementally reduced over four financial years between 2010 – 11 and 2014 -15, amounting to a real term reduction in Local Government spending of 28 per cent.
- 4.11 Forthcoming financial constraints are therefore unlikely to improve current resourcing and performance of LAs. This presents significant risk to the Agency in terms of its responsibilities as the central competent authority.
- 4.12 **Others' views:** others are also starting to question the current delivery model. In addition to the First Minister for Wales' review, Professor Hugh Pennington questioned the delivery regime in his review of the 2005 *E.coli* outbreak in Wales, and most recently Lord Young questioned the delivery regime in his report *Common Sense, Common Safety*. The report and recommendations were subsequently endorsed in their entirety by the Coalition Government Cabinet.
- 4.13 The architecture to support local authorities in England and Wales in their regulatory work is diminishing, with stringent cutbacks made to Local Government Regulation (LGR) and the Local Better Regulation Office (LBRO) being absorbed in the Department for Business, Innovation and Skills.
- 4.14 The European Commission through its Food and Veterinary Office (FVO) has often expressed concern about the complexity of the UK's delivery model. FVO missions frequently identified failings around process and record keeping of approved premises.
- 4.15 **Would a different model work? It might.** Building on the experience of setting up the Meat Hygiene Service (**Annex F**), and learning from that process, an alternative model might be one that is more centralised, but for practical (and political) purposes is based on national boundaries. This would be a model of centralised control and delivery in each of the countries of the UK.
- 4.16 It is clearly difficult to evidence the benefits for a system that does not exist. However, centralising official controls delivery within the meat sector clearly improved levels of compliance, consistency and performance management. And it aligns to a number of the key principles for official controls delivery at 4.1 above.
- 4.17 For the rest, the initial experience with the creation of Operations Group in 2010, which has brought together previously disparate responsibilities and given them new focus on delivery of the FSA's public health commitments, has demonstrated the scope for:

- Greater ability to focus resources and interventions throughout the UK on impacts that would have the greatest impact on consumer protection;
- Improved performance management and CCA role delivery;
- Clearer accountability for delivery of official controls throughout the food chain; and
- Greater efficiencies and response to the financial pressures arising out of the 2010 Comprehensive Spending Review.

3.18 Outsourcing the entire function to the private sector is not an option because of legislative constraints. Regulation 882/2004<sup>1</sup> sets out the characteristics, obligations and functions of competent authorities, as well as the basis upon which performance of those functions is audited by the FVO. It specifies the circumstances under which specific tasks can be delegated to control bodies<sup>2</sup>. This does not include actions taken in the case of non-compliance. This means that the competent authority, which is defined as the central authority of a member state and not a private entity, must retain responsibility for dealing with non-compliance.

## **5 IMPACT**

- 5.1 Undertaking a review will require input from delivery partners, other government departments, food businesses and consumers.
- 5.2 The review will need to be properly resourced and managed within FSA.

## **6 CONSULTATION**

- 6.1 At the Future Food Hygiene Conference on 3 December 2010, the opportunity was taken to announce our intention to undertake a review of official controls delivery. This was supplemented by letters to key stakeholders, explaining that Board agreement to this would be sought in January.
- 6.2 The review will seek evidence and comment from a wide range of stakeholders across the UK.

## **7 RESOURCE IMPLICATIONS**

- 7.1 The review will be undertaken as a managed project, by a dedicated team in the Food Safety Group, drawing on contributions from across the FSA, and involving

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<sup>1</sup> Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (as amended).

<sup>2</sup> “‘control body’ means an independent third party to which the competent authority has delegated certain control tasks.” Article 2(5) of Regulation (EC) No 882/2004.

external stakeholders.

## **8 LEGAL IMPLICATIONS**

- 8.1 The review and proposals for action will need to consider the extent to which the FSA is fulfilling its obligations as a Central Competent Authority and gains assurance from those to whom competence is delegated. It will also be necessary to consider the implications of the Food Standards Act 1999 which created the FSA.

## **9 RISK IMPLICATIONS**

- 9.1 Undertaking a review informed by evidence from stakeholders will minimize the risk that the analysis and proposals for action presented subsequently to the Board are ill-founded and would be unlikely to address the issues and shortcomings identified.

## **10 SUSTAINABILITY ISSUES**

- 10.1 By undertaking a review, the Executive will be able to consider and evaluate the full range of potential impacts – environmental, social and economic - in relation to food safety official controls delivery models.

## **11 CONCLUSION AND RECOMMENDATION**

- 11.1 There is a growing body of evidence that the current complex and inconsistent delivery model, coupled with declining resources at LA level and uncertainty about good performance being sustained or poor performance improving amongst food businesses, that the current model does not give the FSA, as the central competent authority, evidence or assurance that delivery is effective.
- 11.2 It is now right and timely to undertake a review of the current delivery model and explore and develop an alternative delivery model that is more nationally consistent and involves four national bodies.
- 11.3 The Board is asked:
- Note the evidence that supports the need to review the current food safety delivery regime;
  - Agree that the Executive should review the current delivery model and compare it to an alternative delivery model that involves four national bodies; and
  - Agree to consider the results of the review and proposals for action at its open meeting in July 2011.

**Further information:** Catherine Bowles on 0207 276 8952, email  
[catherine.bowles@foodstandards.gsi.gov.uk](mailto:catherine.bowles@foodstandards.gsi.gov.uk).



Chief Executives of Local Authorities in Scotland

8 February 2011

Dear Colleagues,

## REVIEW OF UK FOOD SAFETY OFFICIAL CONTROLS DELIVERY

The Board of the Food Standards Agency considered on 25 January a proposal to review the delivery of food safety official controls in the UK<sup>1</sup>. I highlighted that this discussion was to take place in January when I wrote to the Chief Executives of Local Authorities in England on improving food safety and I attach a copy of that letter for your information.

The Board agreed to the Executive's recommendation to review the current model for food safety official controls across the UK. The Board has asked that the review should (in addition to considering a more centralised model of delivery) consider fully the scope for making improvements to the current system. We have been asked to carry out an appraisal of a range of delivery options in order to understand the benefits and risks of any changes and the practicability of implementation.

I know that proposing the review has caused some disquiet and concern among frontline delivery staff and others. I am very happy to reiterate here points that were made during the board discussion in order to underline why we think the review is both necessary and timely and to reassure you that we are entirely open-minded about what may emerge from the review process.

- As the UK Central Competent Authority our responsibility is to ensure food safety and consumer protection. We're doing this review now because budgetary pressures both on us and the bodies who deliver official controls make it timely to consider how best to secure efficiency, consistency, resilience and sustainability in this fundamental public health protection function. The FSA will have to play its part because it faces the same economic pressures.
- We are supportive of the work delivered by Local Authorities and their staff. They will play a key part in this review. At the Board meeting the point was emphasised that successful delivery of official controls relies on the local knowledge and expertise of the skilled professional and support staff who are delivering at the local level. We are trying to improve the future delivery in the difficult circumstances that affect us all.

<sup>1</sup>Video and audio coverage of the Board's discussion can be accessed at:

<http://www.flyonthewall.com/FlyBroadcast/FSA/LondonBoard0111/main.php>

The review will be overseen by an independent chair, and undertaken by FSA staff. It will be done in partnership with, and seek the co-operation and involvement of, local authorities and other delivery partners, other Government Departments, other public health organisations, individuals and professional bodies across the UK. We will involve consumers and industry stakeholders. We will make a further announcement on the appointment of the independent chair as soon as possible.

Having got the Board's agreement and orientation on the review, we have begun to plan its conduct and how we will seek the input of interested parties to the review.

I hope that you will be reassured that, in proposing the review we are not dismissing the efforts and contribution of frontline delivery staff and we will continue to support them in their work to protect consumers and support food businesses. In particular, we remain committed to working with local authorities on the roll out of the Food Hygiene Information Scheme in Scotland.

I am copying this letter to the Minister for Public Health & Sport, Cabinet Secretary for Rural Affairs and the Environment, Cabinet Secretary for Finance and Sustainable Growth, the Minister for the Environment, Jacqueline Campbell, Scottish Government Public Health and Wellbeing Directorate, Harry Burns, Chief Medical Officer for Scotland, Rory Mair, Chief Executive of the Convention of Scottish Local Authorities, Tom Bell, Chief Executive of the Royal Environmental Health Institute of Scotland, George Fairgrieve Chairman of the Scottish Food Enforcement Liaison Committee, Andrew Blake, Chairman of the Society of Chief Officers of Environmental Health in Scotland and Marieke Dwarshuis, Senior Director of Consumer Focus Scotland.

I have also written in similar terms to local authorities in England, Wales and Northern Ireland.

Yours sincerely

**Tim J Smith**

Aviation House  
125 Kingsway  
London WC2B 6NH







## **REPORT**

**To: Infrastructure Committee**

**08 March 2011**

**From: Service Manager – Environmental Health  
Environment and Building Services  
Infrastructure Services Department**

### **ENVIRONMENTAL HEALTH ENFORCEMENT POLICY**

#### **1 Introduction**

- 1.1 Environmental Health enforce a wide range of legislation that seeks to protect and improve the environment and the health, safety and well being of the community. Members are asked to consider and approve an updated and amended enforcement policy for Environmental Health.

#### **2 Link to Council Priorities and Risk**

- 2.1 Environmental Health delivers on Safety, Health and Greener outcomes in the Single Outcome Agreement. The Council must publish its Enforcement Policy, which must be approved by Members, as a requirement under the FSAS Food Law Framework Agreement and the HSE Section 18 Agreement. Failure to adopt, publish, implement and regularly review the Enforcement Policy would leave the Council non-compliant with these Agreements.

#### **3 Background**

- 3.1 Members approved an Enforcement Policy setting out how Environmental Health uses its statutory powers in October 2007 (Min Ref 42/07). The impact of decisions taken by Environmental Health can be very significant on the individual or business concerned, so enforcement actions have to be carefully considered. It is important for them to understand how decisions are made about enforcement. The Enforcement Policy aims to ensure enforcement decisions are consistent, balanced, fair, and transparent whilst ensuring that the public is adequately protected. It also takes into account the requirements of other key agencies such as the Local Better Regulation Office, the Health and Safety Executive (HSE) and the Food Standards Agency Scotland (FSAS).
- 3.2 The Enforcement Policy attached as Appendix 1 has been updated to reflect new powers and revised guidance on enforcement from the HSE and Local Better Regulation Office. Both the FSAS and HSE require that Enforcement Policies are regularly reviewed, updated and

approved by Members before implementation. Feedback from businesses, individuals and other stakeholders on the delivery of the Environmental Health Service have been taken into account in drafting this Policy.

- 3.3 The Policy states that officers will attempt to resolve any issues where the law may have been broken without issuing formal notices, or referring the matter to the courts. This will always be the first option when the circumstances indicate that a minor offence may have been committed and officers are confident that appropriate corrective action will be taken.
- 3.4 Where there is a deliberate disregard for the law, attempts to informally resolve matters have failed or an action has seriously endangered the health, safety or wellbeing of people, animals or the environment, then formal action will be taken.
- 3.5 Where a business or individual has been involved in the deliberate or persistent breach of their legal obligations (disregarding warnings and/or formal notices) in circumstances which have caused or were likely to cause ill health, material loss or prejudice to others and there is sufficient evidence to secure a prosecution, a report will be made to the Procurator Fiscal recommending prosecution for the offence. This will always be the last resort and the Service will give due regard to any statutory defences, explanations or mitigation before submitting the report.

## **4 Financial Implications**

- 4.1 As this Enforcement Policy is reviews and updates an earlier Policy there are no financial implications for this report.

## **5 Policy and Delegated Authority**

- 5.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit, Section 12.0 of the Council's Scheme of Delegations, and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision. However the approval of a new Policy or variations to an existing policy, requires the approval of the Council.

## **6 Conclusion**

- 6.1 The Service applies an educative approach and only moves to formal action where informal action does not ensure compliance with legislation. This approach is set out in the attached Enforcement Policy.

## **7 Recommendation**

7.1 I recommend that the Infrastructure Committee recommend to the Council:

7.1.1 approval of the Enforcement Policy attached as Appendix 1 to this report.

Report Number: ES-09-11-F



# **SHETLAND ISLANDS COUNCIL**



## **ENVIRONMENTAL HEALTH SERVICE**

### **ENFORCEMENT POLICY**

**Shetland Islands Council  
Infrastructure Services Department  
Grantfield  
Lerwick  
Shetland**

Document Title	Enforcement Policy		
Version	6	Date	December 2010

## **1.0 General Principles**

### **1.1 Scope and Goals**

This policy applies to the Environmental Health Service within the Environment and Building Service of the Infrastructure Services Department. The Environmental Health Service will review the enforcement policy on a 3-yearly basis, or more frequently if circumstances dictate. Reviews will take into account statutory requirements and feedback from service users. The Environmental Health Service aims to enhance the quality of life in Shetland by protecting and improving the communities' health and environment.

Environmental Health's goals are:

- The enforcement of statutory controls which protect public health, safety and the environment;
- the development and delivery of services and initiatives which protect and improve health, the environment, and move Shetland towards sustainable development;
- the monitoring and analysis of environmental and physical factors which indicate the condition of public health, safety and the environment; and
- the continuous improvement of services within a policy framework influenced by national and local priorities.

### **1.2 2011 Review**

Council approved this reviewed enforcement policy at the Infrastructure Committee meeting on dd/mm/2011.

## **2.0 Guidance Documents**

Enforcement taken by the Environmental Health Service will be in line with this policy which has been developed taking into account the following guidance:

### **2.1 Enforcement Concordat**

In March 1998, The Enforcement Concordat was jointly agreed between the Cabinet Office, The Scottish Office and the Welsh Office and COSLA (the Convention of Scottish Local Authorities) and the Local Government Agency.

Shetland Islands Council's Environmental Health Service aims to follow the principles of good enforcement in the Enforcement Concordat.

The Enforcement Concordat document can be found at:

[www.cosla.gov.uk/attachments/execgroups/es/esbestprac.pdf](http://www.cosla.gov.uk/attachments/execgroups/es/esbestprac.pdf)

Document Title	Enforcement Policy		
Version	6	Date	December 2010

## **2.2 Health and Safety Executive Enforcement Policy Statement**

Shetland Islands Council Environmental Health Service follows the Health & Safety Executive's Enforcement Policy Statement in matters of Health and Safety.

The full statement can be found at: [www.hse.gov.uk/pubns/hse41.pdf](http://www.hse.gov.uk/pubns/hse41.pdf)

## **2.3 Health and Safety Enforcement Management Model**

Shetland Islands Council Environmental Health Service follows the Health & Safety Executive's Enforcement Management Model in matters of Health and Safety.

The full model can be found at: [www.hse.gov.uk/enforce/emm.pdf](http://www.hse.gov.uk/enforce/emm.pdf)

## **2.4 Food Standards Agency Food Law Code of Practice (Scotland)**

Shetland Islands Council Environmental Health Service follows the Food Standards Agency's Food Law Code of Practice (Scotland) in matters of Food Safety.

The full code can be found at:  
[www.food.gov.uk/multimedia/pdfs/enforcement/copscotland0903.pdf](http://www.food.gov.uk/multimedia/pdfs/enforcement/copscotland0903.pdf)

## **3.0 PROCEDURES**

### **3.1 Scope**

The purpose of this Enforcement Policy is to ensure that enforcement decisions are always consistent, balanced, fair, and transparent whilst ensuring that the public is adequately protected. Each case is unique and must be considered on its own merits. This document describes the principles upon which our enforcement approach is based. This Enforcement Policy will be applied in the Council's own premises where the Environmental Health Service has responsibility for enforcement of relevant legislation.

### **3.2 Background**

Environmental Health is charged with administering a wide range of legislation under the following headings:

- Food Standards/Safety
- Private Sector Housing
- Health and Safety
- Animal Health and Welfare
- Environmental Protection
- Public Health

Document Title	Enforcement Policy		
Version	6	Date	December 2010

### 3.3 Detailed Procedures

Officers are appointed and authorised to act under specified legislation, as detailed on their warrant card. In some cases, an Officer's authority may be limited in scope and in others, proof of competence, in terms of relevant qualifications, experience and/or CPD, will be a pre-requisite to authorisation. The Council's Employee Review and Development process will be used to assess competency of officers and determine ongoing professional development requirements to maintain or develop their capacity for enforcement of the relevant legislation.

Environmental Health will carry out a programme of planned inspections with a view to securing compliance with legislation. All businesses are liable to be visited by an Authorised Officer to determine whether the law is being complied with. Businesses will not generally be given advance notice that a visit is to take place.

Environmental Health will concentrate its efforts on high-risk premises and on issues, which adversely affect the health, safety and wellbeing of the community.

For Food Safety the visit frequencies are in accordance with the [Food Law Code of Practice for Scotland](#)

Priority planning in relation to Health and Safety interventions is carried out in line with [LAC 67/2 \(Rev 2\)](#)

### 3.4 Enforcement Principles

Wherever possible, officers will seek to find solutions that are arrived at by agreement and co-operation.

Officers are required to regulate activities across a wide range of businesses and deal with a variety of individuals with different needs and capacity. Full regard will be paid to the different abilities that are encountered and to the importance of education and help which officers are able to give to achieve compliance.

Authorised Officers have powers of entry, inspection and seizure under Statute. In general an authorised officer can:

- Enter premises at all reasonable hours.
- Enter premises where there is a reason to suspect an offence is being committed.
- Inspect any premises.
- Inspect any goods.
- Take samples of any goods.
- Purchase any goods.
- Inspect any relevant documents.
- Seize and detain any goods and documents when it is believed that an offence has been committed.
- Prohibit activities/processes.
- Question any person in pursuance of their duties.

Document Title	Enforcement Policy		
Version	6	Date	December 2010



Business and individuals should expect to:

- Be shown all due courtesy.
- Be informed of the purpose of the visit.
- Be shown identification if requested.
- Be given advice and guidance.
- Receive feedback on compliance levels.
- Be given guidance on the law.
- Be given advice on any action required to remedy any points of non-compliance.
- Receive reasonable time to take remedial action where appropriate.
- Be informed of procedures for appealing against any enforcement action where appropriate.

There are a number of enforcement actions available to an officer and the appropriate action will be dependent on the circumstances. The Service applies an educative approach and only moves to formal action where informal action does not ensure compliance with legislation.

To ensure that food law enforcement is carried out in line with the relevant food safety legislation and Codes of Practice (as required by the Food Standards Agency Framework Agreement), this authority has developed procedures on Interventions. These procedures are consistent with the principles contained in this policy.

The Health and Safety Executive Enforcement Management Model will be used to assist in enforcement decisions relating to Health and Safety.

The following pages identify the actions, which can be taken by Enforcement Officers and the consideration officers take in relation to each action.

## **1. No Action required**

In exceptional circumstances, contraventions may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community.

A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade. A decision to take no action must be recorded and must take into account the overall implications of the contravention.

## **2. Informal Action**

Informal action includes verbal advice and advisory letters/inspection reports. This type of action will be used to resolve minor offences or technical infringements, which are capable of immediate resolution and are unlikely to be repeated.

Document Title	Enforcement Policy		
Version	6	Date	December 2010

#### Considerations:

- The act or omission is not serious enough to warrant formal action.
- The history or risk assessment of the business does not support the need to take formal enforcement action.
- There is sufficient confidence in the proprietor, manager or other agent of the business to ensure that all matters will be corrected.
- Consequences of non-compliance do not pose a significant risk to consumers, the general public, health, and safety or the environment.

Informal action may be given by verbal instruction and the officer will indicate a reasonable timescale for corrective action. Verbal advice will be recorded on premises or complaint records. Advisory Letters/Inspection Reports will be kept on file and will be followed up to ensure that remedial action has been undertaken.

Advisory Letters/Inspection Reports will give clear and precise legislative advice to recipients and will contain timescales for compliance where appropriate.

#### Written information given to businesses/individuals will:

- Contain all information necessary to allow recipients to understand what is required and why it is necessary.
- Indicate the legislation, which is being contravened and give guidance on compliance with legal requirements and the timescale for rectification.
- Clearly indicate where guidance is purely recommendations, i.e. a code of practice requirement as opposed to a legal obligation.
- Indicate that other means of achieving the same effect may be chosen.

### 3. Formal Action

- Statutory Notices
- Fixed Penalty Notices
- Written Warning
- Report to the Procurator Fiscal

#### Considerations:

- Informal action has been unsuccessful or ignored.
- Risk assessments suggests that formal action should be undertaken.
- There is a lack of confidence in the proprietor, manager, or other agent of the business to ensure that matters will be corrected.
- The general public, consumers, health and safety and/or the environment are at risk due to the contravention.

### Statutory Notices

Statutory Notices will be issued where:

- There is a significant and serious alleged contravention of legislation.

Document Title	Enforcement Policy		
Version	6	Date	December 2010

- The consequences of non-compliance with the legislation and the notice could potentially endanger the health, safety or well being of people, animals or the environment.
- Guidance criteria concerning issue of Notice specified in relevant Statutory Codes of Practice is fulfilled.
- A statutory nuisance exists.
- A person has failed to respond informally to resolve a statutory nuisance.
- There are significant contraventions of legislation.
- There is lack of confidence in the individual or management to respond to an informal approach.
- There is a history of non-compliance with informal action.
- Standards are generally poor with little awareness of statutory requirements.
- The consequences of non-compliance could be potentially serious to public health.
- Although it is intended to prosecute, effective action also needs to be taken as quickly as possible to remedy conditions that are serious or deteriorating.

Enforcement Officers will place realistic timescales on Notices for rectification of the alleged breach and will ensure that the business or individual is made aware of their rights of appeal, the appeal mechanisms and the consequences of not complying with a Statutory Notice.

### **Fixed Penalty Notices**

Environmental Health can issue a range of Fixed Penalty Notices (FPNs) when an offence has been committed. FPNs for littering, dog fouling or smoking in an enclosed public space, will be issued whenever an Authorised Officer witnesses an offence. The only exceptions will be when Officers have been tasked with an engagement activity and the issue of an FPN will be detrimental to the Officer's capacity to engage. If the offender is under 16, a Fixed Penalty Notice will not be issued but the individual will receive a formal warning letter about the offence and will be invited to attend an education programme as an alternative to the Fixed Penalty Notice. In these specific circumstances only, will an educative approach be applied. In all other circumstances officers will respond to the offence by issue of a FPN.

Where there is evidence that there is failure to comply with an Abatement Notice to address a Statutory Nuisance under the Environmental Protection Act 1990 officers will use their powers to issue Fixed Penalty Notices. If there are more than three breaches of the notice, which resulted in three FPNs being issued, any further breaches will be dealt with by preparing a Formal Written Warning or Report to the Procurator Fiscal.

### **Formal Written Warnings**

Formal Written Warnings can be used where a breach of legislation has been identified where it is not considered in the Public Interest to pursue a prosecution. The decision not to seek to prosecute will be fully documented. They will be entered

Document Title	Enforcement Policy		
Version	6	Date	December 2010

on record and followed up to ensure that remedial action has been taken. Clear and precise timescales will be contained within the warning.

A Formal Written Warning regarding breaches of legislation will be issued after consultation with the Service Manager and will be presented by Officers at a face-to-face meeting with the individual or business operator.

The formal written warning will contain the following:

- The addressee (the legal person responsible for the alleged offence).
- The date, the place and nature of the alleged offence.
- The alleged breach of the legislation specifying the Act, Regulation or Order with the section, Regulation or article number.

Formal Written Warnings will be used as evidence of a history of non-compliance where a report to the procurator fiscal is being prepared following a further breach of legislation.

### **Report to the Procurator Fiscal**

The decision to report to the Procurator Fiscal is a significant one and in general this decision will be taken where:

- There has been a blatant and/or a deliberate disregard for the law.
- There has been refusal to achieve even the basic minimum legal requirements.
- The alleged infringement could seriously endanger the health, safety or wellbeing of people, animals or the environment.
- The business or individual has been involved in the deliberate or persistent breach of their legal obligations (disregarding warnings and/or formal notices) in circumstances which have caused or were likely to cause ill health, material loss or prejudice to others.
- It can be demonstrated that the alleged infringement caused or is likely to cause substantial loss or prejudice to others through negligence or gross carelessness. The alleged infringement is fraudulent.
- The alleged infringement involved obstruction of an Enforcement Officer carrying out his/her duties.
- Where there is a history of a similar offence.

Before a report to the Procurator Fiscal is prepared, the Investigating Officer and Service Manager must be satisfied that there is relevant, admissible, corroborated and reliable evidence that an offence has been committed by an identifiable person or a company. There must be a realistic prospect of conviction.

When an Officer is preparing a Report, all relevant evidence and information will be considered and included in the Report to enable a consistent, fair and objective decision to be made.

Document Title	Enforcement Policy		
Version	6	Date	December 2010

The Crown Office document “Reports to the Procurator Fiscal – A Guide for Non-Police Reporting Agencies” will be followed.

Reports will be submitted within three months of the date the offence came to light, unless external factors make this impossible.

### **Home Authority Principle**

The Home Authority Principle is a scheme developed by local authorities to help businesses by providing contact points for advice and guidance to encourage efficiency, promote uniformity, reduce duplication and assist the business to comply with the law. It seeks to ensure that:

- Local Authorities place special emphasis on the surveillance of goods and services originating in their areas.
- Businesses are able to depend upon specific Home Authority for preventative guidance and advice.
- Enforcing authorities liaise with the relevant Home Authority on issues which effect the policies of an enterprise.

The service is willing to offer this type of assistance to any business to which we are the Home Authority. A Home Authority is usually the local authority where the head office, or decision-making centre for a business is located.

### **Primary Authority Principle**

The section will adhere to the Primary Authority Partnership agreed with the Local Better Regulation Office (LBRO). The Primary Authority Partnership principle is designed to encourage efficiency, promote uniformity, reduce duplication and assist enterprises to comply with the law. Primary Authority gives companies the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance.

## **3.5 Alternative Strategies**

The Service will use Alternative Strategies to reduce the burden on lower risk and better performing businesses. These will include the use of questionnaires, guidance leaflets and premises specific or themed training programmes.

## **3.6 Review**

This policy will be made widely available to trade bodies and others who may have an interest. It will be published on the Council’s Internet pages. The policy will be reviewed in the light of any comments and feedback received.

Document Title	Enforcement Policy		
Version	6	Date	December 2010

Document Title	Enforcement Policy		
Version		6	Date December 2010



## **REPORT**

**To: Infrastructure Committee**

**8 March 2011**

**From: Head of Finance  
Executive Services Department**

**Report No: F-017-F**

**Infrastructure Revenue Management Accounts  
General Ledger and Reserve Fund  
For the Period 1 April 2010 to 31 January 2011**

### **1. Introduction**

- 1.1 The purpose of this report is to provide Members with an overview of the financial position on the Infrastructure Services General Ledger and Reserve Fund revenue management accounts for the first 10 months of 2010/11.
- 1.2 This report will also highlight the position with regard to savings identified and predicted outturn variances.

### **2. Links to Corporate Priorities**

- 2.1 This report links to the Council's corporate priorities, defined in its Corporate Plan, specifically in relation to reviewing financial performance relative to the Council's financial policies.

### **3. Risk Management**

- 3.1 This is an information report so there are no risks associated with the recommendation.

### **4. Background**

- 4.1 The revenue management accounts are presented to the Corporate Management Team on a monthly basis to monitor the Council's overall financial position.
- 4.2 The financial data in this report includes employee costs; operating costs (property, supplies & services, administration, transport and agency payments); transfer payments (grants); and income (fees and charges, grant funding and rents).

- 4.3 All appendices show the annual budget, year to date (YTD) budget, YTD actual and YTD variance. It is the YTD variances, which are referred to within this report. The YTD budget is derived from setting a budget profile, which estimates when spending will occur or income will be received. The YTD variance shows how actual activity has varied from the YTD budget.

## **5. Financial position on the General Ledger (inc Support/Recharged)**

- 5.1 Appendix 1 shows the position by service area and subjective category. There is an overall overspend of £181k against year to date budget to the end of period 10.
- 5.2 Appendix 2 sets out the position by cost centre and service area.
- 5.3 A summary of the main overspends against YTD budgets (over £50k) is:
- Landfill Income - reduction in income of £89k due to the decline in drill cuttings received for landfill in relation to the current downturn of North Sea drilling production.
  - Roads Winter Service - overspend of £155k due to the long period of frost and snow during the past few months.
  - Special Needs School Transport - overspend of £63k on bus contract costs due to higher than expected demand for this service.
  - Laxo Terminal, Toft Terminal, MV Filla & MV Linga - overspends of £370k due to vessel and terminal incidents that are the subject of insurance claims.
  - Ferry Vessels - overspend of £93k on transport fuel across service due to increased fuel prices.

These YTD overspends are offset by underspending across Infrastructure Services, primarily on staffing budgets, travel and property costs.

- 5.4 The most up-to-date estimate on the outturn position is that there are two significant variances totalling £558k which are predicted to overspend against full year budgets set, as follows:
- £193k overspend on Transport Service ferry vessel fuel costs due to the increase in fuel prices since 2010/11 budget setting.
  - £365k overspend on Transport Bus Services due to the increase in indexation on the bus contracts and contract extensions since budgets were set.

Also, dependent on the severity of the rest of the winter there is potential for an overspend on the Winter Service as a higher than normal proportion of the budget has already been used to date. This has been offset by £243k additional funding from the Scottish Government but may still affect the outturn position.



## 6. Financial position on the Reserve Fund

- 6.1 Appendix 3 shows the position by service area and subjective category. There is an overall underspend of £125k (40%) against budget to the end of period 10.
- 6.2 Appendix 4 sets out the position by cost centre and service area.
- 6.3 The variance is due to underspending on Planning Services grant programmes where it is difficult to predict when grant payments will be made.
- 6.4 No significant variances have been identified to suggest that the outturn position will not be in line with budgets set.

## 7. Financial Implications

- 7.1 The General Ledger is overspent against the YTD budget at period 10 by £181k for the reasons stated in 5.3 above. Two predicted full year overspend variances have been identified to date totalling £558k.
- 7.2 The Reserve Fund is underspent against the year to date budget by £125k. This underspend position is due to budget profiling variances and is not an indication of savings.
- 7.3 As reported in the Head of Finance's Estimates Report in February 2010 (SIC Min Ref 15/10), in order to meet the financial policy target of a draw on Reserves of £2m on the General Fund revenue budget there is an overall budget saving requirement of £9.9m across the Council for 2010/11.
- 7.4 To date a total savings contribution of £1,274k has been committed by Infrastructure Services to the corporate budget saving requirement, as follows:

<b>Service Area - Description of Budget Reduction</b>	<b>One-Off for 2010/11 or Ongoing Saving</b>	<b>£</b>
Directorate & Administration - general efficiency savings	One-off	15,250
Transport Service - increased ferry fares	Ongoing	39,363
Roads Service - increased income on Scord Quarry	One-off	115,000
Roads Service - general efficiency savings	One-off	4,800
Environment & Building Services - reduction in repairs & maintenance	One-off	80,000
Environment & Building Services - reduction in Private Sector Housing Grant	One-off	862,996

Environment & Building Services - general efficiency savings	One-off	55,036
Planning Service - general efficiency savings across service	One-off	101,496
<b>Total</b>		<b>1,273,941</b>

## 8. Conclusion

- 8.1 The General Ledger and Reserve Fund revenue management accounts show that Infrastructure Services overall are generally on target against budget as at period 10 (April - January) after savings of £1,274k have been removed to offset the corporate savings requirement referred to at 7.3 above.
- 8.2 Two significant variances totalling £558k have been identified which are predicted to overspend against full year budgets, as detailed in paragraph 5.4 above.

## 9. Policy & Delegated Authority

- 9.1 The Infrastructure Committee has delegated authority to act on all matters within its remit for which the Council has approved the overall objectives and budget, in accordance with Section 12 of the Council's Scheme of Delegations.

## 10. Recommendation

- 10.1 I recommend that the Infrastructure Committee note this report.

Report No: F-017-F  
Ref: GJ/HKT/BR

Date: 24 February 2011

**INFRASTRUCTURE SERVICES 2010/11 - PERIOD 10****1 April to 31 January 2011**

<u>Revenue Expenditure by Service</u>	Annual Budget £	Year to Date Budget £	Year to Date Actual £	Year to Date Variance (Adverse)/Favourable £
Directorate	798,917	660,370	633,359	27,011
Environment & Building Services	6,419,077	5,529,777	5,353,565	176,212
Roads	6,970,271	5,577,248	5,519,944	57,304
Transport	15,174,781	11,966,658	12,620,573	(653,915)
Planning	1,933,262	1,353,610	1,141,459	212,151
<b>INFRASTRUCTURE SERVICES TOTAL</b>	<b>31,296,308</b>	<b>25,087,663</b>	<b>25,268,900</b>	<b>(181,237)</b>

<u>Revenue Expenditure by Subjective</u>	Annual Budget £	Year to Date Budget £	Year to Date Actual £	Year to Date Variance (Adverse)/Favourable £
Basic Pay	10,163,754	8,468,476	8,476,793	(8,317)
Overtime	1,465,613	1,164,324	1,218,004	(53,680)
Other Employee Costs	4,129,427	3,359,554	3,227,690	131,864
<b>Employee Costs (sub total)</b>	<b>15,758,794</b>	<b>12,992,354</b>	<b>12,922,487</b>	<b>69,867</b>
Travel & Subsistence	634,642	508,247	467,824	40,423
Property Costs	6,799,555	5,696,811	5,623,986	72,825
Other Operating Costs	14,206,547	10,839,814	11,116,823	(277,009)
<b>Operating Costs (sub total)</b>	<b>21,640,744</b>	<b>17,044,872</b>	<b>17,208,633</b>	<b>(163,761)</b>
<b>Transfer Payments (sub total)</b>	<b>999,175</b>	<b>438,383</b>	<b>398,072</b>	<b>40,311</b>
<b>Income (sub total)</b>	<b>-7,102,405</b>	<b>-5,387,946</b>	<b>-5,260,292</b>	<b>(127,654)</b>
<b>INFRASTRUCTURE SERVICES TOTAL</b>	<b>31,296,308</b>	<b>25,087,663</b>	<b>25,268,900</b>	<b>(181,237)</b>

## INFRASTRUCTURE SERVICES 2010/11 - COST CENTRE DETAIL - PERIOD 10

1 April to 31 January 2011

Description		Annual Budget	Year to Date Budget	Year to Date Actual	Year to Date Variance (Adverse)/Favourable
		£	£	£	£
SRY0000	Infrastructure Directorate	216,111	181,901	180,403	1,498
SRY0001	Infrastructure-Recruitment Ex	45,500	34,690	30,120	4,570
SRY0400	Infrastructure Administration	537,306	443,779	422,836	20,943
<b>Directorate</b>		<b>798,917</b>	<b>660,370</b>	<b>633,359</b>	<b>27,011</b>
GRY5101	Landfill Disposal Site	129,011	218,606	219,929	(1,323)
GRY5102	Waste to Energy Plant	817,824	939,778	875,724	64,054
GRY5103	Anti-Litter	6,112	5,093	6,894	(1,801)
GRY5104	Material Recycling Facility	0	0	8,598	(8,598)
GRY5113	Burial Ground Operations	434,976	362,472	326,839	35,633
GRY5129	Waste Prevention	68,419	76,975	98,716	(21,741)
GRY5131	Kerb Scheme	112,366	70,543	53,274	17,269
GRY5133	Glass Re-use	62,636	54,618	40,942	13,676
GRY5137	Zero Waste Fund Redetermination	50,000	50,000	0	50,000
GRY5140	Environmental Management	12,335	12,335	8,123	4,213
GRY5150	Energy Management	17,074	14,231	6,561	7,670
GRY5201	Public Toilets	176,469	150,400	156,073	(5,673)
GRY5211	Street Cleansing General	378,515	308,000	297,321	10,679
GRY5221	Refuse Collection General	871,042	689,873	719,823	(29,950)
GRY5223	Refuse Collection Outer Isle	40,897	35,045	22,381	12,664
GRY5224	Skip Contract	-42,933	-23,150	-20,468	(2,682)
GRY5225	Com Council Skip Contract	110,381	95,848	99,738	(3,890)
GRY5229	Grounds Maintenance	201,062	186,807	171,859	14,948
GRY5301	Metrology	41,077	27,381	32,210	(4,829)
GRY5401	Environmental Protection	-11,348	-9,843	-17,793	7,950
GRY5403	Housing	172	144	-216	360
GRY5404	Pest Control	8,848	6,802	-9,122	15,924
GRY5407	Animal Health	965	804	1,743	(939)
GRY5408	Food Hygiene	-15,276	-12,730	-7,604	(5,126)
GRY5414	Hsng Multiple Occ Project	0	0	171	(171)
GRY5415	Private Sector Housing Grants	610,063	352,079	352,079	0
GRY5423	Landlord Registration	-344	-286	-2,280	1,994
GRY5424	A.S.B/N.S.W	214,019	189,756	181,581	8,175
GRY5425	Shellfish Monitoring	0	-10,665	-3,676	(6,989)
GRY5427	Private Water Supplies Grants	0	0	-2,267	2,267
GRY5429	Wir Community, Wir Choice Leas	0	0	18,358	(18,358)
SRY5000	Head of Environment	98,505	81,387	82,718	(1,331)
SRY5100	Environment & Energy Service	204,975	160,504	162,806	(2,302)
SRY5200	Cleansing Services	149,916	124,359	124,375	(16)
SRY5300	Trading Standard Service	196,675	158,110	154,529	3,581
SRY5400	Environmental Health	449,658	373,000	357,306	15,694
SRY5402	Licensing Standards Officer	16,073	13,287	14,143	(856)
SRY5500	Building Service Manager	69,775	57,984	57,426	558
SRY5501	Tech/Man Supp-Building Service	301,156	247,703	240,710	6,993
SRY5502	Social Care-Testing & Fees	80,360	74,494	95,939	(21,445)
SRY5503	Education-Testing & Fees	280,399	239,681	239,185	496
SRY5504	Offices-Testing & Fees	95,187	66,625	56,200	10,425
SRY5505	Asbestos Management	53,309	44,043	51,702	(7,659)
SRY5506	Safety Surfacing	35,355	21,215	5,257	15,958
SRY5507	Rural Care Homes Testing&Fees	93,372	76,469	75,759	710
<b>Environment &amp; Building Services</b>		<b>6,419,077</b>	<b>5,529,777</b>	<b>5,353,565</b>	<b>176,212</b>
					0
GRY6501	Grass Cutting/Weed Control	63,599	63,599	63,974	(375)
GRY6511	Drainage Maintenance	346,535	307,974	311,551	(3,577)
GRY6521	Traffic Signs	71,910	66,852	58,276	8,576
GRY6531	Road Markings & Cats Eyes	227,701	187,584	187,700	(116)

GRY6541	Roads Sweeping	60,749	50,624	48,250	2,374
GRY6551	St Lighting-Maintenance&Energy	325,649	245,038	230,752	14,286
GRY6552	Christmas Lighting/Trees	13,850	13,250	4,358	8,892
GRY6555	Routine Maintenance General	0	0	682	(682)
GRY6601	Localised Reconstruction	399,523	381,374	374,839	6,535
GRY6605	Patching	420,017	419,592	429,376	(9,784)
GRY6611	Resurfacing	966,584	627,300	626,465	835
GRY6615	Footpath Maintenance	75,021	55,186	53,523	1,663
GRY6625	Surface Treatments	650,500	650,417	650,500	(83)
GRY6635	Drainage Improvements	61,501	22,273	21,951	322
GRY6645	Verge Maintenance	123,971	83,804	53,445	30,359
GRY6655	Crash Barriers & Railings	43,373	29,803	3,292	26,511
GRY6665	Minor Improvements	42,028	28,393	12,089	16,304
GRY6675	Streetlighting (Renewals)	42,796	35,663	28,310	7,353
GRY6681	Sea Defences	19,164	13,105	987	12,118
GRY6685	Structures (Ret Walls)	18,762	18,762	2,380	16,382
GRY6691	Structures(Bridges & Culverts)	54,479	54,479	17,846	36,633
GRY6692	Cattlegrids	98,430	68,103	16,118	51,985
GRY6695	Structural Maintenance General	14,803	14,803	12,525	2,278
GRY6701	Road Authority Functions	6,877	6,064	12,319	(6,255)
GRY6711	Surveys & Inspections	48,964	44,821	77,187	(32,366)
GRY6721	Winter Service	1,292,513	853,427	1,002,955	(149,528)
GRY6731	NRSA Functions	563	459	-3,792	4,251
GRY6741	Road Safety	2,040	1,700	4,899	(3,199)
GRY6761	Roads Asset Management	56,800	56,633	35,507	21,126
SRY6000	Head of Roads	175,677	144,952	141,652	3,301
SRY6100	Roads Network	469,691	390,650	402,737	(12,087)
SRY6200	Roads Design	281,366	231,493	229,502	1,991
SRY6300	Maintenance	406,265	337,638	343,541	(5,903)
SRY6400	Laboratory	88,570	71,433	64,251	7,182
<b>Roads</b>		<b>6,970,271</b>	<b>5,577,248</b>	<b>5,519,944</b>	<b>57,304</b>
					0
GRY7201	Air Services General	730,273	562,384	624,054	(61,670)
GRY7202	Air Services Fair Isle	15,000	15,000	0	15,000
GRY7203	Air Services Foula	12,602	12,602	12,985	(383)
GRY7205	Air Service Skerries	10,094	10,094	9,989	105
GRY7206	Airstrips	0	0	186	(186)
GRY7207	Tingwall Airstrip	172,923	136,618	152,004	(15,386)
GRY7208	Scatsta Airstrip	-31,964	-2,932	-6,999	4,067
GRY7209	Baltasound Airstrip	23,089	21,016	29,310	(8,294)
GRY7221	Taxi Licensing	-6,528	-5,924	-2,346	(3,578)
GRY7231	Bus Services General	7,565	6,306	12,215	(5,909)
GRY7232	Bus Services Whalsay	2,249	-7,859	219	(8,078)
GRY7233	Lerwick Bus Station	49,548	44,540	61,524	(16,984)
GRY7234	Bus Shelters	2,070	2,620	4,706	(2,086)
GRY7235	Belmont - Saxa Vord	45,123	33,842	37,126	(3,284)
GRY7236	Lerwick Town Bus	46,819	35,114	36,827	(1,713)
GRY7237	Lerwick Hillswick	146,065	109,549	107,847	1,702
GRY7238	Lerwick - Laxo	54,876	41,157	62,610	(21,453)
GRY7239	Lerwick - Mossbank	139,500	104,625	115,677	(11,052)
GRY7241	Lk - Scalloway - Burra	65,608	49,206	67,833	(18,627)
GRY7242	Lerwick - Sumburgh	118,158	76,758	85,150	(8,392)
GRY7244	Westside Mainline	74,986	80,150	112,560	(32,410)
GRY7245	Ulsta-Gutcher-Cullivoe	84,857	63,035	67,381	(4,346)
GRY7246	Ulsta - M Yell - W Sandwick	30,121	19,554	19,554	1
GRY7247	Westside Feeders	91,845	69,090	50,574	18,516
GRY7248	Concessionary Fares	1,500	1,125	693	432
GRY7249	NPP Rural Transport Solutions	0	0	7,669	(7,669)
GRY7251	Other Tport Vehicle R & M	1,617	1,348	1,348	1
GRY7252	School Transport	1,591,442	1,251,678	1,218,647	33,031
GRY7253	Sp Needs School Transport	257,351	199,599	290,508	(90,909)
GRY7254	Social Work Transport	128,064	94,628	108,036	(13,408)
GRY7255	Rural Transport	248,740	186,555	214,644	(28,089)
GRY7256	Fuel Account - Administration	0	0	50	(50)
GRY7257	Fleet Mgmt-Plant & Vehicle Hir	0	0	1,800	(1,800)

GRY7258	Education/SRTTransport	29,993	24,994	13,894	11,100
GRY7502	STP Admin Costs	28,335	91,364	91,247	117
GRY7601	Bressay Service	474,516	394,403	415,543	(21,140)
GRY7602	Fair Isle Service	144,020	119,765	115,462	4,303
GRY7603	Fetlar Service	254,139	208,931	222,220	(13,289)
GRY7605	Papa Stour Service	188,957	157,157	136,153	21,004
GRY7606	Skerries Service	472,155	388,693	440,191	(51,498)
GRY7607	Unst Service	705,832	580,737	571,051	9,687
GRY7608	Whalsay service	1,181,644	962,277	982,941	(20,664)
GRY7609	Yell Service	1,148,463	937,419	897,534	39,885
GRY7610	Community Runs	33,500	26,056	22,316	3,741
GRY7701	Foula Ferry Contract	506,381	419,311	411,577	7,734
VR7295	Fleet Management Unit	3,172	85,011	136,387	(51,376)
VR7296	FMU Fuel	-28,376	-21,167	-7,411	(13,756)
VR7297	FMU-Vehicle Hire	9,302	-2,629	-1,192	(1,437)
VR7620	Lerwick Terminal	13,654	11,060	8,005	3,055
VR7621	Bressay Terminal	16,481	11,106	14,391	(3,285)
VR7622	Grutness Terminal	7,098	4,085	1,880	2,205
VR7623	Fair Isle Terminal	8,693	4,652	3,072	1,580
VR7624	Hamarsness Terminal	21,143	14,520	17,104	(2,584)
VR7627	West Burrafirth Terminal	8,858	6,551	4,540	2,011
VR7628	Papa Stour Terminal	8,743	6,139	6,307	(168)
VR7629	Skerries Terminal	7,228	4,549	2,825	1,724
VR7630	Gutcher Terminal	16,213	11,256	9,949	1,307
VR7631	Belmont Terminal	21,705	15,941	5,519	10,422
VR7632	Laxo Terminal	11,366	8,797	94,680	(85,883)
VR7633	Symbister Terminal	18,034	11,154	13,503	(2,349)
VR7634	Vidlin Terminal	11,210	8,485	5,226	3,259
VR7635	Toft Terminal	48,479	44,103	148,977	(104,874)
VR7636	Ulst Terminal	54,273	29,592	16,775	12,817
VR7661	MV Bigga	401,806	335,211	341,162	(5,951)
VR7662	MV Snolda	120,075	88,112	91,957	(3,845)
VR7663	MV Fivla	242,255	188,644	148,404	40,240
VR7665	MV Geira	262,300	111,581	94,716	16,865
VR7666	MV Good Shepherd	85,250	44,005	47,282	(3,277)
VR7668	MV Hendra	318,467	142,297	127,875	14,422
VR7670	MV Leirna	262,343	208,503	214,669	(6,166)
VR7672	MV Thora	126,802	98,295	89,192	9,103
VR7673	Linga	603,918	324,362	436,662	(112,300)
VR7675	Filla	392,001	325,736	440,006	(114,270)
VR7676	MV Daggri	678,623	554,313	499,238	55,075
VR7677	MV Dagalien	593,834	495,980	502,901	(6,921)
VR7690	Sellaness Store	37,686	28,037	14,920	13,117
VR7695	Ferries Engineering Service	375,317	309,912	287,160	22,752
SR7000	Head of Transport	89,759	74,783	68,980	5,803
SR7200	Transport Planning & Support	143,844	119,107	134,918	(15,811)
SR7210	Air Bus & Fleet	61,924	51,604	60,561	(8,957)
SR7600	Ferry Operations Manager	766,133	646,595	674,321	(27,726)
SR7610	Ferry Service-Cadets	73,640	43,791	40,606	3,185
<b>Transport</b>		<b>15,174,781</b>	<b>11,966,658</b>	<b>12,620,573</b>	<b>(653,915)</b>
					0
GRY8002	Marine Devt Planning Permissio	-34,267	-34,267	-39,482	5,215
GRY8003	Local Review Body	0	0	10,000	(10,000)
GRY8101	Building Control	-237,450	-236,208	-302,165	65,957
GRY8201	Planning Control	-186,150	-161,311	-164,060	2,749
GRY8301	Planning Policy	0	0	-712	712
GRY8304	Access Paths Improvements	47,877	41,689	21,192	20,497
GRY8305	Town Centre Regeneration	344,970	47,074	33,313	13,761
GRY8404	KIMO International	-32,975	0	0	0
GRY8409	Map Extract Service	-120	-100	-998	898
GRY8410	FFL Scotland	-6,975	-5,813	1,634	(7,447)
GRY8411	Ranger Service	43,751	43,751	43,751	0
SR8000	Head of Planning	156,035	129,612	80,657	48,955
SR8100	Building Standards	299,389	242,408	226,436	15,972
SR8200	Development Management	457,599	383,054	384,604	(1,550)

SRV8300	Development Plans	403,580	335,843	296,239	39,604
SRV8400	Heritage	401,560	335,667	323,590	12,077
SRV8401	GIS Technical Design & mapping	128,144	109,134	108,530	604
SRV8500	Marine Development	148,294	123,077	118,928	4,149
<b>Planning</b>		<b>1,933,262</b>	<b>1,353,610</b>	<b>1,141,459</b>	<b>212,151</b>
					0
<b>INFRASTRUCTURE SERVICES TOTAL</b>		<b>31,296,308</b>	<b>25,087,663</b>	<b>25,268,900</b>	<b>(181,237)</b>

## INFRASTRUCTURE SERVICES 2010/11 - PERIOD 10

1 April to 31 January 2011

<u>Revenue Expenditure by Service</u>	Annual Budget £	Year to Date Budget £	Year to Date Actual £	Year to Date Variance (Adverse)/Favourable £
Environmental Health	200,000	112,238	100,031	12,207
Planning	242,692	198,757	86,455	112,302
<b>INFRASTRUCTURE SERVICES TOTAL</b>	<b>442,692</b>	<b>310,995</b>	<b>186,486</b>	<b>124,509</b>

<u>Revenue Expenditure by Subjective</u>	Annual Budget £	Year to Date Budget £	Year to Date Actual £	Year to Date Variance (Adverse)/Favourable £
Basic Pay	0	0	0	0
Overtime	0	0	0	0
Other Employee Costs	0	0	0	0
<b>Employee Costs (sub total)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Travel & Subsistence	400	333	4,718	(4,385)
Property Costs	0	0	0	0
Other Operating Costs	51,292	46,491	16,027	30,464
<b>Operating Costs (sub total)</b>	<b>51,692</b>	<b>46,824</b>	<b>20,745</b>	<b>26,079</b>
<b>Transfer Payments (sub total)</b>	<b>391,000</b>	<b>264,171</b>	<b>165,675</b>	<b>98,496</b>
<b>Income (sub total)</b>	<b>0</b>	<b>0</b>	<b>66</b>	<b>(66)</b>
<b>INFRASTRUCTURE SERVICES TOTAL</b>	<b>442,692</b>	<b>310,995</b>	<b>186,486</b>	<b>124,509</b>



INFRASTRUCTURE SERVICES 2010/11 - COST CENTRE DETAIL - PERIOD 10	1 April to 31 January 2011
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<u>Description</u>		Annual	Year to Date	Year to Date	Year to Date
		Budget	Budget	Actual	Variance
		£	£	£	(Adverse)/Favourable
					£
RRY5001	Fuel Poverty Grant Scheme	200,000	112,238	100,031	12,207
<b>Environment</b>		<b>200,000</b>	<b>112,238</b>	<b>100,031</b>	<b>12,207</b>
RRY8003	NAFC Marine Management	9,610	9,610	0	9,610
RRY8381	Area Regeneration Res Fund	30,700	25,498	10,764	14,734
RRY8383	Coastal Protection	44,000	28,267	10,077	18,190
RRY8481	KIMO Policy	7,000	5,833	4,393	1,440
RRY8482	Nuclear Policy	21,382	20,049	15,781	4,268
RRY8486	Env Improve/Cons	100,000	89,500	45,440	44,060
RRY8488	Natural Heritage	30,000	20,000	0	20,000
<b>Planning</b>		<b>242,692</b>	<b>198,757</b>	<b>86,455</b>	<b>112,302</b>
<b>INFRASTRUCTURE SERVICES TOTAL</b>		<b>442,692</b>	<b>310,995</b>	<b>186,486</b>	<b>124,509</b>



## **MINUTE**

**“A & B”**

**Zetland Transport Partnership  
Council Chamber, Town Hall, Lerwick  
Monday 21 February 2011 at 10am**

### **Present:**

I J Hawkins  
R S Henderson  
S Robertson

### **Advisers:**

S Laurensen, Lerwick Port Authority  
J G Simpson, Development Committee  
S Mathieson, Visit Shetland  
J L B Smith, Sumburgh Airport Consultative Committee

### **Apologies:**

C H J Miller  
F A Robertson  
Dr S Taylor  
A S Wishart

### **In attendance (Officers):**

B Thompson, Service Manager – Transport Planning and Support  
E Park, Transport Strategy Officer  
L Gair, Committee Officer

### **Chairperson**

Mrs I J Hawkins, Chairperson of ZetTrans, presided.

### **Circular**

The circular calling the meeting was held as read.

### **Declarations of Interest**

None

### **Minutes**

The minute of meeting held on 24 January 2011 was confirmed on the motion of Mr S Robertson, seconded by Mr R S Henderson.

### **Members' Attendance at External Meetings**

None

06/11

**Rural Transport Solutions**

The Partnership noted a report by the Lead Officer (Appendix 1).

07/11

**Implementation of Shetland Transport Strategy**

The Partnership noted a report by the Lead Officer (Appendix 2).

The Service Manager – Transport Planning and Support introduced the main terms of the report and the following updates were provided:

Sustainable Travel: The Transport Strategy Officer advised that the funding bid submitted to the Cycling Scotland initiative had been unsuccessful but would be amended and resubmitted in six months time.

Internal Public Transport: The Transport Strategy Officer advised that she would be writing to Unst and Fetlar Community Councils separately so that representation could be made by the Unst and Fetlar Communities directly to Officers.

Bressay Tunnel: Ms S Laurenson referred to the Appendix 1 page entitled “One Project” Approach and noted that Bressay Tunnel had a completion date of 2016. She advised however that there was a portal on the north side that, unless established as being required for the tunnel, could be developed by someone else. The Service Manager – Transport Planning and Support advised that the Transport Service worked closely with Planning and this area of land had been established in the Main Issues Report for the purpose of the tunnel. He said that nothing could be developed without consultation with the Planning Service.

Mr J G Simpson referred to paragraph 2.2 of Appendix 1 and the comment “that Whalsay would be unlikely to be the first or second to be constructed”. He said that what worried him was that Whalsay had the worst service in Shetland which was worsened by the M.V. Linga being out of service for her refit. Mr Simpson said that at best it would be a long way into the future before anything would be done and Members and Officers had to put their minds to how to improve the ferry service.

The Chairperson said that a study was being carried out into the life extension of ferries and terminals and more would be known on Whalsay’s situation at the end of that study.

**Road Equivalent Tariff (RET)**

In response to a query from Ms S Laurenson regarding the issue of the draft Final Evaluation report, the Service Manager – Transport Planning and Support advised the most recent Scottish Government statement was ‘The final results of the evaluation of the pilot will be available early in 2011’. To date there has been no further news. It is possible that the report might not be issued until after the Scottish Parliamentary elections.

05/11

**Note of Shetland External Transport Forum Meeting – 24 January 2011**

The Partnership noted and approved the minutes of the Shetland External Transport Forum meeting held on 24 January 2011 (Appendix 5).

01/11 Matters Arising – In response to a query from the Chairperson, Mr J L B Smith advised that he had no more information on the issue of parking charges at Sumburgh Airport. He explained that he would be in Inverness soon and would call along HIAL's head office and make tentative enquiries into this matter. He said that he was aware that they had carried out a cost benefit analysis.

The meeting concluded at 2.15p.m.

I J Hawkins  
CHAIRPERSON





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## MINUTE

‘A & B’

**Inter-Island Ferries Board**  
**Council Chamber, Town Hall, Lerwick**  
**Friday 25 February 2011 at 10.00am**

**Present:**

R S Henderson	L Baisley
J H Henry	A J Hughson
C H J Miller	R C Nickerson
F A Robertson	J G Simpson

**Apologies:**

A T J Cooper

**In Attendance (Officers):**

K Duerden, Ferry Services Manager  
J Johnson, Senior Assistant Accountant  
A Cogle, Service Manager – Administration

**Chairperson:**

Mr R S Henderson, Chairperson of the Board, presided.

**Circular:**

The circular calling the meeting was held as read.

The Board noted that the next meeting would be held on 22 April 2011 at 12 Noon.

**Declarations of Interest**

None.

**Minute**

The minute of the meeting held on 21 January 2011, having been circulated, was confirmed.

**Members' Attendance at External Meetings**

Nothing to report.

05/11 **Ferry Services Operational Report**

The Board noted a report by the Ferry Services Manager, attached as Appendix 1.

Some discussion took place concerning the damage caused to the Bigga by fence wire. Members noted that the source of the fence wire was unknown, but was not a recent material nor connected to any works being done around the terminals. Members also noted that an insurance claim had been made.

Reference was made to the placement of ferries during the Linga refit. Members agreed that the Ferry Services Manager would consult with the Masters with regard to ensuring the best arrangements for addressing the higher number of passengers and vehicles at peak times, and Members for the area would be advised of the outcome.

*[Mrs C Miller attended the meeting during consideration of the following item of business.]*

06/11 **Ferry Services Revenue Monitoring 2010/11 - Period 10 – 1 April to 31 January 2011**

The Board noted a report by the Head of Finance, attached as Appendix 2.

The Management Accountant advised that the Ferry Service had overspent by £294k, including outstanding insurance claims amounting to £370k. The Board noted that early settlement of the insurance claim was being pursued, but if not achieved within the current financial year, the amount would accrue into 2011/12.

The Board also noted the increase in income for the Cadets Programme, but noted that the training grant income for future years was uncertain, and a report would be brought to Members on the Programme once the future funding arrangements were clear.

The Board agreed that reference to “minor” overspends should not be used in future reports, as the terminology was misleading and instead should indicate that there are a number of individual overspends of various amounts which result in an accumulative figure being shown.

Some discussion took place concerning the Council’s decision to increase fares by 15%. The Board noted that some Members were concerned that this increase would have a detrimental affect for islanders and the economy, and may not achieve the savings being sought if passengers stopped using vehicles or reduced in number. It was noted that a report would be presented to the Council with regard to the final setting of the ferry fares, and in this regard some Members advised that they would contact the Service, or Finance Services, to seek historical financial information in relation to the cost and income figures since 2004/05, in order to challenge the decision.

During the discussion, Members also expressed concern regarding employee costs, particularly overtime, and considered whether issues relating to the manning and operation of various routes could be altered to achieve further savings that could assist with reducing the increase in fares. Whilst the Board noted the minimum manning requirements and the operational and management decisions that had to be taken, it also noted that the Executive Director Infrastructure Services was embarking on a departmental service review, and the Ferry Service would be included within that, and would address those areas of concern which Members were referring to. However, Members expressed further



concern that the timetable for the review would not achieve the required savings or changes within the next financial year.

After further discussion, the Board, on the motion of Mr R Nickerson, seconded by Mrs C Miller, agreed to note the report and to suggest to the Executive Director Infrastructure Services that the review of the Ferries Service should be of the utmost urgency and should be the first element of the review to be completed. The Board concurred.

The meeting concluded at 10.50 a.m.

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R Henderson  
Chairperson