



REPORT

To: Shetland Islands Council

17 May 2011

From: Head of Legal and Administration

Report No : LA-29-F

Subject: Governance and Constitutional Arrangements.

1 Introduction

1.1 On 15th September 2010, at the first meeting attended by Mr Buchan in his role as Chief Executive, an improvement agenda was set out and unanimously approved by the Council. That unanimity was unsurprising given that many of the matters addressed in the improvement programme were issues that had been raised by Councillors in introductory meetings with the Chief Executive. The process was also informed by criticisms of the Council's operation which had been highlighted through the Accounts Commission hearings on the 29th and 30th June 2010 and their subsequent report to the Council.

The Council's published improvement plan dated November 2011 very much mirrored the earlier programme of work identified in the Council's improvement agenda.

1.2 One of the key areas for review and modernisation, identified by Members was the need to review our political management arrangements. This was on the understanding that any changes made to the Council's decision-making structures would not introduce the type of political leadership that Councillors had in mind unless it also was supported by a strong suite of renewed constitutional documents.

1.3 The Council has recently taken significant steps forward on this work in particular decisions taken in March and April to adopt the new political management framework, identify and make appointments to the new Committee structure including the establishment of and appointment to an Executive Committee. The appointment of a political leader, as Chairman of the Executive Committee and the appointment of Chairpersons for the four Principal Committees to carry forward the Council's policy, planning and performance management framework. This development of a political leadership for our Council has the scope to revolutionise the way in which we arrange and conduct the business of the Council. The appointments to the various Committees was substantially concluded at the Council meeting on 23 April 2011.

1.4 Attached as appendix 1 to this report is a list of the documents, which have been subject to review, in tandem with the introduction of the political management framework. The purpose of this report today is to put before Members for approval the principal documents to support the new ways of working which will be introduced with the first cycle under the new arrangements from 18 May 2011 onwards. The documents listed and attached as appendices 2-7 are those described as parts A, B, C, F (Protocol on Member /Officer relations), G and I of the Constitution.

2. Links to Council Priorities

2.1 The Council identified a major overhaul of its political management arrangements and the constitutional documents required to support those changes as a key priority in the Council's improvement programme. Many of the other projects being undertaken within that programme are dependant on the political arrangements now in place and the support that can be given to that by the approval of the constitutional arrangements listed in this report.

3 Risk Management

3.1 Unless the Council adopts the rules, practices and procedures embodied within the papers before you today, there is a real risk that the objectives to be achieved by the significant changes made in the political management arrangements will not be achieved. The former administrative regulations and Scheme of Delegation are no longer fit to support the new political structures.

4 Background and Proposals

4.1 A number of the listed documents wholly replace similarly named Governing documents. They have been enhanced and updated to strengthen the Councils Governance arrangements where appropriate and to reflect new or changed outcomes desired by Members and in some instances Officers. The compilation process has been much assisted by the development of ideas with Councillors individually and collectively, in groups of Ward Members and at information seminars. There has been input from Officers and recently the draft papers were presented to a wider management team of approximately a hundred Officers. Those present had some part to play with assisting Members in the decision-making process by report writing, attending Council meetings or in implementing Member decisions. Some of the more senior managers have responsibilities to directly take decisions and to implement decisions taken in the chamber and others sometimes more junior managers have detailed levels of delegation to enable the day to day delivery of service. An extensive trawl of legislative provision has been undertaken to ensure that managers have the necessary authority to act where required under delegated authority

on behalf of the Council and its Members. This is narrated under the Council's Scheme of Delegation proposed as part C of the suite of documents.

- 4.2 The Seminars which have assisted the development of these papers were led by Councillor J Simpson in his political leader designate role following appointment on 7 March. The management day on 21 April was of course led by the Chief Executive and it outlined the way in which managers will support the changes and new ways of working to help the Council achieve the political will of the new leadership in this final year of the term of this Council.
- 4.3 At both Member and Officer level it has been understood that while the Council's Constitution requires the approval and authority of the Council much in these arrangements is new and the introduction of changed ways of working will take some time to fully and properly embed. During that process further refinement may be identified and will be drawn to the attention of the Council. In the words of Councillor Simpson as Chairman of the new political leadership, the changes before us gives us our best chance to leave a strong legacy for the Council to be elected in May 2012 and to build on the good working relations between Councillors and Officers that will maximise efficiencies with overall benefits to the Shetland Community as a whole.

5. Part A - Governance

- 5.1 The Council's Constitutional documents set out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are accessible, transparent and accountable. As the first of these documents the Governance document consolidates the legal underpinning of the Council, its powers and duties, the principles which support the Council in providing clear leadership to the community. It defines the rights of Councillors as individuals within that process. The citizens of Shetland, who make up the community as constituents, have expectations both in terms of their own rights and the manner in which they expect Councillors to perform their roles. Part A goes some way to articulate those aspects with separate sections dealing with the rights and duties of Councillors supporting the rights and expectations of residents of Shetland. Part A lists the key strategy documents for which the Council bears prime responsibility and underscores the primacy of the Council with its full membership of the Council, being the body responsible for all matters reserved by statute and for the principal role of approving policies developed by all of its Committees under the guidance and leadership of the Executive Committee.

Part II and appendix 1 contain descriptions of the appointment and roles and duties of Convener, Leader and Chairs of Committees.

Part III identifies the authority of the present Senior Manager structure and the three Proper Officers roles, identifies the statutory derivations for these appointments, and the roles those Officers hold and are accountable for within the Council's Governance arrangements.

6 Part B Standing Orders for Meetings

6.1 An essential component of sound Governance are the procedures which support effective decision-making. It is therefore critical that the Council has in place a robust set of Standing Orders that explain in detail how meetings of the Council are called, how business is compiled for the meeting, timescales for release of agendas so that the decision-makers and those to whom they are responsible, the Public, have the legally enforceable rights of access. The Standing Orders require to be accessible in terms of the language and content and should go on to describe the rules of procedure that underpin and strengthen legally robust decisions of the Council.

6.2 These standing orders replace the Council's previous administrative regulations, and the new elements have been described for Members at information seminars leading up to the production of this report. These elements include the following : -

- Setting of minimum time-scales for release of Agenda (7 days).
- Reverting to the statutory minimum for constitution of a quorum (a quarter of the membership - minimum of 3)
- Duty of Members to be fully informed before decisions are taken (paragraph 9.1) with a defined process to segregate the advice giving stages of a meeting from the Political debate/decision taking.
- A requirement for all motions (including motions of additional amendments) to be on the table before voting on any motions begins and the method of taking such votes (paragraphs 9.3-9.6).
- A presumption in favour of transparent voting (a show of hands)
- Inclusion of Members motions on an agenda (section 12 and section 13 for such urgent business)
- Limitations on changing decisions of the Council and circumstances where such business may be permissible (Section 15)
- Enhanced Public participation: Petitions, of 20 or more signatories, deputations of up to 3 persons

representing organisations or groups and associated procedures (section 17)

- Reinforcement of rights of Councillors to attend meetings and participate where they are not already appointed members of that Committee.

6.3 These new Standing Orders are commended to the Council for debate and approval.

7 Part C: Scheme of Administration and Delegations

7.1 The Council is obliged to have in place and publicise a scheme of delegation. The proposed draft attached as appendix 4 covers a range of general, specific and in some instances very detailed levels of delegation to Officers. Depending on the level to which the delegation is given, the delegation is sometimes very wide reflecting the nature of the responsibilities a Senior Officer is expected to bear and in some instances very narrow either because the responsibility of the officer requires that level of specificity or because the legislation itself allows very little use of discretion.

7.2 This comprehensive review has undertaken a lot of time and effort by Officers but the result is a document which, because it consolidates all of what was contained in the Councils previous scheme of delegation and enhances it to bring it up to date with any new such statutory provisions, is now recommended to be approved for implementation. Where necessary the detailed Appendix 1 for the Planning Scheme of Delegations would be subject to Scottish Ministers' approval, and in the meantime the existing Planning Scheme would continue to apply for the equivalent functions.

7.3 Such schemes of delegation are of necessity rather through documents which require modification from time to time to reflect changes in management structure, consolidation of legislation or introduction of new powers/duties. Furthermore, the Council, in the course of its decision-making, will require new responsibilities to be placed on Officers in the provision of services to the communities.

7.4 In order to ensure that the document is maintained as a guide or road map for the public to identify the appropriate source for the services for which it delegates authority to provide, it needs to be updated on a fairly regular basis. It is recommended that, in the course of approving this scheme, authority is also given to the Chief Executive, and any Officer nominated by him, to keep under review and validly update the scheme of delegation incorporating the operational activity which flows from management or political decisions.

7.5 The scheme of Administration and Delegations is commended to Council for debate and approval incorporating the suggested additional delegation of modification of the document itself to the Chief Executive.

8 Part F – Protocol for Councillor/Officer Relations

- 8.1 Throughout the constitutional documents the rights, duties roles and responsibilities of Members and Officers are mentioned. Unlike most other Local Authorities in Scotland, Shetland Islands Council has not hitherto prepared a formal protocol clearly differentiating between roles and responsibilities, the expectations of Members and Officers and the way in which it is appropriate for each to support the other in ensuring that good Governance underpins good Council work. The production of the draft protocol attached as Part F of appendix 1 seeks to place these various components on a formal footing and produce a protocol for high standards of conduct by both employees and Members in supporting the relationships which will complement each other's roles.
- 8.2 Giving publicity to a protocol of this nature also helps clarify in the minds of the public, and the media reporting to the public, the distinctiveness of the roles and who bears responsibilities for the Council's decisions. Therefore this protocol also touches on the underpinning principles and good practice in communicating with the media (section 6). A significant piece of work being undertaken as part of the Council's improvement plan in developing a communication strategy will help build on these core principles and this will come forward for subsequent Council approval in due course.
- 8.3 Section 8 of the Protocol identifies the fundamentals of good complaint procedures. The importance of that within this document highlights a key area where complaints from the public can create an interface between the work of Councillors on behalf of their constituents and the work of Officers in delivering the services Council has specified. It is in matters of that nature that the flash point for challenges to good relations can occur and so this protocol sets out some ground rules and highlights the importance of the Council's Corporate complaints procedure. Another project within the Council's improvement plan is the development of a complaints procedure and the work of that group is well advanced and the Corporate procedure will be brought before the Council for approval later in the summer. The objectives of that project are very closely aligned with the best practice guidance from the Scottish Public Services Ombudsman's Office who earlier this year assumed full parliamentary authority for the development of model schemes of complaint handling for a wide range of public sector bodies. It is therefore timely that this work is being undertaken by the Council and aligns itself well to the establishment of the high level principles this protocol sets out.

- 8.4 The protocol shall have attached as appendices, a copy of the Statutory Code of Conduct for Councillor last amended in Dec 2010 and the Council's Employee Code of Conduct which is separately under review at this time.

9 Part G: Members Allowances Scheme

- 9.1 The Council's arrangements for handling allowances and payment of expenses to Councillors was substantially revamped in 2007 to take on board the provisions of the Scottish Local Government Remuneration Committee and the legislation and regulations which then emerged. The public focus on issues of this nature at both Local Government and at the level of the Scottish Parliament and Westminster, emphasise the importance of giving this public document a high profile and aligned to that prominence, a requirement to keep it under review to ensure that it continues to mirror changes to the regulations on Councillor allowances and expenses. In the re-viewing this Council's Constitutional arrangements it was felt appropriate and timely to update the Councillors' scheme and to include it within the suite of documents which underpin overall Governance arrangements.
- 9.2 This revised scheme is presented to the Council for debate and approval and to be given effect from 17th May 2011.

10 Part I : Protocol on Chief Officer Appointments

- 10.1 As one can see, many of the constitutional documents are dedicated to reinforcing the often separate distinction in roles between Officers and Councillors but then go on to define in some detail the role and responsibility of Councillors and the importance of their contribution to strong Governance arrangements. No less important is the need to ensure that the Council is following appropriate recruitment protocols and that it recruits and retains strong and competent leadership for its most senior levels of management. Given this common theme, and also because of the involvement of Members in those appointment processes, so that their role in the process could be adequately and effectively defined, it was considered appropriate to prepare a constitutional document with the above heading in the form of a protocol ensuring that appropriate principles were designed into and applied in all future appointments.
- 10.2 The attached protocol is intended to achieve these objectives and is commended to Members today for approval but will be subject to consultation, thereafter, with the Joint Consultative Committee. As explained within the protocol it requires to be read alongside the

Council's other recruitment and selection practices to ensure that all aspects remain equalities compliant.

11 Financial Implications

11.1 There are no financial implications arising directly from this Report

12 Policy and Delegated Authority

12.1 The Council's constitutional arrangements and decisions related to the approval of major constitutional documents have not and cannot be delegated to any other Committee and therefore a decision on various documents before Councillors today requires to be taken at a meeting of the Council.

13 Conclusions

13.1 The history behind the need for a review of the Council's Constitutional arrangements in pursuit of enhanced adoption and compliance with good Governance practices is set out in this report. The report outlines a description of the various documents, identifies the key objectives and where substantial consolidation is taking place, by exception, emphasises the points of major departure or enhancement which have also been summarised. It is intended that, where appropriate, training on the new provisions will be made available to Councillors and Officers alike but it is important that for progress to be made on this journey of improvement that these documents with or without amendment are approved today.

14 Recommendations

14.1 I recommend that each of the documents attached as appendices to this report are taken individually for discussion and debate and thereafter approved with or without amendment.

J R Riise
Head of Legal and Administration
5th May 2011

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The Council's Constitution comprises –			
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Part A	Governance		
Part B	Standing Orders for Meetings		
Part C	Scheme of Administration and Delegations		
Part D	Financial and Security Regulations		
Part E	Contract Standing Orders		
Part F	Ethical Framework:		
	1	Protocol on Councillor/Officer Relations	
	2	The Councillors' Code 2010 is incorporated into this Constitution	
	3	Employee Code of Conduct	
Part G	Scheme of Remuneration and Approved Duties		
Part H	Code of Corporate Governance		
Part I	Protocol on Chief Officer Appointments		

THE CONSTITUTION

**PART A
GOVERNANCE**

The Council is a unitary authority originally established as a body corporate by Local Government (Scotland) Act 1973 and now constituted under Section 2 of the Local Government etc. (Scotland) Act 1994. The Council provides the full range of local government services to the people of Shetland, Britain's most northerly local authority area. Additional information is provided on the Council's website at <http://www.shetland.gov.uk>

The Operation of the Council

The Council's Constitution sets out how the council operates, how decisions are made and the procedures that are followed to ensure that these are accessible, transparent and accountable to local people. The constitution comprises a number of parts and these parts set out the basic rules governing the way the Council conducts business.

Both Councillors and Council employees are servants of the public but their responsibilities are distinct. Councillors are responsible to the electorate; the employee is responsible to the Council as a whole. The Councillors' role is to determine policy, scrutinise performance and the achievement of outcomes, and to participate in decisions on matters placed before them. Direct operational management of the Council's services is the responsibility of the Council's Chief Executive and Corporate Management Team.

PART I

THE COUNCIL AND THE CITIZEN

1. The Constitution

Exercise of powers and duties

- (1) The Council will exercise all its powers and duties in accordance with the law and this Constitution.

The Constitution

- (2) This, together with the documents listed at page 2 is the Constitution of Shetland Islands Council.

Purpose of the Constitution

- (3) The purpose of the Constitution is to help –

- Enable the Council to provide clear leadership in the community and to the organisation;
- Support the active involvement of citizens and partners in the process of council decision making;
- Help councillors represent their constituents effectively;
- Support rigorous options appraisal and review of different courses of action;
- Enable decisions to be taken efficiently and effectively;
- Create a powerful and effective means of holding decision makers to public account; and
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions.

Interpretation and review of the Constitution

- (4) Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option that it thinks is closest to supporting the purposes set out in subparagraph (3).

2. Members of the Council

Composition

- (1) The Council comprises 22 Councillors representing 7 multi member wards of 3, and in one case, 4 members.

Election and term of councillors

- (2) The ordinary election of all councillors takes place on the first Thursday in May in years prescribed in statute.

Roles and functions of all councillors

- (3) All councillors –

- collectively act as ultimate policy makers and carry out a number of strategic and corporate functions;
- represent their communities and bring their views into the Council's decision making process;
- deal with individual casework on behalf of constituents assisting in resolving particular concerns or grievances;
- act in the interests of Shetland as a whole and all of its inhabitants;
- are available to represent the Council on other bodies; and
- maintain the highest standards of conduct and ethics.

Appendix 1 contains a detailed description of the role and core competencies required of councillors.

Rights and duties

- (4) Councillors have an absolute right of access to meetings of the Council; they have a right of access also to meetings of the bodies within the political management framework, in accordance with the detailed provisions contained elsewhere in this Constitution. They have the right of access to the documents, information, land and buildings that are owned or in the possession or control of the Council in so far as such access is necessary for the proper discharge of their duties as a Councillor and in accordance with the law. Any doubt or questions arising will be resolved by the Head of Legal and Administration in consultation with the Chief Executive.
- (5) Without the Council's consent, councillors must not make public information which is confidential or exempt (as defined in Section 50 of the Local Government (Scotland) Act 1973) or, except as may be required by law, divulge information given by an officer in confidence to them as a Councillor

or otherwise obtained by them because they are a Councillor to anyone other than another councillor or officer entitled to know it.

- (6) If a Councillor, throughout a period of six consecutive months, does not attend any meeting of the Council or any body which is part of the political management framework, or any joint Committee to which any function of the Council has been delegated, and unless the Member has been granted leave of absence by the Council, the Head of Legal and Administration will inform the Council. In that event, the Council will consider whether the failure to attend was due to a reason approved by it. If the Council is not satisfied as to the cause of the failure, the Councillor will cease to be a Member of the Council.

Conduct

- (7) In the course of acting in the capacity of Councillor, Councillors must at all times observe the requirements of any law, the Councillors' Code of Conduct, and the provisions of this Constitution.

Remuneration and Expenses

- (8) Councillors are entitled to receive remuneration and expenses in accordance with regulations approved by Parliament for approved duties specified elsewhere in this Constitution.

3. The Full Council

Functions exercised by the full Council

- (1) Only the full Council will exercise the following functions which are set more fully in Part C –
- Adopting and changing the Constitution;
 - Approving, adopting or amending the Policy Framework and any plan, policy or strategy which is contained within the Policy Framework as noted in column 1 of sub-paragraph (2) with these being prepared and performance managed by the body shown in column 2 ;
 - Approving the budget, and expenditure not provided in the budget;
 - Appointing a Councillor to any position within the political management framework;
 - Agreeing and amending the terms of reference of bodies within the political management framework, deciding on their composition and making appointments to them;
 - Functions reserved to it in terms of detailed provisions elsewhere in this Constitution; and

- Making decisions about matters that by law are reserved to the full Council.

Policy framework

(2) The policy framework means the following plans, policies and strategies and any other plan or strategy that the Council decides should be part of the Policy Framework:

Plan

Managing Body

Corporate Plans

The Community Plan and any Single Outcome Agreement with Government in so far as they relate to the provision of Council Services

Executive Committee

The Corporate Plan

Executive Committee

The "Budget" which includes –

Executive Committee

a Annually approved Service Plans

Relevant Functional Committee and Executive Committee

b Approved estimates of revenue expenditure and income

Relevant Functional Committee and Executive Committee

c The council tax base and setting the council tax

Executive Committee

d Any reserve funds

Executive Committee

Capital Programme

Relevant Functional Committee and Executive Committee

Equalities Framework

Executive Committee

Functional

Children and Young People's Services Plan

Children, Families and Learning

Skills and Learning Strategy

Children, Families and Learning

School Estate Strategy

Children, Families and Learning

Childcare Strategy

Children, Families and Learning

Community Health and Care Plan

Communities, Health and Wellbeing

Fairer Shetland Framework	Communities, Health and Wellbeing
Local Housing Strategy	Communities, Health and Wellbeing
Community Safety Strategy	Communities, Health and Wellbeing
Poverty and Deprivation Strategy	Communities, Health and Wellbeing
Plans and strategies which together comprise the Development Plan	Economy and Development
Economic Development Strategy	Economy and Development
Transport Strategy	Economy and Development
Carbon Reduction Strategy	Environment
Biodiversity Strategy	Environment
Organisational Development	
Corporate Improvement Plan	Executive Committee
HR Strategy	Executive Committee
Communications Strategy	Executive Committee
Asset Management Strategy	Executive Committee
Risk Management Strategy	Executive Committee
Treasury Management Policy	Executive Committee
Annual Investment Strategy	Executive Committee

Budget

(3) The “budget” includes –

- The approved estimates of revenue expenditure and income;
- Any reserve funds;
- The council tax base and setting the council tax;
- The approved programme of the Council’s capital expenditure and decisions relating to the control of the Council’s borrowing requirement.

Functions exercised by the full Council

(4) Only the full Council will exercise the following functions which are set more fully in Part C –

- Adopting and changing the Constitution;
- Approving, adopting or amending the policy framework and any plan, policy or strategy which is contained within the Policy Framework;
- Approving the budget, and expenditure not provided in the budget;
- Appointing a Councillor to any position within the political management framework;
- Agreeing and amending the terms of reference of bodies within the political management framework, deciding on their composition and making appointments to them;
- Functions reserved to it in terms of detailed provisions elsewhere in this Constitution; and
- Making decisions about matters that by law are reserved to the full Council.

Council meetings

(5) A meeting of any body within the political management framework will be conducted in accordance with the Council's Standing Orders for Meetings contained in Part B of the Constitution.

Responsibility for functions

(6) The Council's arrangements for the discharge of functions which are set out in the Council's Scheme of Administration and Delegations contained in Part C of this Constitution provide for certain powers and duties of the Council to be discharged on the Council's behalf collectively by a body within the political management framework, or by an officer.

4. Good Governance

The Council will conduct its business following the Principles set out in *The Good Governance Standard for Public Services* –

Principle 1

The organisation focuses on purpose, and outcomes for service users and citizens

- Being clear about the organisation's purpose and intended outcomes for service users and citizens
- Making sure users receive high quality services

- Making sure taxpayers receive value for money

Principle 2

Good governance means performing effectively in clearly defined functions and roles

- Being clear about the functions of the governing body
- Being clear about the responsibilities of the executive and making sure they are carried out
- Being clear about relationships between the governors and the public

Principle 3

Promoting values for the whole organisation and demonstrating the values of good governance through behaviour

- Being clear about the organisation's values and putting them into practice
- Individual governors behaving in ways to uphold and exemplify good governance

Principle 4

Good governance means taking informed, transparent decisions and managing risk

- Being rigorous and transparent about how decisions are taken
- Having and using good quality information, advice and support
- Making sure there is an effective risk management system

Principle 5

Good governance means developing the capacity of the governing body to be effective

- Making sure governors have the skills, knowledge and experience to perform well
- Developing those with governance responsibilities and evaluating their performance as individuals and as a group
- Striking a balance, in the membership of the governing body, between continuity and renewal

Principle 6

Engaging stakeholders and making accountability real

- Understanding accountability
- Taking an active and planned approach to dialogue with and accountability to the public

- Taking an active and planned approach to responsibility to staff
- Engaging effectively with partners and stakeholders

5. Decision making

Principles of decision making

(1) All decisions of the Council, or any body within the political management framework, will be made in accordance with certain immutable principles, which are –

- Decisions are taken (with certain exceptions) by a majority of those present and voting at a meeting
- Proportionality (that is to say, the action must be proportionate to the circumstances and desired outcome);
- Due consultation with and the taking of and hearing and consideration of professional advice from officers;
- Respect for human rights;
- A presumption in favour of openness; and
- Clarity of aims and desired outcomes.

Decision making by Council bodies acting as quasi-judicial bodies

(2) In acting as a tribunal or in a quasi-judicial manner the Council, a councillor or an officer must follow the Council's detailed proper procedure which accords with the requirements of natural justice and the right to a fair and impartial hearing in accordance with article 6 of the European Convention on Human Rights.

6. Citizens' Rights and the Council

Information

The Council is committed to open and transparent government and to meeting its responsibilities under the Freedom of Information (Scotland) Act 2002. The Council has a procedure for complying with the Act in relation to the provision of information and the conduct of reviews of decisions whenever requested.

(1) Citizens have the right to –

- Attend meetings of the Council, or any body within the political management framework except where confidential or exempt information (as defined in Section 50 of the Local Government (Scotland) Act 1973) is likely to be disclosed, and a resolution has been passed to exclude the public;
- See reports and background papers and any records of decisions made by the Council or any body within the political management framework, in accordance with the foregoing provisions of the Local Government (Scotland) Act 1973 and otherwise in accordance with the law;
- Inspect the Council's accounts in accordance with the relevant statutory provisions;
- Information held by the Council, in accordance with the Freedom of Information (Scotland) Act 2002;
- Personal information held by the Council in regard to them in terms of the Data Protection Act 1998.

Participation

(2) Citizens have the right –

- to participate in public question time arrangements made from time to time by the Council, provided the matter is not one where the Committee or other body is regulated under Paragraph 5 (2) above;
- to raise issues of their choosing with the Council by petition or deputation or otherwise, and to represent their views to their local Councillor(s) and the Council in writing, by telephone and email, at Councillors' surgeries or other particular meetings; and to participate in accordance with the Community Engagement Strategy in forums or meetings arranged by the Council.

Complaints

(3) Citizens have the right to complain to –

- The Council under its complaints procedure about any service failure;
- The Scottish Public Services Ombudsman if their complaint has not been satisfactorily resolved under the Council's complaints procedure, and they believe they have suffered injustice as a result of maladministration on the part of the Council;

- Audit Scotland regarding any alleged irregularity in connection with the Council's accounts;
- The Chief Investigating Officer of the Standards Commission for Scotland if they believe there has been a breach of the *Councillors' Code of Conduct*; and

PART II

THE ROLE OF THE CONVENER, LEADER AND SENIOR COUNCILLOR CHAIRS

7. Senior Office Bearers

Convener

- (1) The Convener and the Vice Convener are elected by the Council and will normally hold office for the life of the Council unless s/he is removed from office in accordance with the provisions of the Local Government etc. (Scotland) Act 1994 and the provisions set out in the Scheme of Administration and Delegations at Part C of the Constitution.

Leader

- (2) The Leader of the Council will be a councillor elected to the position of Leader by the Council, and will normally hold office during the life of the Council unless s/he is removed from office by resolution of the Council.

Senior Councillor Chairs

- (3) There will be four Chairs appointed by the Council who will lead and be accountable for the following areas at political level within the Council –
- Children, Families and Learning
 - Communities, Health and Wellbeing
 - Economy and Development
 - Environment

Appendix 1 contains a detailed description of the role and duties of the Convener, Leader and Chairs.

8. Political Management Framework

For the purpose of this Constitution the following bodies will be part of the Council's Political Management Framework which is set out in full in the Scheme of Administration and Delegations at Part C of the Constitution–

Executive Committee
Children, Families and Learning Committee
Communities, Health and Wellbeing Committee
Economy and Development Committee

Environment Committee

Development Management Committee
Licensing Committee
Audit and Standards Committee
Harbour Board
Shetland College Board
Review and Appeals Committees as specified in Part C

The Council may alter the framework at any time by the addition, removal or adjustment of bodies which form part of the framework.

PART III

OFFICERS

9. Chief Officers

Chief Officers of the Council will comprise the holders of those posts which the Council determines from time to time. They will be appointed in accordance with the Protocol on Chief Officer Appointments.

Chief Executive

- (1) The Chief Executive is the head of the paid service in terms of Section 4 of the Local Government and Housing Act 1989 and is principal advisor to the Council on all matters of policy and strategic direction and is responsible for the implementation of Council aims and priorities, strategies and policies, including leading the delivery of Best Value and Community Planning.
- (2) The Chief Executive provides leadership, direction and motivation for staff and is responsible, amongst other things, for the management of the staff and the other resources of the Council to ensure that the Council's policies and priorities are delivered in an efficient and effective manner.

Directors

- (3) The Directors of the relevant Council Departments act with and support the Chief Executive to further the corporate interests and development of the Council.

Corporate Management Team

- (4) The Council's Corporate Management Team will comprise those officers appointed to be members of it by the Chief Executive.
- (5) The Corporate Management Team acts corporately, and is responsible for –

- the operational management of the Council and its employees
- delivering the Council's services
- advising the Council on overall strategic and corporate development
- achieving the outcomes contained in the Council's strategic policies and plans and the policy framework

10. The Monitoring Officer

(1) The Chief Legal Officer (by whatever name) is the Council's Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989 and in that capacity has the following functions –

- (a) the statutory functions prescribed in that Act
- (b) to report to the full Council if s/he considers that any decision or proposed decision on the part of the Council or any of its Members or Officer (collectively or individually) would be contrary to law or any decision, proposed decision or omission would be likely to give rise to a finding of maladministration
- (c) to maintain the Council's Constitution and its governance arrangements, including the Code of Corporate Governance
- (d) to deal with any matter referred to him/her by the Council, the Chief Executive, the Ombudsman or the Standards Commission.

(2) In relation to circumstances outlined in subparagraph (b) above a notice issued by the Monitoring Officer that s/he intends to submit a report of the kind referred to, to the full Council, will have the effect of stopping the proposal or decision from being implemented until the report has been considered by the Council.

11. The Chief Finance Officer

The Chief Finance Officer (by whatever name) acts in terms of section 95 of the Local Government (Scotland) Act 1973 and section 35 of the Local Government in Scotland Act 2003 and the appropriate provisions of the Prudential Code for Capital Finance in Local Authorities, and has responsibility for the administration of the financial affairs of the Council and for the provision of financial advice to the Council. S/he makes the arrangements for keeping the accounts of the Council in terms of Section 96 of the 1973 Act.

12. Suspension or Alteration of the Constitution

The Articles of this Constitution may not be suspended, except that the Standing Orders specified in Part B may be suspended to the extent permitted within them.

None of the Articles of this Constitution can be rescinded or altered, nor

additional Articles created, unless:-

- A resolution to do so is passed after notice is given at a previous ordinary meeting of the Council; or
- A report is made to the Council by the Executive Committee or by the Chief Executive.

Draft

Appendix 1

SHETLAND ISLANDS COUNCIL

ROLE AND DUTIES OF COUNCILLORS

("A Job Description for Councillors")

PART A: ALL COUNCILLORS

1. INTRODUCTION

The quality of elected political leadership is core to the effective governance of communities. It is no easy task being a Councillor. Society needs to have people, whether at a national or local level who are able, willing and prepared to take decisions on its behalf about matters which affect the lives of citizens and who are prepared to be accountable for these. Democratic election gives local Councillors a special status in public life which brings with it opportunities to contribute to the well being of society, and in doing so, responsibilities to act fairly and within the law. A Councillor represents and acts for everyone within his or her ward and not just those who voted for him/her. A Councillor must act collectively with all other Councillors in the wider interest of Shetland and everyone who lives there.

2. ROLE OF COUNCILLORS

Local government serves the people

As a Councillor, he or she will, therefore, participate as –

- A strategic policy maker
- An executive decision taker
- A scrutiniser of the effectiveness of the Council in achieving its desired outcomes and delivering services

Local government represents the people

As a Councillor, he or she, therefore –

- is a representative of all of his or her constituents
- is a community leader providing a focus for the development of his or her community
- builds community engagement
- secures access to the Council and other public agencies

Local government makes rules

By participating in making or administering rules or decisions which affect the rights and obligations of citizens, and which include the granting or refusal of permissions, a Councillor, therefore –

- pays attention to relevant considerations and ignores irrelevant ones
- considers and weighs evidence
- considers each issue on its merits
- acts fairly and within the law

3. MAIN TASKS

- (1) Regular attendance at meetings of the Council, and of any Committee, Sub-Committee or other group to which the Councillor is appointed is an essential component of the policy making and executive decision taking life of the Council.
- (2) Dealing with issues raised by constituents by correspondence, telephone and in person on an ongoing basis, and making arrangements to facilitate access by constituents, including “surgeries” or in other ways, contributes to the representative role of the Councillor.
- (3) Actively being aware of issues, inside and outside the Council, affecting the Councillor’s electoral ward and the wider community and to fulfil a community leadership and representative function.
- (4) Working in partnership with other local organisations to identify and pursue local needs and aspirations and encouraging community action is fundamental to the role of community leader.
- (5) As a local community leader, Councillors will be invited by local organisations to participate in local forums and events which collectively provide a focus for community activity and development.
- (6) Representing the Council on other organisations or agencies to which the Councillor may be appointed or nominated by the Council represents an ambassadorial function articulating the Council’s policies and views and projecting the good image of the Council and Shetland.

4. CORE SKILLS AND COMPETENCIES

In response to the increasingly challenging environment in which Councillors operate, they need to have specific skills as well as those which enable them to perform effectively across the range of their role as councillor. A commitment to the ethos of public service lies at the heart of being a local Councillor. Active citizenship is a commitment to contributing to and focusing on what best improves the well-being of communities. Beyond those, succeeding with the role of being a Councillor requires a set of core skills. 14 core political skills are outlined below in 7 clusters.

Promoting Change and Improvement

- (1) Promoting and leading change
- (2) Providing and improving services

Political Understanding

- (3) Political awareness
- (4) Representation
- (5) Personal integrity and values

Working Collaboratively

- (6) Working with stakeholders
- (7) Effective partnership working

Effective Communicator

- (8) Effective communication

Effective Decision Maker

- (9) Negotiation and diplomacy
- (10) Decision making
- (11) Analysis and innovative problem solving

Effective Leader

- (12) Corporate focus and direction
- (13) Providing leadership and direction

Personal Effectiveness

- (14) Personal effectiveness skills

5. COUNCILLOR DEVELOPMENT

The aim is to help Councillors with the skills and knowledge which they require in order to assist them effectively to carry out their responsibilities, and the Council will provide a range of training opportunities in support of these. Councillors are expected to accept those opportunities for training which are provided.

A key feature is Continuous Professional Development (CPD) beginning with a Personal Development Plan, covering several areas –

- those skills and behaviours which the Councillor wishes to focus their development on.
- the methods by which these development needs will be met, such as through workshops, guided reading materials, e-learning programmes, self-development activities, etc.
- how resources/support for completing these development activities will be accessed
- the priority of each of the development areas
- a realistic timescale for completing development activities over the course of 12 months
- how the Councillor will know they have successfully developed their skills

PART B: SENIOR COUNCILLOR CHAIRS

6. ROLE

The Leader and Senior Councillor Chairs each have a clear individual leadership responsibility at political level for areas of activity and for achieving relevant outcomes and additional responsibilities are placed on these Councillors. Acting as spokespersons for their respective functional areas, these responsibilities include:-

- (1) Taking a corporate lead in the development of the Council as an organisation and the formulation and achievement of its strategic vision;
- (2) Contributing to the development of the Council's corporate strategies to help ensure the development of service policy within the corporate environment including contributing to ensure best value in the use of resources;
- (3) Leading on service matters of political/policy priority at meetings of the Council, Executive Committee and other committees and groups within the Council;
- (4) Chairing the relevant functional Committee and leading it in its work of service policy development and the performance management of services
- (5) Providing regular spokesperson reports to Executive Committee meetings on the areas of work for which they have responsibility, including reporting back on meetings with organisations and other events outside the Council;

- (6) Supporting the relevant Directors/Heads of Service in taking forward the development of service policy issues and their effective implementation, involving all relevant employees, service users and partner organisations;
- (7) In consultation with the Leader of the Council, promoting awareness of service strategies, achievements and constraints in order to inform the public, government and other organisations; to be an ambassador for the service locally and nationally;
- (8) Maintaining good communications with Council employees, providing a bridge between the Council and employees to provide a policy background for, and recognition of, their work.

7. CONVENER

The Convener is the Councillor who chairs Council meetings and in that regard possesses the powers and duties given to him/her by statute, this Constitution and the common law.

The Convener has precedence, that is to say s/he is the first citizen of the Council area.

The Convener's functions include –

- Undertaking civic and ceremonial functions on behalf of the Council and the community
- Upholding good governance and the Constitution and being the “conscience of the Council”
- Securing the rights of all Members to participate in Council's decision taking
- Acting as a focal point for the whole Shetland community
- Acting as an ambassador for and promoting the Council and Shetland as civic leader
- Promoting wider involvement in public life

8. LEADER

The Leader's functions include –

- Chairing the Executive Committee
- Providing political leadership and direction for the organisation, leading the Senior Councillor Chairs

- Working across the Council to establish clear political direction
- Promoting Council interests as political leader
- Representing the Council at meetings with Ministers, CoSLA and other partners
- Responsibility at political level for engagement in community planning and partnerships
- Responsibility at political level for the management and maintenance of the Council's reputation
- Providing the key political level link between the officer structure and political structure

END

Draft

SHETLAND ISLANDS COUNCIL
CONSTITUTION
PART B
STANDING ORDERS FOR MEETINGS

SHETLAND ISLANDS COUNCIL

Standing Orders marked S will apply with suitable application and modification and with like effect to meetings of any body which is part of the political management framework.

STANDING ORDERS

MEETINGS

1

FIRST MEETING AFTER AN ELECTION

- 1.1 The first meeting of the Council after an ordinary election of Councillors will be held within 21 days from the date of the election. At that meeting, the Council will –
- a Elect the Convener of the Council
 - b If so resolved, elect a Vice-Convener
 - c If so resolved, appoint a Depute Leader
 - d Appoint a Leader of the Council
 - e Appoint the Senior Councillor Chairs and Vice-Chairs
 - f Appoint the remaining Members of the Executive Committee
 - g Appoint the remaining Members of the functional Committees
 - i Appoint the Chairs and Vice-Chairs of the other Committees and Boards which form part of the political management framework
 - h Appoint the remaining Members of the other Committees and Boards
 - j Appoint the Members to represent the Council on any Joint Committees or Boards which the Council should appoint
 - k Appoint persons to serve on various outside bodies if these appointments may or need to be made by the Council at this meeting
 - l Deal with any competent business, keeping to the terms of any law and these Standing Orders.

ORDINARY MEETINGS

- 1.2 Ordinary meetings of the Council will be held on the dates and at the times which the Council decide. These meetings will normally be held in the Town Hall, Lerwick, but the Council or the Convener may decide that a meeting should be held somewhere else inside or outside the Council's area.

SPECIAL MEETINGS

- 1.3 A Special Meeting of the Council will be called at any time –
- a If the Convener takes the view that one is necessary; or

- b If at least one-fourth of the members of the Council want one to be held; if they do, they must all sign a notice which must be given to the Head of Legal and Administration and the notice must set out the business which these Members wish the Council to consider at that meeting; in this case the meeting will be held within fourteen days of the date when the Head of Legal and Administration receives the notice.

2

HOW MEETINGS ARE CALLED

Public Notice

- S** 2.1 Three clear days at least before a meeting of the Council, the Head of Legal and Administration will display a notice at the Town Hall saying when and where the meeting will be held. If a meeting is called at shorter notice in case of urgency then the notice will be displayed at the time it is called ["clear days" excludes the day of publication and the day of the meeting and does not include Saturdays, Sundays or public holidays].
- S** 2.2 If the meeting is called by Members of the Council in terms of Standing Order 1.3b, the notice must be signed by those Members and must set out the business which they wish the Council to consider; and only that business can be considered at the meeting.

A Summons must be sent to each Member

- S** 2.3 Seven days at least before a meeting of the Council, the Head of Legal and Administration will issue a summons to each Member asking that Member to attend the meeting. Saturdays, Sundays and Public Holidays will not be excluded for the purpose of this Standing Order. The summons will set out the business which the Council will be asked to consider at that meeting. It will be signed by the Head of Legal and Administration and left at, or sent to each Member's usual residence, or to another address which any Member may give in writing to her/him.
- S** 2.4 If a Member does not receive a summons, the meeting will still be valid.

THE AGENDA AND REPORTS FOR MEETINGS

Agenda

- S** 3.1 The summons will include an Agenda of the items of business for the meeting. These will be set out in the order in which the Council will consider them, but this can be changed at the meeting.
- S** 3.2 An item of business may only be considered at a meeting of the Council if:-

- 1 A copy of the Agenda, including the item, is available for any members of the public who wish to look at it, as provided in paragraph 3.3 below; or
- 2 The Convener is of the opinion that the item should be considered at the meeting as a matter of urgency because there are special circumstances; in which case the special circumstances will be recorded in the minutes of the meeting.

S The public can see copies of the agenda and most reports

- 3.3 Copies of the Agenda and, except as set out in paragraph 3.4 below, copies of any report for a meeting will be open and available at the Council's offices and on the Council's website for at least 3 clear days before the meeting for any members of the public who may wish to look at these.

Reports can sometimes not be available to the public

- S** 3.4 When the Head of Legal and Administration concludes there is a proper reason she/he may exclude from the copies of reports which are to be available for members of the public who wish to look at them, the whole of a report (or any part of a report) which relates only to items of business which she/he thinks are likely to be considered when the meeting is not to be open to the public. Every copy of any report in that category (or part of that report) will either –
- 1 be marked “Not for Publication” and every copy (or the appropriate part) will say what kind of exempt information the report contains, in keeping with the law. [The relevant law in this case is Schedule 7A to the Local Government (Scotland) Act 1973].
 - 2 be marked “Confidential” and every copy (or the appropriate part) will say that it contains confidential information, in keeping with the law. [The relevant law in this case is Section 50A(2) and (3) of the Local Government (Scotland) Act 1973].
- S** 3.5 It should be borne in mind that reports marked “Not for Publication” or “Confidential” containing information not open to the public at a meeting may require to be disclosed subsequently and made available in compliance with a request for information in terms of the Freedom of Information (Scotland) Act 2002.

- S** 3.6 Reports from Council officers for a meeting must be given to the Head of Legal and Administration as early as possible, and certainly not later than noon two working days before the day on which the summons for the meeting is to be issued. If the Head of Legal and Administration does not receive a particular report by that time, he may leave it off the Agenda.

4 HOW MANY MEMBERS MUST ATTEND A MEETING

Quorum

- S** 4.1 There must be a minimum number of Members present at a meeting of the Council. This is known as the quorum. The quorum of the Council will be 6 Councillors (that is a quarter of all the seats) except in certain special circumstances set out in the relevant law. No business can be considered at a meeting of the Council unless a quorum is present. [The relevant law in this case is Schedule 7 to the Local Government (Scotland) Act 1973].
- 4.2 If there are vacancies in more than 8 seats (that is a third) on the Council, the quorum will be a quarter of the number of Members remaining, but the quorum will never be less than 3 Members (that is an eighth of all the seats).

What happens if there is no quorum?

- S** 4.3 If, ten minutes after the time set for the start of a meeting of the Council, a quorum is not present, the meeting will be abandoned and the Head of Legal and Administration will record that no business was considered because there was no quorum.
- S** 4.4 If at any time during a meeting there is a question about whether or not there is a quorum, the person presiding will, after allowing an interval of 5 minutes, ask the Head of Legal and Administration to count the number of Members present. If a quorum is not present, the meeting will be adjourned to another time the same day, or to another date and time as the person presiding may decide then or afterwards.

5 WHO PRESIDES AT MEETINGS?

- S** 5.1 At a meeting of the Council, the Convener, if present, will preside.
- S** 5.2 If the Convener is absent from a meeting the Vice-Convener will preside; if they are both absent, another Councillor chosen by the Members will preside.

- S** 5.3 If at any time during the meeting the Convener is present she/he will preside and similarly, in the absence of the Convener, the Vice-Convener will preside during any time she/he is present.

6 MEMBERS OF THE PUBLIC ARE NORMALLY ALLOWED TO ATTEND MEETINGS

- S** 6.1 Every meeting of the Council, or any body which is part of the political management framework will be open to the public, except in special circumstances which are set out below.

When are the public sometimes not allowed to be present?

- S** 6.2 The public must be excluded from a meeting of the Council or a body which is part of the political management framework when an item of business is being considered if it is likely, because of the business itself or what might be said at the meeting, that confidential information as meant by the relevant law would be given to members of the public. [The relevant law in this case is Section 50A(2) and (3) of the Local Government (Scotland) Act 1973].
- S** 6.3 The Council may decide, by passing a resolution at any meeting, to exclude the public when it is considering an item of business if it is likely, because of the business itself or what might be said at the meeting, that exempt information as meant by the relevant law would be given to members of the public. The resolution to exclude the public will make clear the proceedings or which part of the proceedings of the meeting it applies to and state the description of the exempt information. [The relevant law in this case is Section 50A(4) of the Local Government (Scotland) Act 1973].
- S** 6.4 It is always open to the Council in order to stop or prevent disorderly conduct or other misbehaviour at a meeting, to exclude or eject members of the public whose presence or conduct is impeding or is likely to impede good conduct of the meeting. If a member of the public interrupts any meeting, the Convener may warn the person. If they continue the interruption the Convener may order that they are removed from the Council Chamber.

7 THE ORDER IN WHICH BUSINESS IS CONSIDERED AT MEETINGS

- S** 7.1 The items of business at ordinary meetings of the Council will be considered in the following order, but the order may be changed if the Convener decides.

- 1 Apologies for absence.
- 2 Petitions received or public participation in terms of Standing Order 17.
- 3 Any Notice of Motion in terms of Standing Order 12 which it is proposed should be considered without previous notice at the end of the meeting will be read to the meeting by the Head of Legal and Administration.
- 4 Other items of business which it is proposed should be considered as a matter of urgency will be announced.
- 5 Declarations of interest by Members, if any.
- 6 Minutes of the previous meeting or meetings of the Council will be considered as a correct record.
- 7 Reports from any body which is part of the political management framework will be considered in respect of any items on which the body has not already acted under delegated powers.
- 8 Other business which is included on the Agenda.
- 9 Questions submitted by Members in terms of Standing Order 14.
- 10 Any Notice of Motion previously submitted in terms of Standing Order 12.
- 11 Any Notice of Motion intimated at the start of the meeting in terms of Standing Order 13, provided the Convener is of the opinion that it is a matter of urgency and the Council agree to consider the motion as a substantive item of business.
- 12 Urgent Business, intimated at the start of the meeting, provided the Convener is of the opinion that it is a matter of urgency.

8

THE POWERS AND DUTIES OF THE CONVENER

- S** 8.1 At all times, Members of the Council will respect the authority of the Convener. If the Convener speaks, any Member who is speaking to the Meeting will stop.
- S** 8.2 The Convener's duty is to preserve order and ensure that Members are given a fair hearing by the Council. If two or more Members try to speak at the same time, the Convener will decide who is to speak first.

- S** 8.3 The Convener will decide all matters of order, competency, relevancy and urgency and that ruling will be final.

What might happen if a Member misbehaves

- S** 8.4 If a Member persistently misbehaves by disregarding rulings by the Convener, or behaves improperly or offensively, or wilfully obstructs the business of the Council, the Convener may take the following courses of action sequentially –
- 1 Warn the Member about her/his behaviour;
 - 2 Tell the Member not to speak during the remainder of the debate on the item being discussed.
 - 3 Move that the Member should not speak again during the meeting. The motion will not require to be seconded, and will be decided without discussion; if the motion is carried the Member will not speak again during that meeting;
 - 4 Move that the Member should be suspended for the remainder of the meeting. The motion will not require to be seconded, and will be decided without discussion; if the motion is carried the Member will leave the meeting immediately;
 - 5 Adjourn the meeting for a short time as seems reasonable to the Convener in the circumstances.
- S** 8.5 If there is disorder at any meeting of the Council, the Convener will be entitled to adjourn the meeting to another time the same day, or to another date and time as she/he may decide then or afterwards, and leaving the Chair in these circumstances will mean that the meeting is adjourned immediately.

RULES OF DEBATE

Preliminaries

- S** 9.1 It is the duty of all Members to ensure they have all of the information they require in order to reach an informed decision on any item of business. Accordingly, in addition to the papers which have been issued to members, prior to any debate on the item, the Convener will:
- afford an opportunity to the relevant officer to provide any further information or brief explanation as the officer may feel is necessary
 - afford a reasonable opportunity to any Member to ask questions of the officer in order to seek further information or explanation
- 9.2 Preliminary discussion is allowed, out of which a clear consensus may emerge. However it is open to the Convener at any time during that discussion to give warning that s/he requires any motion and amendments to be placed before him/her or the discussion will be brought to a close. It is a matter for the Convener to decide at what point s/he may accept a motion to put to the meeting for formal debate.

How motions and amendments are moved and decided on

- S** 9.3 Every motion and amendment must be moved and seconded. A Member may not move or second more than one motion or amendment. The terms of any motion and amendments will be stated immediately when they are moved and seconded and before the mover and seconder speak to the motion or amendment. If the Convener decides, a motion or amendment will be written down, signed by the mover and seconder, and given to the Head of Legal and Administration who will read it to the meeting. Any motion and all amendments to it will be moved and be before the Council prior to any vote being taken.
- S** 9.4 When a motion and one amendment only are before the meeting a vote will be taken between the motion and the amendment and the proposal receiving a majority of the votes will become the decision of the Council.

- S** 9.5 When a motion and two or more amendments are before the meeting, and if one of the proposals implies that no action or no immediate action be taken, a first vote will be taken between for and against “no action” or “no immediate action” as the case may be. If the proposal for “no action” or “no immediate action” is carried it shall become the decision of the meeting. If the proposal for “no action” or “no immediate action” is not carried a further vote will be taken amongst the remaining proposals as set out in 9.6 below.
- S** 9.6 When a motion and two or more amendments (none of which implies that no action or no immediate action be taken) are before the meeting, the vote will be taken on all the proposals, each Member having one vote. If a proposal receives the support of an overall majority of the Members taking part in the vote, that proposal will become the decision of the meeting. In the event that none of the proposals receives the support of an overall majority of the Members voting, the proposal which has received the fewest votes will be dropped and a fresh vote will be taken on the remaining proposals and so on until one proposal has received the support of a majority of the Members voting. That proposal will become the decision of the meeting. In the event of the votes for two or more proposals being equal, the Convener will have a second or casting vote which s/he may use to decide which of them is to be dropped.
- S** 9.7 (a) A motion or amendment which is not seconded will not be discussed but will be recorded in the minutes.
(b) A motion or amendment may be withdrawn by the mover if her/his seconder and the Council agree. Such a motion or amendment will not be recorded in the minutes
(c) Any Member will, if she/he asks, have her/his dissent from the eventual decision recorded in the minutes.
- 9.8 A motion for the approval of any recommendations in a report from a body which is part of the political management framework will be considered as an original motion and any proposal involving alteration or rejection of the report will be dealt with as an amendment.
- 9.9 The relevant Chair of a body within the political management framework is to be afforded the first opportunity to move approval of the report of the body.

When a Member can speak and for how long

- S** 9.10 It is open to the Convener at any time to rule that, due to pressure of business and the number of Members wishing to speak to an item, no Member who has already spoken may speak again except on a point of order.

- S** 9.11 Any Member will not speak for more than five minutes unless the Convener allows more time. However, the mover of an amendment and the mover of the original motion each have a right of reply, in that order, for not more than three minutes.
- S** 9.12 When the mover of the original motion has replied, the Convener will close the debate, and no other Member will be allowed to speak. The Head of Legal and Administration will announce the terms of the motion and amendment(s) and take the vote.

10

HOW VOTES ARE TAKEN

- S** 10.1 Except where the law or the Standing Orders say something different, all questions before the Council will be decided by a majority of the Councillors present and voting on that question.
- S** 10.2 A vote will be taken by a show of hands except in the following circumstances.

Calling the roll

- S** 10.3 A Member may ask for a vote to be taken by calling the roll. If a quarter of the Councillors present agree then the vote will be taken in that way and the names of those voting for or against the motion or amendment(s) will be taken down and recorded in the minutes.

What happens if votes are equal

- S** 10.4 In the case of an equality of votes, the Convener will apply a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a Councillor to any particular office in which case the decision will be decided by lot [which means a process whereby chance will determine the decision] which will be administered by the Head of Legal and Administration, and the person on whom the lot falls will be deemed to have received the additional vote.

Different arrangements apply to appointments

- S** 10.5 When Councillors are to be appointed to any positions to be filled by the Council, and where the number of candidates nominated exceeds the number of vacancies, the Councillors to be appointed will be determined by a vote or votes in each of which Members will be entitled to vote for as many candidates as there are vacancies; but they may not cast more than one vote for any candidate.

The vote will normally be taken by a show of hands, unless the Council resolves in the case of any particular appointment to take the vote by secret ballot.

The name of the candidate having fewest votes will be deleted from the list and a fresh vote, or votes, will be taken. This process of elimination will be continued until the number of candidates equals the number of vacancies.

- S** 10.6 Where only one vacancy requires to be filled, and any candidate has an absolute majority of the votes, the candidate will be declared appointed. Otherwise, the name of the candidate having fewest votes will be deleted from the list. This process of elimination will be continued until one candidate has a majority of the votes.
- S** 10.7 If in any vote among more than two candidates there is equality of votes among the candidates having the least votes, the candidates whose names will be eliminated will be determined by an additional vote. The candidate having fewest votes will be deleted from the list. Where in any additional vote there is equality in votes, the candidate to be eliminated will be determined by lot.
- S** 10.8 The provisions of the preceding paragraphs will apply in the case of the appointment of any other person (other than a Councillor) except that where there is an equality of votes the Convener will have a second or casting vote.

11

PROCEDURAL MOTIONS

Adjournment

- S** 11.1 The Convener may adjourn a meeting for a reasonable interval if s/he decides there is a good reason to do so.
- S** 11.2 At the end of any item of business, the Council may adjourn any meeting for a reasonable interval or to another date as the Council may agree then, or that failing, the Convener may decide then or afterwards. The vote on such a motion, on being seconded, will be taken without amendment or discussion and by show of hands. A similar motion to adjourn to another day will not be competent within a period of one hour after the decision on the earlier motion. If the Council decides to adjourn the remaining business will stand over until a resumed meeting of the Council, which does not require the Head of Legal and Administration to issue a fresh notice of the meeting, although s/he may do so.

Closing the debate

- S** 11.3 The following closure motions will be permitted during discussion of another motion provided the Member moving the closure motion has not spoken during the debate. They will be moved, seconded and voted on without discussion. The Convener will proceed as follows –

11.3.1 ***“That the question be now put”***

If the Convener considers the matter has not been sufficiently discussed, s/he may refuse to accept the motion; if the motion is accepted it will be put to the vote. If the motion is carried, the movers of any amendment and of the original motion will be entitled to a right of reply and the Convener will then put the original motion and amendment(s) to the vote. If the closure motion is not carried, a similar motion may be made after every three additional Members have spoken.

11.3.2 ***“That the meeting do now adjourn”***

If the Convener is satisfied that the matter before the meeting has been well enough discussed, s/he may refuse to accept this closure motion and instead put the motion “that the question be now put”. If the Convener is of the opinion that the matter has not been sufficiently discussed and cannot reasonably be discussed any longer on that occasion, the adjournment motion will be put to the vote without giving the mover of the original motion or amendment a right of reply; if the adjournment motion is carried, the original motion and remaining business will stand over until a resumed meeting of the Council. If this closure motion is not carried, a similar motion will not be competent within a period of one hour after the decision on the previous closure motion.

12 HOW A MEMBER SUBMITS A MOTION FOR THE NEXT MEETING

- S** 12.1 A member may ask the Council to consider any competent business of the Member's choosing by lodging a motion to be considered at a meeting (other than one on a matter of urgency under Standing Order 13). The motion must be written down, signed by the Member and countersigned by another Member, and given or sent to the Head of Legal and Administration to be received by her/him at least 10 clear days [for this purpose clear days excludes the day of receipt of notice by the Head of Legal and Administration and the day of the meeting but does not exclude Saturdays, Sundays or Public Holidays] before the next ordinary meeting of the Council.

- S** 12.2 Notices of motion will be included on the agenda for the next meeting in the order in which the Head of Legal and Administration receives them. If the Convener considers that more than one of these notices deals with the same subject, only the notice of motion received first will be considered. If the Convener considers the motion deals with the same subject as an item of business otherwise on the agenda the subject matter of the notice of motion will be considered as part of the item of business.
- S** 12.3 Notices of Motion submitted in terms of this Standing Order will be dealt with as provided in Standing Order 7.

13 HOW A MEMBER SUBMITS AN URGENT MOTION

- S** 13.1 A Member may ask the Council to consider any competent business of the Member's choosing as a matter of urgency by submitting a notice of motion, which does not relate to the business which is included on the agenda for a meeting, to be considered at the end of the meeting, even if a Member has not given notice of it under Standing Order 12.
- S** 13.2 If a Member wishes a notice of motion to be considered as a matter of urgency, the motion must be written down, signed by the Member and countersigned by another member and must be given to the Head of Legal and Administration not later than two hours before the start of the meeting.
- S** 13.3 It will be read to the meeting by the Head of Legal and Administration at the point stated at Standing Order 7.1. It will only be considered if the Convener is of the opinion that it is a matter of urgency because of special reasons, which will be recorded in the minutes, and the Council agrees to consider the motion as a substantive item of business. In the event there is an objection to considering the motion the Member who has given notice may speak briefly as to why s/he believes the Council should consider it, whereupon the Council will decide whether or not to consider the motion at the meeting.
- S** 13.4 If for any reason the motion is not considered at this meeting then it will be included on the agenda for the next ordinary meeting, as if it had been submitted under Standing Order 12 unless it is disposed of in some other way before then.

14 A MEMBER MAY ALSO SUBMIT QUESTIONS FOR A MEETING

- 14.1 A Member may put a question to the Leader or to a Senior Councillor Chair at any ordinary meeting of the Council. The question, which may comprise a series of component parts about the same subject, must be about any relevant and competent business which is not included on the agenda for the meeting. The Member must give the question in writing to the Head of Legal and Administration not later than two clear working days before the meeting.
- 14.2 The person who is being asked to answer a question will decide whether to answer it in writing or orally at the meeting. Questions and any written answers, numbered in the order in which they have been received, will be tabled at the start of the meeting.
- 14.3 Arising from each answer given, the Member who asked the question may ask up to two supplementary questions to clarify the answer given.
- 14.4 No discussion will be allowed, and it will not be competent to move any motion arising from a question or the answer given.
- 14.5 A Member may not submit more than two written questions for any one meeting. If the Convener is of the opinion that a question is out of order for any reason, it will not be answered.
- 14.6 Written questions and any written answers will be recorded in the minutes.

15 CAN A DECISION OF THE COUNCIL BE CHANGED?

- S** 15.1 Subject to 15.2, no motion which seeks to alter or revoke a decision of the Council or has that effect will be considered within a period of 6 months of the original decision.
- S** 15.2 It will be competent to review a decision before the end of the 6 month period, provided –

15.2.1 That notice has been given on the agenda by virtue of a Notice of Motion submitted in terms of Standing Order 12, that the previous decision may be altered or revoked, and the Convener, on the advice of the Head of Legal and Administration, is satisfied that a material change of circumstances has occurred;

or

15.2.2 it is inherent in the terms of a report submitted to the Council by an officer and the Head of Legal and Administration advises that a material change of circumstances has occurred.

15.3 A material change of circumstances is firstly where there has been a new development which has a bearing on the original decision or that some important piece of information has become available since the original decision was made. Secondly, this change is material if the change had taken place before the Council took its decision, or had the Council known all the facts relevant to the decision, the change of circumstances would have influenced its judgement and the Council might reasonably have taken a different decision.

16

MINUTES OF MEETINGS

- S** 16.1 Minutes of meetings of the Council and of any body which forms part of the political management framework will be prepared by the Head of Legal and Administration. The minutes of the body will be included on the agenda for the next ordinary meeting of the body to which the minutes relate. At that meeting they will be considered, corrected if need be, and where they are held to be a correct record of the meeting, they will be signed by the person presiding at that next ordinary meeting.
- S** 16.2 No discussion or amendment will be competent on minutes submitted other than an amendment to the effect that they are not a correct record. Any amendment will include the words of the alteration which is proposed to the minutes. An objection to the correctness of a minute will be dealt with by way of an amendment to a motion to approve the minutes.
- S** 16.3 Only Members of the Council who were present at the meeting to which the minutes relate may vote on the correctness of these minutes.

- S** 16.4 A written summary prepared by the Head of Legal and Administration in terms of the relevant law will not constitute part of the minutes and will not be subject to the preceding paragraphs of this Standing Order. [The relevant law in this case is Section 50C(2) of the Local Government (Scotland) Act 1973.]

17

PUBLIC PARTICIPATION

- S** 17.1 The Council welcomes community participation in the business which it is considering. The Council undertakes community engagement in terms of its Community Engagement Strategy and communities are encouraged to participate in that way as the most effective process for involving them in the work of the Council. Beyond that the following arrangements are designed, in the interests of the Council and those who wish to be involved, to regulate participation at meetings of the Council or any body which is part of the political management framework. Other specific arrangements apply in particular circumstances where a meeting is considering a matter where the decision may affect the interests of any person as an individual; and the decision is made after a hearing where the person has a right in terms of any law, Standing Order or administrative procedure, to be heard in person or by a representative.

Petitions

- S** 17.2 Subject to what is said at Standing Orders 17.3-17.5 a petition bearing the signatures of not fewer than twenty members of the public who are ordinarily resident in Shetland which proposes that the Council considers a particular course of action on any competent matter will be received by the Council or another body which is part of the political management framework.
- S** 17.3 The petition will contain the names and addresses of those members of the public who wish to sign it, and will be submitted to the Head of Legal and Administration. Where the subject matter of the petition is concerned with an item of business which is otherwise on the agenda of the meeting concerned it must be lodged not later than one working day before the meeting concerned; but the Convener may, at her/his sole discretion allow a petition to be received at shorter notice. Where the petition has been submitted in sufficient time, the Head of Legal and Administration will include the terms of the petition and a note of number of persons subscribing it with the papers for the meeting of the relevant body.
- S** 17.4 Where the petition is about an item of business which is otherwise included on the agenda for the meeting the Council or other body will receive the petition as part of its consideration of that business.

- S** 17.5 Where the petition is about a matter which is not otherwise included on the agenda for the meeting the Council or other body will receive the petition at the point provided in Standing Order 7.1 above.

Having received the petition the Council or other body will determine one of two courses of action –

- (a) whether to note the terms of the petition, or
- (b) whether to instruct the relevant officer to provide a report for a subsequent meeting of the body or to deal with the matter appropriately under delegated powers

but it will not be competent for the Council or other body to take a substantive decision in the absence of a report referred to at sub paragraph (b) above.

Deputations

- S** 17.6 Subject to what is said in Standing Order 17.7-17.13 below the Council or another body which is part of the political management framework may hear a deputation of not more than 3 persons on behalf of an organisation or group, including the organisers of a petition, on any competent matter other than where the Council or other body is exercising a statutory function to determine an application by any person or where the decision may affect the interests of any person as an individual and the decision is made after a hearing where the person has a right in terms of any law, Standing Order or administrative procedure, to be heard in person or by a representative.
- S** 17.7 The application for a deputation must be in writing, signed by a representative of the organisation or group wishing to be heard and setting out the matter on which they wish to be heard and delivered to the Head of Legal and Administration no later than 3 days before the meeting concerned; but the Convener may, at her/his sole discretion allow an application to be considered at shorter notice.
- S** 17.8 When an application is considered whether to hear a deputation, the merits of the matter itself will not be discussed. Unless the meeting agrees unanimously to hear or to refuse to hear the deputation, a vote will be taken without discussion on whether to hear the deputation.
- S** 17.9 A deputation will have up to 10 minutes to present its case. If the meeting decides to hear more than one deputation on the same subject, the deputations will be heard together, and the Convener will decide how much time to allow in total, up to a maximum of 10 minutes each.

- S** 17.10 The Convener will allow a period of 10 minutes, during which any Member may put two questions to the deputation that are relevant to the subject, but the merits of the case must not be discussed by Members whilst the deputation is being heard.
- S** 17.11 It will not be competent to move any motion arising from the subject matter raised by a deputation, unless the matter is included as an item of business on the agenda for the meeting, and discussion will be reserved until that item is reached.
- S** 17.12 Where the deputation is about a matter which is not otherwise included on the agenda for the meeting, having heard the deputation the Council or other body will determine one of two courses of action –
- (a) whether to note what the deputation had to say, or
 - (b) whether to instruct the relevant officer to provide a report for the following meeting of the body
- but it will not be competent for the Council or other body to take a substantive decision in the absence of a report referred to at sub paragraph (b) above.
- S** 17.13 Where a matter is the subject of consideration by more than one body which is part of the political management framework, or by one or more of those and the Council, or at more than one meeting of the same body, a petition received or a request by a deputation to be heard will be considered only at the meeting where it is anticipated that matter will be finally determined (as distinct from being the subject of preliminary consideration or the subject of a recommendation).
- It will not be competent to consider a request to be heard on the same matter within a period of six months of the original decision, unless the Convener is satisfied that a material change of circumstances has occurred: always provided that where a matter may be the subject of consideration on more than one occasion the Convener will, in her/his sole discretion, determine whether on each occasion the issue to be discussed is so closely related as to be regarded as the same matter.

SUBORDINATE BODIES

- 18.1 Standing Orders marked S will apply with suitable application and modification and with like effect to meetings of any body which is part of the political management framework.

Arranging Meetings Of Subordinate Bodies

- 18.2 The dates of ordinary meetings of the Council and other bodies which are part of the political management framework will be decided by the Council on the basis of a programme of meetings which will normally be decided each year.
- 18.3 The Chair of a body (or in whose absence the Vice-Chair) may for good cause cancel or alter the date, time or place for a meeting of a body but not after the summons for the meeting has been issued. The Chair (or in whose absence the Vice-Chair) may call a meeting of the body on dates in addition to those already contained in the programme decided by the Council, or where there are no scheduled dates as these are required.

How Many Members Must Be Present

- 18.4 No business will be considered at a meeting of a body which is part of the political management framework unless at least a quarter of the whole number of voting Members is present; and there must, in any case, be at least three voting Members present.

Attendance Of Councillors

- 18.5 Subject to what is said below, any Councillor may be present at a meeting of a body which is part of the political management framework of which the Councillor is not a Member. Subject to what is said in Standing Order 18.6 and 18.7 below, the Councillor may speak on any issue but not vote.
- 18.6 Notwithstanding the provisions of Standing Order 18.5 a Councillor cannot be present at a meeting of a body of which she/he is not a Member when:-
- the public have been excluded from the meeting; and
 - the meeting is considering a matter where the decision may affect the interests of any person as an individual; and

- the decision is made after a hearing by the body where the person has a right in terms of any law, Standing Order or administrative procedure, to be heard in person or by a representative

18.7 A Councillor cannot speak in terms of the provisions at Standing Order 18.5 above at a meeting of the Development Management Committee when it is considering an application for planning permission, nor in similar circumstances when a Local Review Board is considering an appeal in respect of an application for planning permission. A Councillor may only speak in such circumstances where s/he wishes to make representations on behalf of constituents or other parties on a particular application, and declares their interest in the matter and then retires from the meeting room.

18.8 If a body has a hearing:-

- on a matter where the decision may affect the interests or rights of any person as an individual; and
- where the person has a right in terms of any law, Standing Order or administrative procedure, to be heard in person or by a representative;

Members of the body may only take part in or vote on the matter if they have attended the entire proceedings of the hearing.

19 SUSPENDING OR ALTERING STANDING ORDERS

S 19.1 A Standing Order can only be suspended at a meeting of the Council or a body which is part of the political management framework if not less than two-thirds of the Councillors present agree.

19.2 None of these Standing Orders can be rescinded or altered, nor additional Standing Orders created, unless:-

- A resolution to do so is passed after notice is given at a previous ordinary meeting of the Council; or
- A report is made to the Council by the Executive Committee or by the Head of Legal and Administration.

19.3 Standing Orders 19.1 and 19.2 cannot be suspended.

END

SHETLAND ISLANDS COUNCIL

CONSTITUTION

PART C

SCHEME OF ADMINISTRATION AND DELEGATIONS

May 2011

SCHEME OF ADMINISTRATION AND DELEGATIONS

INTRODUCTION

The Council accepts the principle that decisions should be made at the lowest and the most local level consistent with the nature of the issues involved. An important element in the practical implementation of this principle is an effective Scheme of Delegations encompassing all major levels of decision making below that of the Council itself.

The delegations in this Scheme are made having regard to the terms of Section 56 of the Local Government (Scotland) Act 1973, and are subject to any alterations made necessary by the introduction of new, or amendments to existing, legislation, regulations, or codes of practice as through decisions of the Council itself.

SECTION ONE

1.1 POLITICAL MANAGEMENT FRAMEWORK

1.1.1 The Council's political management framework will comprise the following bodies -

- (1) the Executive Committee
- (2) The following functional Committees
 - (a) Children, Families and Lifelong Learning
 - (b) Communities, Health and Wellbeing
 - (c) Economy and Development
 - (d) Environment
- (3) Development Management Committee
- (4) Licensing Committee
- (5) Audit and Standards Committee
- (6) Harbour Board
- (7) Shetland College Board
- (8) Appeals Committees as specified below

1.1.2 The Council may appoint such other bodies to be part of the political management framework as they may consider are required to discharge any of its functions or to provide advice and in so doing will specify the terms of reference and delegation to any such body. Only a body which is part of the political management framework, or an officer, may discharge any of the functions of the Council.

1.2 CONSTITUTION

1.2.1 The Constitution of the various bodies referred to in paragraph 1.1.1 will be as follows:-

- (1) Executive Committee
 - (a) 11 Councillors, being the Leader of the Council as chair, the Chairs of the 4 Committees mentioned at sub-paragraph (2) below, 4 Vice Chairs, the Convener and one other Councillor
- (2)
 - (a) Children, Families and Lifelong Learning Committee
 - (b) When the Children, Families and Lifelong Learning Committee is considering any of the functions of the Council as education authority, 3 persons interested in the promotion of religious education will be voting members of the Committee.

- (c) Communities, Health and Wellbeing Committee
- (d) Economy and Development Committee
- (e) Environment Committee

Each of the foregoing Committees will comprise 11 Councillors, being one member from each Ward, the relevant Senior Councillor Chair mentioned in Article 7 of Part A of the Constitution and the relevant Vice Chair, the Leader of the Council, and 1 further Councillor having regard to relevant skills and expertise.

(3) Development Management Committee

11 Councillors, being a member from each ward, plus two further Councillors to be chair and vice chair appointed by the Council, plus two further Councillors having regard to skill and expertise.

(4) Licensing Committee

8 Councillors, including two Councillors to be chair and vice chair appointed by the Council

(5) Audit and Standards Committee

9 Councillors, including two Councillors to be chair and vice chair appointed by the Council, plus two independent assessor members who are non-councillors co-opted by the Council, in the selection of whom the Council will have regard to skills and expertise

(6) Harbour Board

8 Councillors, including two Councillors to be chair and vice chair appointed by the Council

(7) Shetland College Board

8 Members, being 6 Councillors including two Councillors to be chair and vice chair appointed by the Council, and 2 other members co-opted by the Council in the selection of whom the Council will have regard to skills and expertise

(8) Appeals Committees

Complaints (Social Work) Review Sub-Committee –

A panel of persons from which the Sub-Committee shall be drawn shall consist of 4 Members of the Shetland Islands Council and 4 independent persons. The Sub-Committee shall consist of 3 persons to be drawn from the panel of independent persons and elected members, provided that the Chairperson shall be an independent person.

Education Appeals Sub-Committee (for Appeals and Grievances by Teaching Staff) –

A panel of 4 Members will be drawn from amongst a group of 14 Members appointed by the Council.

Placing Requests (ASN) Appeals Sub-Committee –

The panel of persons from which the Sub-Committee shall be drawn shall consist of 4 Members of the Shetland Islands Council and 4 independent persons. The Sub-Committee shall consist of 3 persons to be drawn from the panel of independent persons and elected members, provided that the Chairperson shall be an independent person.

Staffing Appeals Committee (for Appeals and Grievances by non-Teaching staff)

A panel of 4 Members will be drawn from amongst a group of 14 Members appointed by the Council.

1.3 GENERAL PROVISIONS REGULATING MEMBERSHIP, ETC

- 1.3.1 The general role, duties and obligations of a Member are set out in Appendix 1 of Part A of the Constitution.

Senior Office Bearers

- 1.3.2 (1) For the purposes of this Scheme, a Senior Office Bearer is any one of the following:-
- (a) Convener
 - (b) Leader of the Council
 - (c) Senior Councillor Chair as provided in Article 7 of Part A of the Constitution and the relevant Vice-Chair
- (2) Except where otherwise provided by any enactment or statutory order, or otherwise by this Scheme, the Members to be appointed to any one or more of the foregoing positions will be so appointed at the first meeting of Council following each ordinary election of Councillors.

- (3) Subject to the provisions of the next following sub-paragraph, so long as s/he remains a Member of the Council, a Member appointed to any of the foregoing positions will hold such office, until the next ordinary election of Councillors.
- (4) (a) A Member appointed to be the Convener or the Leader of the Council may be removed from such office by resolution of the Council, provided notice to that effect signed by one-quarter of the whole number of members of the Council is submitted to the Head of Legal and Administration and is included on the agenda for an ordinary meeting of the Council when the notice will be held over to be considered as a substantive item of business at the succeeding meeting.
- (b) A Member appointed to any other Senior Office Bearer position may be removed from such office at any time by resolution of the Council, provided the agenda for the meeting contains notice to that effect or an item of business is included on the agenda for the meeting arising out of the consideration of which the removal of a member from a Senior Office Bearer position might reasonably be apprehended.

Memberships and Period of Office

- 1.3.3 (1) Except where otherwise provided by any enactment or statutory order, or otherwise by this Scheme, the Members of a body which is part of the political management framework will be so appointed at the first meeting of the Council following each ordinary election of Councillors.
- (2) Subject to the foregoing, and in the case of Councillors so long as they remain members of the Council, members of a body which is part of the political management framework will hold office, unless otherwise determined by the Council at any time, until the next ordinary election of Councillors, except in the case of the Members who hold a Senior Office Bearer position where the provisions of paragraph 1.3.2(4) will apply.
- (3) When appointing a body which is part of the political management framework and so far as not provided for otherwise in this Scheme the Council will appoint two of the members to be respectively the Chair and Vice-Chair of the body and they will hold office, unless otherwise determined by the Council at any time, until the next ordinary election of Councillors.

Casual Vacancies

- 1.3.4 (1) Casual vacancies occurring in any body which is part of the political management framework will be filled as soon as may be by the Council after the vacancy takes place.
- (2) Provided a quorum remains a body which is part of the political management framework may act, and its proceedings will not be invalidated by any defect in the appointment of any person to it.

1.4 ADMINISTRATION OF DELEGATED AND REFERRED FUNCTIONS

- 1.4.1 In the administration of any delegated or referred function, a body which is part of the political management framework will give effect to any instruction of the Council or the Executive Committee, and to the following:-
- (1) The approved estimated expenditure in respect of the Service to which that function relates will not be exceeded unless otherwise authorised by the Council or in accordance with this Scheme or the Financial Regulations.
 - (2) The directions, policies, and procedures set out in any part of this Constitution, or otherwise laid down by the Council or the Executive Committee will be complied with.
 - (3) Decisions or actions taken in the proper exercise of powers delegated in terms of this Scheme will be binding on the Council.
 - (4) Each body established in terms of this Scheme will submit a report to the Council on any matter which it either does not have, or does not wish to exercise, a delegated power to deal with the business which is the subject of the report.
 - (5) A body established in terms of this Scheme will furnish any information which the Council or the Executive Committee may require from time to time.
 - (6) Every meeting of the Council, and any body which is part of the political management framework, and such other bodies as the Council may direct from time to time, will be regulated by the Council's Standing Orders in Part B of the Constitution and the provisions of Section 50 of the Local Government (Scotland) Act 1973 and will, except where otherwise provided by those Standing Orders, that Section, or Council direction, be open to the public.

SECTION TWO

2.1 TERMS OF REFERENCE AND DELEGATION

- 2.1.1 The following terms of reference and delegations are to be read in conjunction with other provisions contained in the Standing Orders for Meetings; the Contract Standing Orders, and the Financial and Security Regulations and are subject to those other provisions.

General Delegations

- 2.1.2 (1) A body established which is part of the political management framework will be free to incur expenditure on any function delegated to it and within the Council's legal powers up to the limit for which provision has been made in the Council's approved Estimates of Revenue or Capital Expenditure.
- (2) Subject to the provisions of the Local Government (Scotland) Acts 1973 and 1994 and of any Regulations made there under, and to the specific delegations, exceptions and limitations provided for in this Scheme and in the Standing Orders for meetings, the Financial and Security Regulations and the Contract Standing Orders, there is delegated to the relevant Committees, the matters, services or undertakings, including the acquisition, construction, holding, maintenance and disposal of any land or buildings or works as are specified in this Scheme.
- (3) A body established in terms of this Scheme may exercise and perform on behalf of and in the name of the Council all powers and duties of the Council in relation to any function, matter, service or undertaking delegated to it by the Council.

Exclusions from Delegations

- 2.1.3 The following are excluded from the delegation to any body established in terms of this scheme:-
- 1 Matters reserved to the Council by Statute, or otherwise by the Council's constitution including this scheme, including-
- (a) The establishment of any body to be part of the political management framework and all appointments to or removal from those bodies
 - (b) The appointment of Councillors to Statutory Joint Boards or to the Licensing Board
 - (c) The power to fix the Council Tax
 - (d) The promotion of or opposition to private legislation
 - (e) Where required by the Head of Paid Service, reports under section 4 of the Local Government and Housing Act 1989

- (f) Reports by the Monitoring Officer under section 5 of the Local Government and Housing Act 1989
 - (g) Receiving the unaudited and audited accounts of the Council and related certificates and reports
 - (h) Considering any reports from the Accounts Commission or the Controller of Audit in terms of Section 101 – 103 of the Local Government (Scotland) Act 1973 where the Council is required to consider these
 - (i) Changing the name of the Council
 - (j) Admission of honorary freemen
 - (k) Where directed, the consideration of reports by the Scottish Public Services Ombudsman in terms of the 2002 Act.
- 2 Determining the overall Goals, Values and *Strategy Framework Documents or matters of new policy/strategy or variation of existing policy/strategy which may be inconsistent with those Goals, Values or Strategy Framework Documents.
 - 3 The approval of any plan which is part of the Strategy Framework and any other plan which introduces new policies of major significance or varies existing plans or policies to a material extent.
 - 4 The approval of plans which are part of the Council's Planning and Performance Management Framework and the Estimates of Revenue and Capital Expenditure.
 - 5 The power of incurring any expenditure not provided for in the Annual Estimates of Revenue and Capital expenditure.
 - 6 The power to fix Council House Rent Levels, or the levels of charges for any services.
 - 7 The making, alteration or revocation of any part of any document which forms part of the Council's Constitution.
 - 8 The determination of planning applications which in terms of the relevant legislation are for (1) national developments; (2) major developments where in the case of the latter there would be a significant departure from the development plan, were the application to be approved.
 - 9 The appointment and dismissal of the Chief Executive.

*The Strategy Framework Documents are set out in Part A of the Council's Constitution.

Limitations on Delegations

- 2.1.4 Delegations to a body which is part of the political management framework will be subject to the following restrictions and conditions:-

- (1) A body will, in carrying out the functions, powers and duties referred to or delegated to it, observe and comply with this Scheme, the Standing Orders of the Council, the Financial and Security Regulations, and the Contract Standing Orders, and with any resolutions, directions, or instructions given by the Council with reference to its business generally or to the delegations to any particular body.
- (2) A body may, in any case, decide that any matter delegated to it be referred to the Council with or without a recommendation.
- (3) A body established in terms of this scheme will have the powers and duties set out in the Terms of Reference in respect of that body save that any function which is referred or delegated to any body will be exercised subject to the powers and functions vested in the Executive Committee.
- (4) A matter on which the body discharges any power or duty is one which has application only within the delegation to that body; a matter having application across or which affects the terms of reference of more than one body will be referred to the Executive Committee who may give such advice as may be appropriate or refer the matter to the Council.

2.2 Executive Committee

2.2.1 The terms of reference of the Executive Committee are as follows -

- | | | |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1a | Develop and recommend the corporate plan, the development plan and the overall framework of strategies contained in the Strategy Framework | * Referred |
| 1b | Ensure the outcomes are achieved through service plans concerned with service delivery developed in cooperation with the functional Committees, and manage performance | * Delegated |
| 2 | Advise the Council in the development of its strategic objectives, policies and priorities | Referred |
| 3 | Review the overall effectiveness of the Council's work and the standards and levels of service and ensure the Council discharges its functions relating to Best Value | Delegated |
| 4 | Ensure the effectiveness of the Council's planning and performance management framework | Delegated |
| 5 | Co-ordinate with partner organisations in relation to the Council's leadership of the Community Planning Partnership | Delegated |
| 6a | Undertake the planning and preparation of the Council's annual service plans and budget estimates of capital and revenue expenditure | Delegated |
| 6b | and make recommendations to the Council as to:- | |
| | - the corporate and annual service plans | |

- the estimates of capital and revenue expenditure *Referred*
 - the level of Council Tax
 - charges for council services
- 7 Secure the co-ordination, control and proper management of the financial affairs of the Council *Delegated*
 - 8 Be responsible for the development and operation of Council as an organisation and all matters relating to organisational development and staffing, officer structures and systems of performance appraisal *Delegated*
 - 9 Be responsible for the development of cross functional transformational initiatives including for example customer management, workforce deployment and asset management and health and safety matters *Delegated*
 - 10 Act as or appoint a panel to make appointments, on behalf of the Council, to the positions of Chief Executive and Directors. *Delegated*
 - 11 Subject to the exclusions from and limitations of delegations set out in this scheme, the Committee is authorised to discharge the powers and duties of the Council within any functional area as may be allocated to the Committee by the Council in accordance with the policies of the Council, and the relevant provisions in its approved revenue and capital budgets *Delegated*
- * 'Referred' means that it is within the remit to consider but final decision rests with the Council, and "Delegated" means that it is within the remit and authority to decide

2.3 Functional Committees

- 2.3.1 (1) Advise the Executive Committee and the Council in the development of service objectives, policies and plans concerned with service delivery within the functional areas noted below and manage performance
- (2) Monitor and review achievement of key outcomes in the Service Plans within the functional areas noted below by ensuring –
 - (a) appropriate performance measures are in place, and to monitor the relevant Planning and Performance Management Framework
 - (b) best value in the use of resources to achieve these key outcomes is met within a performance culture of continuous improvement and customer focus

- (3) Subject to the exclusions from and limitations of delegations set out in this scheme, and the terms of reference and authority of the Executive Committee, the Committee is authorised to discharge the powers and duties of the Council within the functional areas noted below in accordance with the policies of the council, and the relevant provisions in its approved revenue and capital budgets
- (4) Undertake community engagement in terms of Council's community engagement strategy
- (5) Encourage effective collaboration and co-ordination between and within organisations operating in Shetland and particularly lead the work of the relevant CPP theme group, to enable a co-ordinated approach to the development of service policy and performance management across the public body partners

Children, Families and Lifelong Learning

The relevant functional areas relate to children and families, school, pre-school, young people and lifelong learning.

Communities, Health and Wellbeing

The relevant functional areas relate to community care, community health and wellbeing, housing, poverty, community regeneration/development, voluntary sector, arts, culture, leisure and sport.

Economy and Development

The relevant functional areas relate to strategic regeneration, development and transport planning, economy and business, energy, telecommunications, agriculture, fisheries, tourism.

Environment

The relevant functional areas relate to the natural environment, roads transport and ferry services, building services and environmental services.

2.4 Development Management Committee

- 2.4.1 Subject to the provisions of this Scheme, and the delegation to any officer, the Committee is authorised to discharge the powers and duties of the Council in accordance with the Planning Service Scheme of Delegations attached as **Appendix 1** to this Scheme.

2.5 Licensing Committee

- 2.5.1 Subject to the provisions of this Scheme, and the delegation to any officer, the Committee is authorised to discharge the powers and duties of the Council in accordance with the Licensing Scheme of Delegations attached as **Appendix 2** to this Scheme.

2.6 Audit and Standards Committee

To promote good internal control, financial management, risk, governance and performance management, in order to provide reasonable assurance of effective and efficient operation, and compliance with laws and regulations, including the Council's Code of Corporate Governance, Financial and Security Regulations, Contract Standing Orders and accounting codes of practice.

Specific terms of reference are –

2.6.1 Audit Activity

To agree the internal audit strategic plan, oversee and review action taken on internal audit recommendations;

To consider the annual report, opinion, and summary of Internal Audit activity (actual and proposed) including the level of assurance it can give over the Council's corporate governance arrangements and other specific internal audit reports;

To consider the External Auditor's Annual Letter, relevant reports, and the report to those charged with governance and other specific External Audit reports;

To comment on the scope and depth of External Audit work and to ensure it gives value for money;

To consider the performance of Internal and External Audit;

To facilitate training to support the role of Audit and Standards Committee Members;

To develop an anti-fraud culture within the Council to ensure the highest standards of probity and public accountability;

To promote good financial practice within the Council;

To be consulted on the External Audit strategy and plan, review reports from the Council's External Advisors and review action on External Audit recommendations; and

To review the Council's financial performance as contained in the Annual Report, and to report annually to the Council on the internal control environment.

2.6.2 Regulatory Framework

To maintain an overview of the Council's Constitution in respect of contract procedure rules, and financial regulations;

To monitor the effective development and operation of risk management and corporate governance in the Council;

To receive an annual report from the Monitoring Officer reviewing the Council's Code of Corporate Governance;

To monitor the Anti fraud and corruption strategy and the Council's arrangements for dealing with any allegations of fraud or similar improper behaviour;

To oversee the production of the Council's Statement on Internal Control; and

To consider the Council's compliance with its own and other published standards and controls.

2.6.3 Accounts

To examine the activities and accounts of the Council and exercise a governance role over management efforts to ensure that -

- the expenditure approved by the Council has been incurred for the purposes intended;
- services are being provided efficiently and effectively;
- value for money is being obtained, all in accordance with Best Value requirements; and
- the Council has appropriate information and advice available to it to make decisions

To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council;

To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts;

To promote good performance management practice within the Council;

To assess the effectiveness of the Council's Performance Management System by reviewing outputs from the system and overview key performance indicators;

To consider a selection of performance and inspection reports from internal audit, external audit and other relevant agencies;

To review Best Value arrangements and outcomes, with consideration of both external and internal Best Value reports, strategy/plans and outcomes from Best Value reviews;

To comment on the effectiveness of the planning and performance management framework (PPMF), systems and processes; and

To review the impact of national performance reports from external bodies such as Audit Scotland and consider their impact on future audit plans for performance work to be undertaken by both external and internal audit.

2.7 Harbour Board

2.7.1 Strategic oversight and direction in all aspects of the operation of the Council's harbour undertaking in accordance with overall Council policy and the requirements of the Port Marine Safety Code;

2.7.2 Act as Duty Holder required by the Port Marine Safety Code and ensure that the necessary management and operational mechanisms are in place to fulfil that function; and

2.7.3 To consider all development proposals and changes of service level within the harbour undertaking, including dues and charges, and make appropriate recommendations to the Council

2.8 Shetland College Board

- 2.8.1 To support the Principal of Shetland College in carrying out his/her roles and to monitor progress against objectives which have been set by the Council in relation to the following -
- a Strategic direction for Shetland College
 - b Ascertaining the needs of users and promoting access between school, work and higher education
 - c Resources to support the learner
 - d Staffing to meet needs and provision for staff development and career review
 - e Quality assurance and improvement
 - f Sound financial management
 - g Liaising with UHI Millennium Institute and other appropriate learning bodies

2.9 Appeals Committees

- 2.9.1 **Staffing Appeals Committee (for Appeals and Grievances by non-Teaching Staff)**
The hearing and determination of appeals by employees in terms of the Council's approved grievance and disciplinary procedures.
- 2.9.2 **Placing Requests (ASN) Appeals Sub-Committee**
The hearing and determination of appeals against the refusals of placing requests in terms of Section 28A-H of the Education (Scotland) Act 1980, and appeals in terms of Sections 63 to 65 of the 1980 Act and Section 5 of Education (Additional Support for Learning)(Scotland) Act 2004 in relation to special educational needs.
- 2.9.3 **Education Appeals Sub-Committee (for Appeals and Grievances by Teachers)**
The hearing and determination of appeals by teaching staff in terms of the Council's approved grievance and disciplinary procedures.
- 2.9.4 **Social Work Complaints Review Committee**
The hearing and determination of complaints in terms of the complaints procedure in terms of Section 5B the Social Work (Scotland) Act 1968 as amended by National Health Service and Community Care Act 1990.

SECTION THREE

DELEGATIONS TO OFFICERS

The functions, powers and duties delegated to the Chief Executive and each Director are also exercisable by such Officers as are designated by them, subject to the provision of any law, and provided the designated Officers are suitably qualified. The Chief Executive and each Director will maintain a register of such functions, powers and duties which have been delegated and to whom.

3.1 Limitation of Delegations to Officials

3.1.1 Delegations to Officers set out in this Section are subject always to the following:-

- (1) Officers will exercise the authority delegated to them having regard to and in accordance with the policies adopted by the Council from time to time; and will act in the interests of the Council;
- (2) Officers will comply with any appropriate departmental practice or procedure, of any managerial instruction given, and of any other similar consideration;
- (3) Officers will exercise the authority delegated to them in accordance with any relevant provisions contained elsewhere in the Council's Constitution;
- (4) Officers will have the right to consult with the Chief Executive on any matter, even though it has been specifically delegated to that Officer, or to refer the matter to an appropriate body which is part of the political management framework;
- (5) Officers will consult the Chief Executive or any relevant Director where appropriate to do so on issues of a corporate nature or which may have a significant impact on the Council or other Services or on issues which are sensitive or complex;
- (6) Officers will consult the Leader or Chair of the appropriate Committee on issues which are sensitive or complex, or otherwise where consultation appears to be appropriate; and
- (7) Officers will consult Ward Councillors where a proposed decision or action is likely to affect significantly the constituency interests of those Councillors.

3.1.2 Officers will ensure that they make suitable arrangements to record decisions taken and actions authorised in relation to the discharge of any functions powers and duties delegated to them, and will submit such reports as may be required from time to time.

- 3.1.3 Where an applicant for a service provided by the Council is a Councillor or an employee, the Officer within whose delegated authority it is to determine the application will, before exercising that authority, give consideration to the need to consult with the Chief Executive who may if she/he considers it appropriate require the Officer to refer the application to the appropriate body for determination.

3.2 General Delegations to Officials

The Chief Executive and Directors are authorised to –

- 3.2.1 Appoint employees as required by them to discharge the functions of the services for which they are responsible, within the overall budget approved by the Council for their Service. The power dismiss employees, is included in the delegation to the Chief Executive, Directors and Heads of Service.
- 3.2.2 Apply and implement the terms of National and Local Agreements on Salaries and Conditions of Service to any post or posts and take such other decisions in relation to such posts and the employees who occupy them as they consider necessary in the interests of the effective operation of the Council's Services.
- 3.2.3 Conduct Disciplinary and Grievance proceedings and make appropriate determinations in accordance with the Council's approved Disciplinary and Grievance Procedures.
- 3.2.4 Select tenderers and award contracts in compliance with the Contract Standing Orders.
- 3.2.5 To take such measures as may be required to enable the Council to respond to an emergency situation, subject to advising as appropriate (a) the Leader, (b) the relevant Senior Councillor Chair, and where the emergency is likely to affect significantly a particular part of the Council's area (c) the Ward Councillors, reporting to the Executive Committee as soon as possible thereafter, on any items of expenditure for which approval would normally be necessary.
- 3.2.6 To act as the proper officer for the statutory functions of the Council under all relevant legislation relating to the functions of the Council for which they are responsible, to appoint officers as appropriate to act as authorised officers for the purposes of the administration and enforcement of the legislation, and to authorise suitably qualified officers to discharge functions set out in this Scheme on their behalf, and to sign and to issue –
- (a) statutory notices on behalf of the Council under all relevant legislation applicable to the functions of their office
 - (b) authorisations to Officers to exercise statutory powers (including, where appropriate, the right to enter land and premises in

connection with discharge of their duties), and

(c) identity cards, and such other similar authorisations as may be required, to Officers.

- 3.2.7 To pay valid claims for damage to, or loss of, property of employees occurring during the course of their employment or of members of the public, arising from the work of the Service concerned, up to £10,000 in respect of any one claim, subject to the approval of the Chief Executive in respect of any higher amount, and subject also to the requirement to ensure that appropriate notification is given and/or claims made on the relevant Council Insurance Policies.
- 3.2.8 To act as Proper Officer in terms of Sections 50(D)(1)(a) and 50(D)(5) of the Local Government (Scotland) Act 1973 (Background Papers).
- 3.2.9 To approve terms and conditions for the lease to or from a third party of property to be held on their Service account.
- 3.2.10 To review and ensure compliance with the requirements of existing and new legislation and statutory regulations, and the Council's policies in respect of those matters.
- 3.2.11 Each Director is authorised, in terms of arrangements made from time to time by the Chief Executive, to exercise the functions of the Chief Executive in her/his absence.
- 3.2.12 To exercise or to designate a suitably qualified officer to exercise the powers and duties of the Council and of an Inspector and authorised Officer (including powers of entry, inspection, sampling, seizure of goods and services, opening containers, seizure and initiating prosecutions, where appropriate) under any relevant legislation.
- 3.2.13 To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.

3 Specific Delegations to Officers

(A) CHIEF EXECUTIVE

The Chief Executive's powers and duties enable her/him to carry out the following functions, and without prejudice to all statutory duties, responsibilities and powers exercisable by her/him, authorise her/him to exercise the following –

- 1 The Chief Executive is Head of the Council's paid service in terms of Section 4 of the Local Government and Housing Act 1989.
- 2 The Chief Executive is principal advisor to the Council on all matters of policy and strategic direction and is responsible for the implementation of Council aims and priorities, including leading the delivery of Best Value and Community Planning.
- 3 The Chief Executive provides leadership, direction and motivation for staff and is responsible for the management of other resources to ensure that the Council's policies and priorities are delivered in an efficient and effective manner. This includes management of the Council's health and safety responsibilities, managed through the management team and Chairmanship of the Central Safety Committee.
- 4 To give a direction on the applicability of the Scheme of Delegations to an officer in any specific case, and power in special cases to direct that any official shall not exercise a delegated function except where –
 - (a) the officer concerned is exercising a statutory responsibility, or
 - (b) the officer concerned is exercising professional discretion or judgement
- 5 Power in an emergency to instruct executive action on any matter.
- 6 To determine gradings of categories of posts in implementation of review processes initiated within or out with the Council or to correct anomalies in the Council's salary structure as a consequence of review processes, within the limits of existing budgets.
- 7 To determine the allocation of functions amongst officers and to make or confirm the appointment of such Proper Officers as may be necessary.
- 8 To exercise the discretions available to the Council as employers in terms of the Local Government Pension Scheme and to determine applications for early retirement all in accordance with any relevant policies of the Council.

- 9 Where s/he considers that it would be in the interests of the Council to do so, to authorise visits by officers of the Council and others representing the Council out with the United Kingdom.
- 10 To authorise, in appropriate circumstances, reports to the Procurator Fiscal or Police on matters not otherwise covered within the Council's regulatory frameworks.

(B) Chief Legal Officer

The Council's Chief Legal Officer is authorised –

- 1 To act as Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989.
- 2 To act as Proper Officer in terms of Sections 33A, 34, 43 and Schedule 7, 50B(2), 50C(2), 50F(2) and 231 of the Local Government (Scotland) Act 1973 and otherwise in relation to the arrangements for the conduct of business arising at any meeting of the Council, or a body which is part of the political management framework.
- 3 To act as Proper Officer in terms of Section 206 of the Local Government (Scotland) Act 1973 (Roll of Honorary Freemen) and to be responsible for the arrangements for the custody of all archives and regalia.
- 4 To act as Returning Officer in respect of European, Scottish Parliamentary and Local Authority elections and to discharge the functions in Sections 18, and 18A to 18E of and act as "appropriate officer" in terms of Sections 75, 75A, 81 and 82 of the Representation of the People Act 1983 (as amended).
- 5 To act as Proper Officer in terms of Section 33A of the Local Government (Scotland) Act 1973 (Declaration of Acceptance of Office); Section 7 of the Ethical Standards in Public Life etc (Scotland) Act 2000 (register of Members Interests) and the relevant provisions of the Local Governance (Scotland) Act 2004 and related regulations regarding Councillor remuneration and expenses.
- 6 To act as or to designate a suitably qualified officer to act as Clerk to the Licensing Board in terms of the Licensing (Scotland) Act 2005.
- 7 To act as or to designate a suitably qualified officer to act as the "proper officer" in terms of Sections, 190, 191, 193, 194, 195, 202 and 204 of the Local Government (Scotland) Act 1973 including the signing and arranging as necessary for the affixing of the Common Seal of the Council to all deeds and other documents which require to be sealed with the Common Seal of the Council.
- 8 To act as or to designate a suitably qualified officer to act as Solicitor to the Council and as such to sign missives and other similar documents binding the Council, except where otherwise provided for in this Scheme.

- 9 To engage private legal firms or Counsel for Court and other legal work if and when she/he may consider this to be necessary to enable the legal work of the Council to be carried out and appoint Parliamentary Agents.
- 10 To arrange for the Council to be represented in relation to any type of judicial and quasi judicial proceedings before any Court, Tribunal or other body and in that regard to initiate, enter, defend and withdraw from such proceedings.
- 11 To settle without reference, claims arising in terms of the Land Compensation (Scotland) Act 1973, in respect of Home Loss Payments following compulsory acquisitions and also to settle any discretionary payments arising from acquisitions by voluntary agreement, provided that the statutory requirements have been met.
- 12 To settle, without reference, up to a maximum of £100,000, any claim against the Council which involves or is likely to involve action against the Council in any Court or statutory tribunal.
- 13 To authorise payments to account to sellers of property to the Council in cases where negotiations are protracted for any reason, up to a value of 90% of the valuation.
- 14 To authorise payments to account to sellers of property to the Council in cases where conveyancing procedures are protracted for any reason subject to the exhibition of a good title and the grant of appropriate undertakings.
- 15 To terminate on behalf of the Council any contract which the Council is entitled to terminate under the appropriate conditions of contract where, after consultation with the appropriate Director, she/he is satisfied that it is in the interest of the Council to do so.
- 16 In respect of Insurance-
 - (i) to take out the necessary insurances to protect the interests of the Council;
 - (ii) to make arrangements with insurance companies concerning settlement of claims;
 - (iii) in respect of claims not settled on behalf of the Council to settle up to a maximum of £100,000
- 17 To maintain a panel of Safeguarders and Legal Representatives for appointment in connection with the interests of any child in connection with any proceedings before the Sheriff or a Children's Panel, and to determine fees in accordance with Council policies.
- 18 To act as the proper officer for the Statutory Functions and obligations of the Council under all current, relevant legislation relating to Freedom of Information, Regulation of Investigatory Powers Act and Regulation of Investigatory Powers (Scotland) Act and Data Protection.
- 19 To determine requests for review of refusal, or partial refusal, to provide

information, or any procedural matter relating to a request for information in terms of the Freedom of Information (Scotland) Act 2002 or the Environmental Information Regulations.

(C) Chief Finance Officer

The Council's Chief Finance Officer is authorised -

- 1 To act as proper officer in terms of sections 92 and 95 of the Local Government (Scotland) Act 1973 and has a responsibility to the Council under section 35 of the Local Government in Scotland Act 2003 and the appropriate provisions of the Prudential Code for Capital Finance in Local Authorities and has responsibility for the administration of the financial affairs of the Council and the provision of financial advice to the Council.
- 2 to make the arrangements for keeping the accounts of the Council in terms of Section 96 of the Local Government (Scotland) Act 1973.
- 3 to determine the detailed form of Capital and Revenue Estimates consistent with the directions of the Council.
- 4 prepare and submit to the Controller of Audit in accordance with Section 96 of the Local Government (Scotland) Act 1973 the Annual Abstract of Accounts and advertise and make them available for public inspection.
- 5 exercise all the other powers and duties as set out in and in accordance with the Financial and Security Regulations as approved by the Council from time to time.
- 6 to discharge all the Treasury Management functions of the Council in accordance with the Financial and Security Regulations, including exercising voting rights on any stock held in the name of the Council.
- 7 to act as the proper officer in terms of the Local Government (Scotland) Acts 1973 and 1975, the Local Government Finance Act 1992 and associated legislation for all financial purposes including the preparation and issue of Council Tax and Rates Notices, the collection of Council Tax and Rates, the receiving and settling of claims for any exemption, the handling of objections to any amount levied and the abatement, remission or repayment of any Rates or Council Tax under the various statutory provisions.
- 8 to determine applications for mandatory or discretionary relief of Rates in accordance with the Council's policies; and to be responsible for the collection of relevant charges and for the administration of housing and Council tax benefits.
- 9 to make arrangements with the Water Authority in relation to the collection of water and sewerage charges.
- 10 to make arrangements with others in respect of the collection of Rates or Council Tax on behalf of the Council and the administration of any Council Tax rebate or discount schemes etc including making the necessary arrangements concerning terms and commissions payable for such services.

- 11 to exercise the Council's powers to initiate sequestration proceedings arising from the non-payment of any Rates or Council Tax.

(D) Executive Director of Education and Community Services

The Executive Director of Education and Community Services is authorised –

- 1 to secure the right of every child of school age to be provided with school education by, or by virtue of arrangements made, or entered into on behalf of the council as education authority.
- 2 to secure improvement in the quality of school education with a view to raising standards of education and to prepare the annual statement of education improvement objectives.
- 3 to authorise Head Teachers to prepare an annual school plan which will identify the principal achievement targets to be sought in the following academic year and a report on the implementation of the plan as defined in the Standards in Scotland's Schools etc. Act 2000.
- 4 to secure the provision of pre-school education for those children whose parents request such provision all in terms of Section 1 of the Education (Scotland) Act 1980 and Sections 32 to 34 of the Standards in Scotland's Schools Etc. Act 2000.
- 5 to authorise the provision of school transport as described in Section 51 of the Education (Scotland) Act 1980 and Section 37 of the Standards in Scotland's Schools Etc Act 2000 within the financial limits agreed by the Council.
- 6 to carry out the functions of the Council as Education Authority in relation to the provision of education for children with additional support needs in terms of the Education (Additional Support for Learning) Scotland Act 2004.
- 7 to ensure that requisite provision is made for any pupil entitled in terms of Section 53(3AA) of the Education (Scotland) Act 1980 to receive refreshment in the middle of the day.
- 8 to determine applications for the provision of footwear and clothing for pupils at public schools, in terms of Section 54 of the Education (Scotland) Act 1980.
- 9 to consider and determine all placing requests under Section 28A of the Education (Scotland) Act 1980 as amended by Section 43 of the Standards in Scotland's Schools Act 2000 in accordance with the guidelines formulated by the Council.
- 10 to accept placing requests in terms of the Education (Scotland) Act 1980 and to make whatever transport arrangements are deemed to be appropriate, in individual cases brought to her/his attention where supporting documentation satisfies her/him that the child concerned has serious physical, emotional or psychological problems.

- 11 in cases where the parent changes residence and in terms of the Education (Scotland) Act 1980 makes a placing request that her/his child remain in the school attended prior to that change, to accept that request provided that (1) the parent agrees to comply with the Council's policy on transport arrangements and costs, and (2) in all the circumstances the Executive Director considers it is appropriate to accept the request.
- 12 to exercise the functions of the Education Authority in relation to the irregular attendance of pupils at schools all in terms of Sections 36-41 of the Education (Scotland) Act 1980.
- 13 to exercise, at her/his discretion, the powers available to the Council as Education Authority in relation to the exclusion of pupils from schools.
- 14 to exercise the powers available to the Council as Education Authority, in terms of Section 23 of the Education (Scotland) Act 1980, with regard to the provision by the Council of education for pupils belonging to the areas of other Education Authorities and incur outwith area fees and to pay the approved COSLA rate to any other Education Authority which has provided education for pupils normally resident in the area of the Authority but who are, for various reasons, placed in Schools outwith the Authority.
- 15 to implement rates of fees for educational establishments used by the Council outwith the Council's area.
- 16 to exercise the functions of the Council in terms of Section 50 and 125A of the Education (Scotland) Act 1980 (provision of travelling facilities and accommodation in exceptional circumstances).
- 17 to carry out the functions of the Council in terms of Section 58 of the Education (Scotland) Act 1980 relating to the cleanliness of pupils at schools.
- 18 to determine requests for access to and amendment of records in terms of the School Pupil Records (Scotland) Regulations 1990.
- 19 to determine school staffing levels within the limits of resources provided by the Council.
- 20 to authorise Head Teachers in Schools to approve appointments, where considered necessary and where budgetary provision exists, of temporary non-teaching staff in schools.
- 21 to authorise the distribution of the educational hypothecated resources received from the Scottish Government within the policies determined for this purpose by the Council.
- 22 where a teacher is compulsorily transferred to authorise payment of the cost of removal expenses in terms of the Council's relevant arrangements or, where appropriate, reasonable daily travel expenses subject to the relevant provisions of the Conditions of Service for teachers in Day Schools.

- 23 to arrange programmes of in-service training for teachers and other staff.
- 24 to carry out the administration, assessment and award of any education bursaries or other related forms of assistance.
- 25 to fix the levels of any tuition fees, examination expenses, and determine rates of pay to examination invigilators.
- 26 to approve the participation of school pupils and supervising staff in cultural, social and recreational visits inside and outside the United Kingdom and the reception of visiting pupils and staff.
- 27 to approve attendance by relevant employees on authorised youth exchange visits inside and outside the United Kingdom where the employees, as part of their duties, are required to accompany the group undertaking the exchange.
- 28 to approve temporary exchange visits by teaching staff inside and outside the United Kingdom.
- 29 to make grants to pupils to enable them to attend courses and conferences and to undertake educational visits and excursions inside and outside the United Kingdom including participation in national youth orchestras or similar national literary, music, drama or dance events.
- 30 to make necessary arrangements for the boarding out of pupils.
- 31 to issue licences in terms of the Children (Performances) Regulations 1968 as amended or succeeded.
- 32 to determine applications received from schools for arrangements to be made for visits during school terms.
- 33 to accept and administer any educational trusts, grants or endowments which may be offered to the Council for schools in its area.
- 34 In so far as not previously decided, to determine the dates of occasional local school holidays and to authorise Head Teachers to determine those dates or any of them after consultation with any appropriate Parent Council.
- 35 to arrangement for the management of the Council's Library and Museums Services.
- 36 to act as or designate a suitably qualified officer to act as Chief Social Work Officer in terms of Section 3 of the Social Work (Scotland) Act 1968 for the purposes of the Council's functions under the Social Work (Scotland) Act 1968 and the enactments in Section 5(1B) of the same Act, and the Childrens (Scotland) Act 1995 including and in addition where not otherwise included -
 - (1) Section 12, 12A, 12AA, 12AB, 12B and 12C under which the Council is required to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for its

area, and a request to assess needs, ability to provide care, provide information to carer and direct payments. The delegation in terms of this Section shall include authority -

- (a) to make loans or grants to any person or family in accordance with any policy approved by the Council.
 - (b) to give any other appropriate assistance, including provision for the storage of furniture in cases of emergency.
- (2) Section 13, 13A, 13B and 132A under which the Council may assist in the disposal of produce of work undertaken by persons in need, provide residential accommodation with nursing, provide care and after-care services and provide services to incapable adults.
- (3) Section 14 under which the Council is required to provide home help and laundry facilities for persons in need, etc. subject to the recovery by the Executive Director on the appropriate scale as may be determined by the Council; but subject also to the Executive Director being empowered to abate or waive home help charges to avoid hardship according to the person and financial circumstances of the client in accordance with policies approved by the Council.
- (4) To provide support, services, advice and assistance for children and their families under Part II of the Children (Scotland) Act 1995, and to carry out the Council's functions with respect to protection and supervision of children under the 1995 Act.
- (5) Section 28 which empowers the Council to make arrangements for the burial or cremation of any person who was in the care of or was receiving assistance from the Council at the date of death and to recover where appropriate any expenses so incurred which are not recoverable under the National Insurance Act 1965.
- (6) Section 29 which empowers the Council to pay the expenses incurred by a parent, relative or other person visiting a person in the care of the Council, or incurred in attending the funeral of a person who was in the care of or was receiving assistance from the Council if it appears that the parent or relative or other person would otherwise be caused unnecessary hardship in making the visit and that the circumstances warrant the making of the payment.
- (7) To carry out the Council's functions with respect to adoption and fostering services etc. under the Regulation of Care (Scotland) Act 2001.
- (8) To arrange or assist in arranging holidays or other absences appropriate to the needs of the child, of any child in the care of the Council in accordance with the policies of the Council.
- (9) To carry out the functions of the Council under Section 48 of the

National Assistance Act 1948 relating to the temporary storage of furniture in certain circumstances on behalf of certain persons.

- (10) To appoint Mental Health Officers in terms of the Mental Health (Care and Treatment) (Scotland) Act 2003.
- (11) To provide aids and adaptations for the homes of handicapped persons within the budget available for this purpose and in accordance with the policies of the Council.
- (12) To carry out the functions of the Council in relation to the Adoption of Children in terms of the Adoption and Children (Scotland) Act 2007.
- (13) To carry out the functions of the Council as Care Authority under the Fostering of Children (Scotland) Regulations 1996.
- (14) To determine assistance with legal fees (in consultation with the Chief Finance Officer) and medical expenses in relation to adoptions.
- (15) To determine fees for curators ad litem, foster parents and community carers in accordance with Council policies.
- (16) To exercise the functions of the Council in relation to the Social Work (Scotland) Act 1968 as amended by the National Health Service and Community Care Act 1990 for the purpose of implementing the Council's policies in relation to financial assessment systems for chargeable services within packages of community care.
- (17) To enter into contracts with private and voluntary agencies for the provision of services relative to the Council's policies in relation to the discharge of its functions under the Social Work (Scotland) Act 1968 as amended by the National Health Service and Community Care Act 1990.
- (18) To make direct payments in terms of the Social Work (Scotland) Act 1968 as amended by the Community Care (Direct Payments) Act 1996 and the Community Care and Health (Scotland) Act 2002 to service users who meet the eligibility criteria to purchase their own services.
- (19) Act as the proper Officer in relation to the Council's functions in regard to –
 - the Chronically Sick And Disabled Persons Act 1970 and the Disabled Persons (Services Consultation And Representation) Act 1986
 - Part IV of the Children And Young Persons (Scotland) Act 1937
 - the National Assistance Act 1948
 - the Disabled Persons (Employment) Act 1958
 - the Matrimonial Proceedings (Children) Act 1958
 - the Adults With Incapacity (Scotland) Act 2000
 - Sections 23, 24, 297 and 329 of the Criminal Procedure

- (Scotland) Act 1975
 - The Children Act 1975
 - The Adoption (Scotland) Act 1978 and the Adoption and Children (Scotland) Act 2007
 - Sections 21 to 23 of the Health And Social Services And Social Security Adjudication Act 1983.
 - The Mental Health (Scotland) Act 1984, the Mental Health (Care and Treatment) (Scotland) Act 2003 and any subsequent amendment
 - The Foster Children (Scotland) Act 1984
 - Section 38(b) of the Housing (Scotland) Act 1987
- 37 To be responsible for housing provision and the preparation of a Local Housing Strategy in accordance with the Housing (Scotland) Acts 1987 and 2001.
- 38 To manage and factor houses provided by the Council on the Housing Account including –
- (1) To provide, maintain and revise a waiting list of applicants for houses to be allocated by the Council.
 - (2) To allocate houses and garages in accordance with the policy decisions of the Council including authority to enter into Missives of Let on behalf of the Council in respect of those houses and garages.
- 39 To make payments by way of compensation in cash or in kind as may competently be made by the Council in exercise of their statutory housing functions.
- 41 To determine applications under Part II of the Housing (Scotland) Act 1987 as amended by the Housing (Scotland) Acts 2001 and 2010 and the Homelessness etc (Scotland) Act 2003 relating to homeless persons.
- 41 To take such action as necessary in the allocation of emergency accommodation as may from time to time be the statutory obligation of the Council.
- 42 To carry out of prosecutions under Section 43(2) of the Education (Scotland) Act 1980, where he/she considers it appropriate.
- 43 To manage the parks, gardens, playing fields, open spaces and other recreational facilities, swimming pools and public halls provided or operated by the Council.
- 44 To arrange for the letting of halls and other properties on behalf of the Council.
- 45 Provision of a school crossing patrol service.
- 46 To undertake all housing account building maintenance work either by employed staff or by the use of contractors

- 47 To determine applications for assistance under Part 2 of the Housing (Scotland) Act 2006 in relation to local authority housing.

(E) Executive Director of Infrastructure Services

The Executive Director of Infrastructure Services is authorised -

- 1 To serve any notices, issue any licences, give any consents and generally take any necessary action on behalf of the Council in terms of the Roads (Scotland) Acts, the Road Traffic Regulation Acts and the New Roads and Streetworks Act 1991 or generally any legislation concerning the Council's functions relating to transport, parking and roads.
- 2 After consultation with the Chief Constable to approve locations for advertisements on road safety barriers and similar structures.
- 3 To act as, or arrange for the appointment of, a suitably qualified officer to be the Council's vehicle operator and to hold the Council's vehicle operator's licence in terms of the Goods Vehicles (Licensing of Operators) Act 1995 and any regulation thereunder.
- 4 To exercise the functions of the Council under the Environmental Protection Act 1990, as amended by the Environment Act 1995 and regulation, as they relate to the Statutory Obligations incumbent on the Council in respect of waste management.
- 5 To exercise the functions of the Refuse Disposal (Amenity) Act 1978, as amended by any subsequent legislation, relating to any matter referred to therein including abandoned vehicles
- 6 To authorise such members of staff as s/he thinks fit to issue fixed penalty notices in terms of Section 88 of the Environmental Protection Act 1990
- 7 To authorise the Harbour Master in any way as s/he thinks fit to exercise the functions of the Council in terms its obligation to the Port Marine Safety Code.
- 8 To grant authorisation in terms of the Water (Scotland) Act 1980 relating to private water supplies.
- 9 To act as or appoint a suitably qualified officer to act as Access Officer, Home Safety Officer, Animal Welfare Officer and Chief Inspector of Weights and Measures.
- 10 To carry out the Council's functions under the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 and subsequent legislation.
- 11 To carry out the Council's functions under the Disabled Persons (Badges for Motor Vehicles) Regulations 1982 and subsequent legislation.
- 12 To make arrangements for the management of piers, harbours, jetties, aerodromes and landing strips etc.
- 13 To arrange and provide cleaning services in Council property either by directly

employed staff or by the use of contractors.

- 14 To manage and operate burial grounds and be responsible for the records in relation thereto and to undertake the allocation of lairs in accordance with Council policy.
- 15 To arrange for street cleaning.
- 16 Provision maintenance of public conveniences.
- 17 To act as, or arrange for the appointment of, a suitably qualified officer to be the Council's Oil Pollution Officer.
- 18 To make grants to householders for the purpose of making good fabric and decoration in houses affected by work carried out by the Council under the Noise Insulation (Scotland) Regulations 1975 at the rates and on conditions which may be prescribed from time to time by the Council.
- 19 To exercise the functions of the Council under the Fire Safety and Safety of Places of Sports Act 1987, including the issue of Safety Certificates.
- 20 To determine applications for assistance under Part 2 of the Housing (Scotland) Act 2006 in relation to private housing.
- 21 To appoint a suitably qualified officer for the statutory functions and obligations of the Council under all current and relevant legislation relating to Environmental Health and Animal Welfare.
- 22 To appoint a suitably qualified officer for the Statutory Functions and obligations of the Council under all current and relevant legislation relating to Trading Standards and Fire Precautions.
- 23 To undertake all building maintenance work (excluding housing account work) either by employed staff or by the use of contractors.
- 24 To be responsible for implementation of the provisions of Part IV of the Housing (Scotland) Act 1987 and of the Housing (Scotland) Act 2006 relating to sub-standard houses.
- 25 To be responsible for implementation of the provisions of the Housing (Scotland) Act 2006 relating to repairs of houses.
- 26 To be responsible for implementation of the provisions of Part VI of the Housing (Scotland) Act 1987 and of the Housing (Scotland) Act 2006 relating to Closing and Demolition Orders.
- 27 To be responsible for implementation of Part VII of the Housing (Scotland) Act 1987 relating to overcrowding.

(F) Head of Capital Programming

The Head of Capital Programming is authorised -

- 1 to provide a valuation and estates service in respect of the valuation and management of heritable property.
- 2 to acquire heritable property and/or associated property rights (including wayleaves) up to a value of £100,000 (excluding fees and VAT).
- 3 to approve the terms of a lease where the rent does not exceed £25,000 (excluding fees and VAT).
- 4 to approve the terms for the disposal of property surplus to the requirements of the Council within the terms of the Contract Standing Orders.
- 5 to maintain a list of all heritable property owned or leased by the Council and to appeal rating assessments in respect of council property and determine the conduct and settlement of any such appeal.
- 6 to inspect, assess, instruct and supervise repairs and maintenance of non-operational Council property.

(G) Head of Economic Development

The Head of Economic Development is authorised -

- 1 To determine the award of assistance under the terms of Schemes of Business Development, including Business Gateway, or Employment Support approved from time to time by the Council.

(H)

The XX is authorised -

1

(I)

The XX is authorised -

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(K)

The XX is authorised -

1

END

Shetland Islands Council

Development Management Scheme of Delegations

May 2011

Shetland Islands Council: Development Management Committee

Scheme of Delegation

Land Based Planning and Marine Aquaculture

Notes:

1. Officer Interest

The Development Management Committee or the Council must determine any application involving the direct interests of a member of the Planning Service section involved in the assessing of the merits of an application.

The Development Management Committee or the Council, on the advice of the Executive Director of Infrastructure Services, must determine any application involving the interests of the Head of Planning.

2. Notification Requirements

The Council must notify the Scottish Ministers where it proposes to grant planning permission for a development where:

- a) the Council has an interest in the development and the proposed development would be significantly contrary to the development plan for the area;
- b) there is an objection by a government agency; and/or
- c) the development is an opencast coal or mining operation within 500m from an existing community or sensitive establishment.

See the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 for further detail.

3. Appointed Person

In terms of section 43(A) 1 of the Town and Country Planning (Scotland) Act 1997 – the Appointed Person shall be the Head of Planning. The Head of Planning in this scheme includes his or her nominee.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(and other legislation where indicated)

Development Management

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Scotland) Act 1997	Ss 32, 32A, 34, 36, 36A, 39, & 43.	1	Decisions relating to the procedures to be applied in handling applications, pre-applications, appeals and negotiations under the Planning and related Acts under relevant regulations including decisions to modify the design, content or layout of application forms, a decision to decline to determine an application, the methods of payment acceptable, the completeness or otherwise of any application, the notification, publicity and consultation arrangements to be made, the need for environmental assessment, the maintenance of the Planning Register and expenditure on any advice or survey necessary to the making of any decision or the preparation of any recommendation in relation to a planning application, provided that the total cost of such advice or survey in relation to any one application does not exceed the amounts prescribed by Standing Orders H2 (a) and (b).	x		
Various inc. Town and Country Planning (Scotland) Act 1997	Ss 46, 47 47A, 48, 130, 131 & 169.	2	All decisions relating to the handling of: planning appeals; appeals relating to Listed Building Consent and Conservation Area Consent; appeals against Enforcement Notices; hazardous substances consent appeals; appeals against Notices issued under S 168; negotiations; or the calling in of applications including:	x		
Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	Ss 6, 9, 17, 66 & 68.		(a) the preparation and presentation of the authority's case; and (b) the procedure to be adopted (written representations, hearing or public inquiry)			
Planning (Hazardous Substances) (Scotland) Act 1997	Ss 18 & 19.		except where, in relation to the handling of a call-in or appeal, the Head of Planning or his staff cannot be involved for professional reasons, i.e. where the Council wish to pursue a case which in the opinion of the Head of Planning is not defensible in terms of sound planning. In such cases an external consultant may be engaged to act for the Council.			

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Scotland) Act 1997	Ss 37, 38, 38A, 39, 41, 42 & Part 1 of Schedule 3.	3	National Developments - determination of applications for planning permission: <ul style="list-style-type: none"> • Pre -determination hearings. • Final decision taken by Full Council. 		x	x
			Major Developments - determination of applications for planning permission: <ul style="list-style-type: none"> • All determinations (other than the exceptions). • The exceptions: <ul style="list-style-type: none"> (a) where application is made by the planning authority or a member of the planning authority; (b) the application relates to land in the ownership of the planning authority or to land in which the planning authority has a financial interest; (c) Major Developments that are in the opinion of Head of Planning significantly contrary to the development plan: <ul style="list-style-type: none"> i) Pre-determination hearings, ii) Final decision taken by Full Council; (d) Where a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the Health and Safety Executive, Scottish Water or the Community Council) has specifically objected to a proposal, and conditions cannot address those issues, and the recommendation is for approval. 	x	x	x

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Scotland) Act 1997	Ss 37,38, 39,41, 42, 43A & Part 1 of Schedule 3.	4	Local Developments - determination of applications for planning permission: <ul style="list-style-type: none"> All determinations (other than the exceptions). The exceptions: <ul style="list-style-type: none"> (a) where application is made by the planning authority or a member of the planning authority; (b) the application relates to land in the ownership of the planning authority or to land in which the planning authority has a financial interest; or (c) Where a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the Health and Safety Executive, Scottish Water or the Community Council) has specifically objected to a proposal, and conditions cannot address those issues, and the recommendation is for approval. 	x		
Town and Country Planning (Scotland) Act 1997		5	Determination of applications for consent, agreement or approval as required by conditions attached to consents.	x		
Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997						
Town and Country		6	Discharge of conditions requiring the submission and approval of schemes and details in	x		

APPENDIX 1

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Planning (General Permitted Development) (S) Order 1992			respect of permitted development.			
Local Review Body (Town and Country Planning (Scotland) Act 1997) Decision Notice following Local Review	S43A	7	The Development Management Committee will sit as the Local Review Body to determine appeals by applicants against decisions taken by the Head of Planning on proposals that are classed as Local Developments.		Local Review Body	
		8	Issue of decision notices on reviews determined by a Local Review Body under the terms of the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008.	x		
Pre- Application Consultations (Major Developments)	Ss 35A & 35B.	9	Response to statutory pre-application consultation.	x		
Scheme of Delegation	S43A	10	Approval of the Scheme of Delegation to be put before the Scottish Ministers.			x
Section 75 Agreement		11	Refusal of an application which is the subject of a Section 75 Agreement where the applicant has not concluded the Section 75 Agreement within 4 months of being notified of the requirement to do so.	x		
Good Neighbour Agreements	S75D	12	Participation in the promotion and development of good neighbour agreements.	x		

Enforcement

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Enforcement Town and Country Planning (Scotland) Act 1997	S 61	13	Decision to serve or withdraw a completion notice where in the opinion of the planning authority the development will not be completed within a reasonable period.	x		
Fixed Penalty Notices Town and Country Planning (Scotland) Act 1997	Ss 136A & 145A.	14	Decision to serve Fixed Penalty Notice	x		
Temporary Stop Notices	Ss 144A – D.	15	Decision to serve Temporary Stop Notice	x		
Enforcement Charters	S158A	16	Decision to adopt enforcement charter	x		
Town and Country Planning (Scotland) Act 1997	S64	17	Decisions to permit non-material variations of planning permissions, i.e., which do not depart significantly from the proposal, originally approved.	x		
	S65 & 66.	18	Decision to make an order to revoke or modify planning permission where the owner, lessee or occupier of land affected or such other person who in the opinion of the Head of Planning will be affected by the order has objected to the order.		x	
	S65 & 67.	19	Decision to make an order to revoke or modify planning permission where the owner, lessee and occupier of the land affected and all persons who, in the opinion of the Head of Planning will be affected by the decision, have notified the planning authority in writing that they do not object to the order.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Scotland) Act 1997	S71 & Schedule 8.	20	Decision to serve an order requiring the discontinuance of a use, the compliance with conditions on the continuance of a use, or the removal of buildings or structures (see Note 1).	x		
	Ss88-99	21	Decisions in response to a Purchase Notice		x	
	Ss101-122	22	Decisions in response to a Blight Notice		x	
	S125	23	Decision to serve a Planning Contravention Notice	x		
	S126	24	Decision to report any alleged offence in connection with a Planning Contravention Notice to the Procurator Fiscal.	x		
	Ss127-129	25	Decision to serve an Enforcement Notice, within policy or where the Development Management Committee or Council have made a decision to refuse a proposal.	x		
	Ss135,136 & 170.	26	Decision, following a failure to comply with an Enforcement Notice, or a Notice issued under S.168, to enter land, take action required by the Enforcement Notice or Notice issued under S.168 and attempt to recover costs reasonably incurred in so doing.	x		
	S136	27	Decision to report to the Procurator Fiscal any instance of non-compliance with an Enforcement Notice.	x		
	Ss140 & 141.	28	Decision to serve a Stop Notice (following, or at the same time as, service of an Enforcement Notice) (see Note 1).	x		
	S144	29	Decision to report to the Procurator-Fiscal any instance of non-compliance with a Stop Notice	x		
	S145	30	Decision to serve a Breach of Condition Notice	x		
	S145	31	Decision to report to the Procurator-Fiscal any instance of non-compliance with a Breach of Condition Notice	x		

	S146	32	Decision to seek interdict to restrain a breach of planning control.	X		
Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Scotland) Act 1997	Ss148 & 149.	33	Decision to report to the Procurator-Fiscal any instance of failure to comply with an order under S.71 and Schedule 8 of the Act requiring the discontinuance of a use, compliance with conditions on the continuance of a use, or the removal of a building or structure.	X		
	S150	34	Decision to issue, or to refuse to issue, a Certificate of Lawfulness of Existing Use or Development, or to issue a letter of comfort.	X		
	S151	35	Decision to issue or to refuse to issue a Certificate of Lawfulness of Proposed Use or Development.	X		
	S153	36	Decision to report to the Procurator Fiscal any instance of the making knowingly of false or misleading statements in connection with any application for the foregoing Certificates.	X		
	Ss156, 161A & 176.	37	Decision to authorise any person to enter land without a warrant in the circumstances specified by the Act.	X		
	Ss157 & 177.	38	Decision to apply to the Sheriff for a warrant to enter land.	X		

Miscellaneous & Other Provisions

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Scotland) Act 1997	Ss 202,207 & 208.	39	Decision to promote the stopping up or diversion of a road, footpath or bridleway.	x		
	S269	40	Decision to authorise any person to enter land for the purposes specified in the Act.	x		
	S272	41	Decision to serve notice on an occupier or on a person who receives rent in respect of any land requiring information about the land.	x		
	S272	42	Decision to report to the Procurator Fiscal any instance of failure to provide information in response to a notice under S.272, or of knowingly or recklessly making a mis-statement.	x		
Licensing (Scotland) Act 2005	S50	43	Authority to issue certificates under section 50 of the Licensing (Scotland) Act 2005.	x		

Hazardous Substances

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Planning (Hazardous Substances) (Scotland) Act 1997	Ss 7,8,11- 14,16 & 17.	44	Decision to grant, to refuse to grant, to revoke or to modify Hazardous Substances Consent.	x		
	S21	45	Decision to report to the Procurator Fiscal any contravention of hazardous substances control.	x		
	S25	46	Decision to seek interdict to restrain a breach of hazardous substances control.	x		
	S33	47	Decision to authorise any person to enter land for the purposes specified in the Act	x		

Advertisements

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984	Reg. 5	48	Determination of applications for consent to display advertisements: <ul style="list-style-type: none"> • All determinations (other than the exceptions). • The exceptions: <ul style="list-style-type: none"> (a) where application is made by the planning authority or a member of the planning authority; (b) the application relates to land in the ownership of the planning authority or to land in which the planning authority has a financial interest; or (c) where a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the 	x		
					x	
					x	
					x	

Health and Safety Executive, Scottish Water or the Community Council) has specifically objected to a proposal, and conditions cannot address those issues, and the recommendation is for approval; or

(d) where the Head of Planning proposes to refuse an application.

Town and Country Planning (Scotland) Act 1997	S186	49	Decision to report to the Procurator Fiscal any instance of an advertisement displayed in contravention of the Advertisement Regulations.	x	x
	Ss186 & 187.	50	Decision to serve a discontinuance notice in respect of an existing advertisement displayed with deemed consent.	x	
	S187	51	Decision to remove or obliterate any placard or poster displayed in contravention of Advertisement Regulations.	x	
	S186	52	Decision to take enforcement action in respect of an advertisement displayed without consent.	x	

Coast Protection

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
The Coast Protection Act 1949	S4	53	To enter into an agreement with any other person for the carrying out by that person or the Council of any coast protection work which the Council have the power to carry out.	x		
	S5	54	To arrange for the publication of notices relating to proposed works in local newspapers and the serving of notices on affected harbour authorities.	x		
	S8	55	To arrange for the publishing of notices relating to works schemes and the serving of Notices on affected harbour authorities.	x		

	S12	56	Any decision to serve a notice requiring the owner to maintain or repair coast protection works.	x		
	S12	57	Any decision to carry out urgent works in the circumstances specified in the Act following approval of the action by the Executive Director Infrastructure Services.	x		
	S13	58	Any decision to recover from the landowner the cost of repair or maintenance work carried out by the Authority in the circumstances specified in the Act.	x		
	S16	59	Decision to serve a notice requiring the removal of unauthorised coast protection works.	x		
	S16	60	Decision to recover expenses from an owner when the Council has removed unauthorised works on his or her land.	x		
	S16	61	Decisions to permit the undertaking of coast protection works by persons other than the Council where the proposed works are in accordance with Council policy.	x		
	S16	62	Decision to report to the Procurator Fiscal the carrying out of any coast protection work without the written consent of the Council.	x		
	S25	63	To authorise persons to enter land for the purposes specified in section 25.	x		
	S26	64	Decision to require occupiers of land to provide information about their interest in land.	x		
Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
The Coast Protection Act 1949	S27	65	Decision to obtain compulsorily a right of passage over land in connection with coast protection work.		x	
	S27	66	Decision to obtain by agreement a right of passage over land in connection with coast protection functions.	x		

Environmental Impact Assessments

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
The Environmental Impact Assessment	Reg. 5	67	Decision on the opinion to be given, on receipt of a request in writing, as to whether a proposed development would require an environmental impact assessment and as to the	x		

(Scotland)
Regulations 1999

content of an environmental statement, and all other decisions ancillary thereto.

Reg. 7	68	Decision that an application for planning permission cannot be granted until the Council has considered environmental information.	x
Regs. 10, 13, 14 & 19.	69	Decisions relating to the scope of environmental information, procedures to be applied in response to the submission of environmental information accompanying an application for planning permission, including decisions relating to the publicity and consultation arrangements to be made, expenditure within an approved budget and of no more than the amounts prescribed by Standing Orders H2 (a) and (b) on any advice necessary to judge the environmental information; and decisions relating to completeness, or otherwise, of the environmental information; and decisions relating to changes to be made for providing copies of an environmental statement.	x

Electricity Act 1989

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
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Electricity Act 1989	70	Decisions relating to the procedures to be applied in handling applications, notifications and pre-applications under relevant regulations, the notification, publicity and consultation arrangements to be made, and expenditure on any advice or survey necessary to the making of any decision or the preparation of any recommendation provided that the total cost of such advice or survey in relation to any one application does not exceed the amounts prescribed by Standing Orders H2 (a) and (b).	x
	71	Decision on content of response to an application to the Scottish Ministers for consent.	x

Building Standards

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
The Building (Scotland) Acts 1959 and 1970	S9	72	Decision to refer to the provisions and standards of the repealed Act when considering applications for letter of comfort in respect of works completed prior to 1 st May 2005.	x		
The Building (Scotland) Act 2003 and amendments	S2	73	Imposition of such continuing requirements as the Scottish Ministers consider appropriate for securing that the purposes of any designated provision of the regulations are not frustrated.	x		
	S3	74	Forwarding of applications for relaxation of Building Regulations to the Scottish Ministers for their consideration.	x		
	S4 & S5	75	Consideration of information which is in accordance with/ at variance with the Guidance provided by the Scottish Ministers	x		
	S6	76	Carrying out of Building Assessments if requested to do so by the owner of a building.	x		
	S7	77	Carrying out the duties of verifier as appointed/directed by the Scottish Ministers	x		
	S8	78	Requirement for building warrant to be sought in relation to work which is classified as requiring a building warrant	x		
	S9	79	Decision to grant, or refuse to grant, a building warrant.	x		
	S11	80	Processing of certificates of design	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
The Building (Scotland) Act 2003 and amendments	S12	81	Decision to refer an application to the Scottish Ministers for a View.	x		
	S13	82	Further provisions for Building Warrants	x		
	S14	83	Actions to be taken regarding limited life buildings	x		
	S15	84	Consideration of Late Application for building warrant prior to acceptance of a completion certificate	x		
	S16 & S20	85	Liability relating to offence of knowingly or recklessly submitting or verifying information which is known to be false or misleading in a material fact.			x
			Requirement to submit completion certificates			
	S17	86		x		
	S18	87	Decision to accept, or to reject the submission of a completion certificate.	x		
			Handling of Certificates of construction			
	S19	88		x		
	S21	89	Consideration of the granting of a period of temporary occupancy where a completion certificate is unavailable	x		
	Ss22 & 23	90	Decision to impose, discharge or vary continuing requirements and discharge of such requirements.	x		
	S24	91	Maintenance of the Building Standards Register	x		

APPENDIX 1

	S25	92	Decision to serve, withdraw or vary a building regulations compliance notice.	x		
	S26	93	Decision to serve, withdraw or vary a building continuing requirement enforcement notice.	x		
	S27	94	Decision to serve, withdraw or vary a building warrant enforcement notice.	x		
	Ss28, 29 & 30	95	Decision to serve, withdraw or vary a defective or dangerous building notice	x		
	S29	96	Decision to carry out urgent work to prevent access and reduce or remove the danger.	x		
Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
The Building (Scotland) Act 2003 and amendments	Ss25, 26, 27, 28 & 30	97	Decision to carry out the work necessary when a notice has not been complied with.		x	
	S32	98	Exercise of Local Authority functions under the direction of the Scottish Ministers	x		
			Adherence to Procedural Regulations			
	S33	99	Decisions on issue of Notice/s on scheduled monuments, buildings which are classified under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 (c.46), included in a list of buildings of special architectural or historic interest,	x		
	S35	100	being a list compiled or approved under section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c.9), subject to a building preservation notice under section 3 of that Act, or one to which section 66 of that Act (control of demolition in conservation areas) applies.	x		
	S37	101	Decision to serve Notice on an owner, occupier, or any other person appearing to the local authority to have an interest in the building.	x		
			Decision to exercise power of entry for the purpose of inspection and/ or testing and testing of materials for compliance with building standards..			
	S39 & S41	102		x		

S42	103	Decision to evacuate dangerous buildings and advise occupants of the requirement to vacate the property immediately.	x
S44	104	Decision to seek recovery of expenses associated with the carrying out of works under section 25(7)(b), 26(3)(b), 27(7)(b), 28(10)(b), 29(2) or (3) or 30(4)(b).	x
S45	105	Decision to exercise power of compulsory purchase of property.	x
S46	106	Decision to sell materials from demolished buildings, and, to account to the owner or other person for the surplus should the sum raised exceed that due to the local authority.	x

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
The Building (Scotland) Act 2003 and amendments	S47	107	Appeals under Section 47(1) (a) Decision under s.3 refusing a dispensation or relaxation. (b) Decision under s.9 refusing to grant a building warrant or amendment. (c) Decision under s.14 refusing to extend the period of a limited life building. (d) Decision under s.18 rejecting a completion certificate. (e) Decision under s.22 imposing continuing requirements. (f) Decision under s.23 refusing to discharge or vary a continuing requirement. (g) A building regulations compliance notice, a continuing requirement enforcement notice, a building warrant enforcement notice, a defective building notice and a dangerous building notice.	x		
	S48	108	Decision to report to the Procurator Fiscal any contravention of the Building Acts.	x		
Building (Scotland) Regulations 2004 and amendments		109	Discharge of duties under the Building (Scotland) Regulations 2004 to ensure the health safety and well-being of people in and around buildings and to ensure accessibility for all.	x		

Building (Procedure) (Scotland) Regulations 2004 and amendments	110	Decision to implement procedural regulations in connection with all applications for building warrant approval.	x
Building (Fees) (Scotland) Regulations 2004 and amendments	111	Decision to apply building warrant application fees set by the Scottish Ministers	x
The Energy Performance of Buildings (Scotland) Regulations 2008	112	Discharge of duties under the Energy Performance of Buildings (Scotland) Regulations in respect of new buildings.	x

Special Controls (including trees and waste land)

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Scotland) Act 1997	Ss160-162	113	Decision to make a Tree Preservation Order	x		
	Ss160-162	114	Decision to confirm, vary or revoke a Tree Preservation Order		x	
	Ss168	115	Decision to serve a notice requiring the replacement of trees.	x		
	(Ss171 & 172)	116	Decision to report to Procurator Fiscal any offence with respect to a Tree Preservation Order or any tree in a Conservation Area.	x		
	Ss160	117	Decision to grant consent for the cutting down, topping, lopping or uprooting of a tree protected by a Tree Preservation Order where the proposed decision is in accordance with policy and there have been no objections.	x		
	Ss160	118	Decision to grant consent for the cutting down, topping, lopping or uprooting of a tree protected by a Tree Preservation Order where the proposed decision is in accordance with policy but there has been an objection.		x	
	Ss160	119	Decision to grant consent for the cutting down, topping, lopping or uprooting of a tree protected by a Tree Preservation Order where the proposed decision is not in accordance with policy.		x	
	Ss172-175	120	Decision, following notification by a person wishing to undertake the cutting down, topping, lopping or uprooting of a tree in a Conservation Area, to advise the person that the Council consents to the act in question.	x		
	Ss172-175	121	Decision to report to the Procurator-Fiscal any act resulting in the cutting down, topping, lopping, uprooting or willful damage or destruction of trees within a Conservation Area.	x		
	S179	122	Decision to serve a Waste Land Notice, within policy.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Town and Country Planning (Scotland) Act 1997	S179 & S135	123	Decision following a failure to comply with the terms of a notice served under S179, to enter land, take action required by the Notice and attempt to recover costs reasonably incurred in so doing, provided that the estimated costs are within a budget approved for such purposes or available through delegated virement.	x		
	S179 & S135	124	Decision, following a failure to comply with the terms of a notice served under S179, to enter land, take action required by the Notice and attempt to recover reasonable costs, reasonably incurred in so doing when the estimated costs exceed the approved budget.		x	

Listed Buildings and Conservation

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	Ss 21 & 23	125	Decision to make an order to revoke or modify Listed Building Consent or Conservation Area Consent where the owner, lessee or occupier of land affected and all persons who, in the opinion of the Head of Planning will be affected by the decision, have notified the planning authority in writing that they do not object to the order.	x		
	Ss 28-30	126	Decisions in response to a Listed Building Purchase Notice.			x
	S34	127	Decision to serve Listed Building Enforcement Notice.	x		
	S34	128	Decision to serve Listed Building Enforcement Notice in cases of urgency following approval of the action by the Executive Director Infrastructure Services.	x		
	S38	129	Decision to enter land, carry out works required by a Listed Building Enforcement Notice and attempt to recover costs.	x		
	S39	130	Decision to report to the Procurator Fiscal any instance of non-compliance with a Listed Building Enforcement Notice.	x		
	Ss 42,54 & 55	131	Decision to acquire compulsorily a Listed Building in need of repair (subject to authorisation from the Secretary of State).			x
	S43	132	Decision to serve a Repairs Notice as preliminary to compulsory acquisition.			x
	S45	133	Decision to make a direction for minimum compensation in the case of a building deliberately left derelict.			x
	Ss 48 & 59	134	Decision to develop or manage land held for planning purposes.			x

Ss 49,54, 55 & 68	135	Decision to carry out urgent works for the preservation of unoccupied listed buildings and unoccupied buildings in a conservation area where the expenditure involved exceeds the amounts prescribed by Standing Orders H2 (a) and (b) but is within the approved budget following approval of the action by the Executive Director Infrastructure Services.	x
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Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	Ss 3,4,5, 54,55 & 67	136	Decision to serve a Building Preservation Notice when the decision to do so is outwith Council policy.		x	
	Ss 3,4,5, 54,55 & 67	137	Decision to serve a Building Preservation Notice when the decision to do so is within Council policy.	x		
	Ss 3,4,5, 54,55 & 67	138	Decision to serve a Building Preservation Notice in a case of urgency, following approval of the action by the Executive Director Infrastructure Services.	x		
	Ss 6,7,9 & 66	139	Decisions relating to the procedures to be applied in handling applications relating to Listed Building Consent and Conservation Area Consent, including decisions to modify the design, content or layout of application forms, the completeness or otherwise of any application, the publicity and consultation arrangements to be made and expenditure on any advice or survey necessary to the making of any decision or the preparation of any recommendation in relation to such an application, provided that the total cost of such advice or survey in relation to any one application does not exceed the amounts prescribed by Standing Orders H2(a) and (b).	x		
	S8	140	Decision to refer cases of unauthorised works to a listed building to the Procurator Fiscal.	x		
	Ss 6, 9, 17 & 66	141	Determination of applications (subject, in appropriate cases, to confirmation by the Scottish Ministers) for Listed Building Consent (including consent for demolition), Conservation Area Consent for demolition, or to vary or discharge conditions attached to			

Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	a Listed Building Consent or Conservation Area Consent.			
		• All determinations (other than the exceptions).	x	
		• The exceptions:		
		(a) where application is made by the planning authority or a member of the planning authority;		x
		(b) where the application relates to land in the ownership of the planning authority or to land in which the planning authority has a financial interest;		x
		(c) where a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the Health and Safety Executive, Scottish Water or the Community Council) has specifically objected to a proposal, and conditions cannot address those issues, and the recommendation is for approval; or		x
		(d) where the Head of Planning proposes to refuse an application.		
Ss 21 & 22	142	Decision to make an order to revoke or modify Listed Building Consent or Conservation Area Consent where the owner, lessee or occupier of land affected or such other person who in the opinion of the Head of Planning will be affected by the order has objected to the order.		x x
Ss 49, 54, 55 & 68	143	Decision to carry out urgent works for the preservation of unoccupied listed buildings where the expenditure involved is within the approved budget and does not exceed the amounts prescribed by Standing Orders H2 (a) and (b).	x	
S50	144	Decision to seek recovery of expenses incurred in the carrying out of urgent works under S.49 of the Act.	x	
Ss 51, 52 & 81(6)	145	The making or alteration of policy in connection with grant assistance for historic buildings or areas (including the development of projects or schemes of works to		x

			improve areas and associated grant schemes).			
	Ss 51, 52 & 81(6)	146	Decision as to whether a proposal is eligible for Conservation Grant.	x		
	Ss 51, 52 & 81(6)	147	Decision to offer Conservation Grant which fall within policy.	x		
	Ss 51, 52 & 81(6)	148	Decisions on applications for Conservation Grant which are contrary to policy.		x	
	Ss 61,62 & 64	149	Decision to carry out survey work in connection with the designation of Conservation Areas.	x		
	Ss 61,62 & 64	150	Decision to designate, vary or cancel the designation of a Conservation Area).			x
Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	S63	151	Decision to formulate proposals for the preservation or enhancement of any Conservation Area.	x		
	S63	152	Decision to publish proposals for the preservation or enhancement of any Conservation Area.		x	
	S63	153	Decision to adopt, following a public meeting, proposals for the enhancement of Conservation Areas.		x	
	Ss 60 & 65	154	Decision as to whether proposal would affect the character or appearance of a Conservation Area or the setting of a Listed Building, thus determining the arrangements for publicity and representations.	x		
	S76	155	Decision to authorise any person to enter land for the purposes specified in the Act.	x		
	S79	156	Decision to seek interdict to restrain a breach of listed building or conservation area control.	x		
Planning (Listed	S79	157	Decision to seek interdict to restrain a breach of listed building or conservation area	x		

Buildings and
Conservation
Areas)(Scotland) Act
1997

control in a case of urgency following approval of the action by the Executive Director
Infrastructure Services.

Marine Based Development

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Development Management Committee	Council
The Zetland County Council Act 1974 (as amended*) (powers in connection with Works Licences)	S11	158	Subject to the exception, a decision to approve or refuse the granting of a Works Licence or any variation or transfer of an existing licence. The Exception: Where a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the Health and Safety Executive, Scottish Water or the Community Council) has specifically objected to a proposal, and conditions cannot address those issues, and the recommendation is for approval.	x		
	S12	159	Subject to the exception, a decision to approve or refuse the granting of a Licence to Dredge or any variation or transfer of an existing licence. The Exception: Where a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the Health and Safety Executive, Scottish Water or the Community Council) has specifically objected to a proposal, and conditions cannot address those issues, and the recommendation is for approval.	x		
	S14	160	Decision to report to the Procurator Fiscal any alleged breach or contravention of the provisions of the Act.	x		
	S11	161	Decision to revoke a Works Licence or to confirm the forfeiture of a Works Licence.	x		
	S13	162	Give effect to any requirement made by Scottish Ministers under subsection 4 following appeal of Council decision on works licence application.	x		
					x	

The Town and Country Planning (Marine Fish farming)(Scotland) Order 2007 amends the ZCC Act such that works licences shall not be granted for fish farm developments. For such developments the Scheme of Delegation in relation to planning applications shall apply with any necessary modifications in light of the 2007 Order.

*As amended by the Town and Country Planning (Marine Fish Farming) (Scotland) Order. Preparation of guidance notes and additional information will be delegated to the Head of Planning

LICENSING SCHEME OF DELEGATIONS

APPENDIX 2

1.	<p>Subject to 1B, the authorised officer under section 3.2.6 of the Scheme of Administration and Delegations is authorised to determine:</p> <ul style="list-style-type: none"> • applications; • renewals; • transfers of licences; • registrations; • approvals; and • any other permission sought (including variation thereof), <p>under the following legislation:</p>
1.1	Animal Boarding Establishments Act 1963
1.2	Animal Health and Welfare (Scotland) Act 2006
1.3	Breeding of Dogs Acts 1973 and 1991
1.4	Caravan Sites and Control of Development Act 1960
1.5	Civic Government (Scotland) Act 1982
1.6	Dangerous Wild Animals Act 1976
1.7	Deer (Scotland) Act 1959
1.8	Performing Animals Act 1925
1.9	Pet Animals Act 1951
1.10	Riding Establishments Acts 1964 and 1970
1.11	Zoo Licensing Act 1981
1.12	Food Safety Act 1990
1.13	Hypnotism Act 1952
1.14	Cinemas Act 1985
1.15	Theatres Act 1968
1.16	Civic Government (Scotland) Act 1982
1.17	Goods Vehicles (Licensing of Operations) Act 1995
1.18	Petroleum (Consolidation) Act 1928
1.19	Petroleum (Liquid Methane) Order 1957
1.20	Manufacture and Storage of Explosives Regulations 2005
1.21	Fireworks Acts 1951 and 2003
1.22	Explosives Act 1875
1B.	<p>Where:</p> <ul style="list-style-type: none"> • the authorised officer receives an objection or adverse representation to a proposal under the above legislation and conditions cannot address the issue(s) raised; or • the proposal is recommended for refusal for reasons other than a clear technical failure to comply with legislative requirements, <p>the matter will be referred to the Licensing Committee for determination.</p>

SHETLAND ISLANDS COUNCIL

CONSTITUTION

PART F

PROTOCOL FOR COUNCILLOR/OFFICER RELATIONS

May 2011

1 PRINCIPLES

- 1.1 The purpose of this protocol is to provide a guide to good working relationships between Councillors and Officers; to help distinguish their respective roles and to avoid confusion and misunderstanding; and to provide some principles governing conduct. In short it guides Councillors and Officers in their relations with one another in the context of the variety and complexity of the circumstances in which Councillors and Officers find themselves, particularly in a Council where there are no political groups.
- 1.2 The protocol builds on the Councillors' Code of Conduct and the Council's own Code of Conduct for Officers, which are attached at Appendices 1 and 2. The desired outcome is to enhance and maintain the integrity, real and perceived, of the Council through high standards of personal conduct, and the expectation is that Members and Officers will abide by this Protocol just as they are required to abide by the respective codes of conduct which apply to them.
- 1.3 Delivering successfully the functions which the Council is there to provide is a partnership in which Members and Officers play complementary roles.

"Both Councillors and Officers are servants of the public and they are indispensable to one another; but their responsibilities are distinct"
(Former National Code of Local Government Conduct)

The McIntosh Commission stated the distinction as follows:

- The Council determines policy. It is ultimately responsible for ensuring the delivery of services: if the public is not satisfied, it is the Councillors who have to take responsibility and answer criticism. In a nutshell, the Councillors are in charge.
- The Officers manage the organisation which delivers the services. The services require professional management, and the Officers are, or should be, selected for their experience and qualifications to do this. The Councillors are elected to determine policy, not to engage in direct operational management of the services.
- The Officers advise the Council. The Council has a right to expect advice which is candid, expert and impartial. Officers serve the whole Council.

Expectations

1.4 Officers Expect from Councillors -

- corporate political leadership;
- clear and effective decision taking;
- respect for their political neutrality; dignity and courtesy;

- no assumption that officers are personally supportive of any policy or strategy because of their assistance in the formulation of that policy or strategy;
- awareness that officer support cannot extend beyond providing information and advice in relation to matters of Council business;
- awareness of the lines of accountability within departments and not apply pressure on an Officer to act in a manner contrary to or beyond the authority they have been given by their manager;
- not to use their position or relationship with officers to advance their personal interests nor improperly those of others nor to influence decisions improperly;
- understanding of and support for roles, workload and pressures;
- confidentiality where the circumstances require it

1.5 **Councillors Expect Officers to:**

- carry out their jobs effectively, efficiently and with political neutrality;
- provide authoritative and objective professional advice;
- in a professional capacity to respect and give effect to the Council's strategies, policies and decisions whether or not they agree with them personally; however an Officer has no duty to implement a Council decision if it is manifestly contrary to law;
- respect and support Councillors' roles and rights, workload and pressures;
- ensure the Council acts lawfully;
- maintain confidentiality where the circumstances require it.

1.6 At all times, both Councillors and Officers should seek to avoid personal close familiarity which might compromise a proper professional relationship. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers, and potentially to the Council's reputation.

While personal relationships are a matter for the parties concerned and not for the Council, a Councillor or an Officer must advise the Chief Executive in circumstances where any personal relationship which may exist between the two might be seen as influencing their work or judgment as Councillor or Officer on any particular matter of Council business. In addition the Councillor might require to declare any such relationship by virtue of the Councillors' Code of Conduct.

1.7 It is important that any dealings between Councillors and Officers should observe high standards of courtesy and mutual respect and neither party should seek to take unfair advantage of their position.

Councillors must respect the political neutrality of Officers.

Councillors have a right to criticise reports or the actions taken by Officers, but they must always –

- avoid personal attacks on Officers; and
- ensure that criticism is constructive and well founded.

Members should avoid undermining respect for Officers in any public forum or through the media. This is damaging both to effective working relationships and to the reputation of the Council. In general Officers are unable to "answer back" or defend themselves against criticism in a public forum.

1.8 If a Councillor has a concern about an alleged action or omission on the part of an

Officer the Councillor should raise that with the relevant Director in the first instance or the Chief Executive. It is accepted that the concern having been lodged the matter is one which will be investigated and dealt with by the Director or the Chief Executive in accordance with the relevant employment procedures which might include the Council's disciplinary procedures in terms of which the Councillor's role is restricted generally to providing witness evidence. The Councillor will be advised of the outcome of any complaint.

- 1.9 If an officer has a concern regarding an alleged act or omission of a Councillor or about their conduct, the officer is entitled to take one or more of the following actions -
- to raise that matter with their Head of Service/Director who may raise the matter with the Chief Executive. The Chief Executive or Director may raise the matter with the Member concerned and set out his/her view regarding the Councillor's conduct. The Chief Executive may in turn raise the matter with the Leader of the Council.
 - to report the matter to the Monitoring Officer in terms of the Council's Public Interest Disclosure Policy.
 - to make a complaint to the Chief Investigating Officer of the Standards Commission.

If a disclosure or complaint is made in good faith but is not confirmed by subsequent investigation, no action will be taken against the person making it.

2 SUPPORT SERVICES FOR COUNCILLORS

The only basis on which the Council can lawfully provide support services to Councillors is to assist them in discharging their role as Councillor. Such support services (eg stationery, typing, printing, photocopying, IT equipment, transport, etc.) must therefore only be used on and for Council business. They should never be used in connection with party political or campaigning activity or for private purposes. Appropriate uses of, for example, Council IT equipment will be defined in an acceptable use policy which the Councillor will be required to sign.

3 ACCESS TO INFORMATION ETC.

- 3.1 Councillors have an absolute right of access to meetings of the Council; they have a right of access also to meetings of the bodies within the political management framework, in accordance with the detailed provisions contained elsewhere in this Constitution. They have the right of access to documents and information in the possession or control of the Council in so far as such access is necessary for the proper discharge of their duties as a Councillor and in accordance with the law. There are three levels of access as set out below.

3.2 Level 1

A request for information will be dealt with in compliance with the Freedom of Information (Scotland) Act 2002 and the Data Protection Act 1998. Such requests will be met, subject to any legal constraints (which are dealt with below) and subject as set out in paragraphs 3.5 – 3.10.

A Councillor is free to approach any Council Service to provide them with such information explanation and advice (about that Service's functions) as they may reasonably need in order to assist them in discharging their role as Councillor. This

can range from a request for general information about some aspect of a Service's activities to a request for specific information on a matter raised with them by a constituent. Other than for information of a routine or minor nature, such approaches should normally be directed to the Director or appropriate Head of Service or Service Manager.

3.3 Level 2

In addition to their rights under the Freedom of Information (Scotland) Act 2002 Members also have legal rights partly from statute and partly from common law to inspect Council documents. Members may inspect any Council document which contains material relating to any business which is to be transacted at a meeting of the Council or a body within the political management framework. This right applies irrespective of whether the Councillor is a Member of the body concerned and extends not only to reports which are to be submitted to the meeting but also to any relevant background papers. This right does not, however, apply to documents relating to certain items on the agenda for a meeting which may disclose "exempt information" particularly where the business might affect the rights of a member of the public as an individual or the disclosure might breach the Data Protection Act.

3.4 Level 3

The common law right of Councillors is based on the principle that any Councillor has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable them properly to perform their duties as a Councillor. This is commonly referred to as the "need to know" principle.

This right (which is over and above the rights contained in the Freedom of Information (Scotland) Act 2002 and other statutory rights) depends therefore on the Councillor's ability to demonstrate the necessary "need to know". In this respect a Councillor has no right to a "roving commission" to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know", which must be determined, initially, by the particular Director whose Service holds the document. In the event of dispute, the question will be determined by the Chief Executive on advice from the Head of Legal and Administration.

3.5 In order to support as far as possible the principle that all members should have parity of information, a copy of the response will be given to the Leader of the Council, the appropriate Senior Committee Chair, the Chief Executive, appropriate Director and, where a matter affects a particular Ward to the Ward Councillors; unless

- the information is of a routine or minor nature
- the information is about or affects the personal circumstances of the Councillor seeking the information or his immediate family
- the disclosure of the information to other than the Councillor seeking it would involve the contravention or potential contravention of any law.

On each occasion a copy of a response is provided to other Councillors this will be made clear to the original Councillor, and not by "silent copy".

3.6 If a Director considers that information requested could only be provided at unreasonable cost, having regard to staffing and other costs, before acceding to the request, he or she will consult the Chief Executive advising the approximate extent of the work/cost of such provision having regard to the Fees Regulations issued under

the Freedom of Information (Scotland) Act 2002.

- 3.7 If an Officer is approached by a Councillor with a request for a report to be compiled, either with a view to that information being presented to the Council or a body which is part of the political management framework, or on an individual basis, the Officer will, before acceding to the request, consult the Chief Executive who may in turn consult the Leader and/or as necessary the relevant Committee Chair.
- 3.8 It is open to a Councillor to make their request for information by way of a written question in terms of the Council's Standing Orders for Meetings for answer by the appropriate Committee Chair.
- 3.9 While the term "council document" is very broad and may include, for example, any document produced with Council resources or held by the Council, a Councillor will not have a "need to know", and therefore a right to inspect, a document which happens to be held by the Council where it forms part of another Councillor's files relating to that other Councillor's duties as a Councillor.
- 3.10 Any Council information provided to a Councillor which is not otherwise already in the public domain, or which would have been provided by virtue of the Freedom of Information (Scotland) Act 2002 must only be used by the Councillor for the purpose for which it was provided – that is, in connection with the proper performance of the Councillor's duties as a Councillor.

As regards the use of information which is provided on a confidential basis a Councillor must comply with the requirements set out in the Councillors' Code of Conduct.

4 CHAIR/OFFICER RELATIONS

- 4.1 There should be a close working relationship between the Chair of a body which is part of the political management framework and the appropriate Chief Officer(s) and other senior Officers of any Service which reports to that body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with all Councillors on an equitable basis. There are obligations, therefore, in this respect on the part of both Chair and Officer.
- 4.2 The Chair will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting and preparing items of business for it. The principles which apply in this process are as follows –
 - (a) The Chair is entitled to know in advance what items are proposed to be brought before the body they chair. This is part of keeping the Chair informed and up to date to enable them properly to play their role as Chair but also to enable them to play their leadership role vis-a-vis their relationship with other Councillors, officers, the wider community and the media. The Chair is entitled to express views, for example, relating to the timing of a report or its content.
 - (c) The Officer concerned will give due consideration to such views or comments and may adjust timing or content in light of views expressed by the Chair, but is not obliged to do so. Officers must be able (and indeed are under a duty) to provide a report, on any relevant matter which requires a decision, before the relevant body which is part of the political management arrangements and to provide their professional opinion and recommendations. Officers will always be

fully responsible for the contents of any report submitted in their name. It is accepted that on occasion an Officer may need to express a professional view on a matter which may not support the view of the Chair or other Councillor(s).

- 4.3 It is entirely appropriate that Chairs should be provided with information and be consulted by officers on a regular basis between meetings of the relevant body on matters which fall within the terms of reference of the body but which are delegated to the Officer. However, the law only allows for decisions relating to the discharge of any of the Council's functions to be taken by "a Committee, a Sub-Committee or an Officer". The law does not allow for such decisions to be taken by a Chair or any Councillor acting individually. In those circumstances therefore it is the Officer (as required by statute) who takes the decision and it is the Officer who is accountable for it.

The Council or a body which is part of the political management framework may wish to delegate a matter for final determination of detail having agreed the principle of the matter. Where this is used the delegation should be to the Officer. If on any occasion there is felt to be a need to involve the Chair (or any other Councillor(s)) the delegation should be to the Officer in consultation with the Chair (or other appropriate Councillor(s)). However, it should be clear that the decision and the accountability for it lie with the officer. Thus if there is a disagreement in the course of the consultation about the action to be taken, the Officer may refer the matter back to the body for decision.

5 ACTION ON BEHALF OF THE COUNCIL

- 5.1 Official letters on behalf of the Council will normally be sent out under the name of the appropriate Officer. It may be appropriate in certain circumstances, for example to make representations to a Government Minister on behalf of the Council for a letter to be signed by the Leader or, following consultation with the Leader by the relevant Senior Committee Chair. Letters which create legal obligations or give instructions or formal notices on behalf of the Council will only be sent out under the name of the appropriate Officer.

5.2 Commercial Transactions

The Council is engaged at any one time in a number of commercial transactions which requires professionally skilled negotiation. A Councillor may be involved in a commercial transaction at a meeting of the Council or a body which is part of the political management framework as to whether the Council should enter into any contract or commercial arrangement, where the professional advice will be available to Councillors. Other than as a member of any such body it is inappropriate for a Councillor to purport to engage in any commercial transactions or negotiations on behalf of the Council and they should not under any circumstances engage in any such discussions with any body with whom the Council may be conducting such negotiations.

6 MEDIA RELATIONS

- 6.1 The principles which govern the Council's good handling of media relations are –
- (a) the principal purpose is to explain or comment on the Council's policies and decisions;
 - (b) media relations will relate to functions of the Council or matters of public interest

relevant to Shetland

- (c) media relations conducted on behalf of the Council will not be designed to effect support for the personal political views of any individual Councillor nor will they will contain material which is designed to disparage any Councillor on a personal basis

- 6.2 All media releases on behalf of the Council will be prepared and issued by the Chief Executive's Communications Team, but they may contain quotations from a Councillor.

They will be prepared in conjunction with the relevant Director and they must be cleared with the Chief Executive and normally with the Leader of the Council before being issued, and they may include a statement from the Leader or the relevant Committee Chair.

Media releases of a factual nature providing routine service information will be authorised by Directors and may contain a factual quotation from the appropriate officer.

Copies of all press releases will be circulated to all Councillors and relevant Officers when they are issued.

- 6.3 Any Councillor, independent of the foregoing arrangements, may of course issue their own media statement or respond to any approach from the media which is made to them on an individual basis. It is accepted that in such circumstances the Councillor is speaking on their own behalf, should not purport to speak on behalf of the Council and is personally responsible for content. Accordingly an officer will not be involved in assisting with the preparation or issue of any release.
- 6.4 All enquiries from the Media will be channelled to the Communications Team who will gather the information appropriate and prepare a response to the enquiry on behalf of the Council. The preparation and issue of responses to media enquiries will be prepared in conjunction with the relevant Director. Except where they relate to enquires of a factual nature or routine service information, they must be cleared with the Chief Executive and normally with the Leader of the Council before being issued, and they may include a statement from the Leader or the relevant Committee Chair.
- 6.5 Media releases, publications, booklets, or other documents issued by or on behalf of the Council may contain quotations from the Leader or the relevant Chair which are in line with Council policy on the subject of the publication. Where policy has yet to be determined a publication will not carry a quotation from a Councillor which conveys that Councillor's opinion on any matter.

7 The Council as Employer

- 7.1 Officers are employed by the Council as a whole and both they and the Council are governed by contracts of employment and the Council's personnel policies and procedures. The Council has a duty of care towards all of its employees and it is important its HR strategies and policies are applied correctly and consistently.
- 7.2 The management of Council staff is an operational matter which is the responsibility of the Chief Executive and the Corporate Management Team collectively or individually, within the policies and procedures approved by the Council from time to time. The Council has a range of procedures which deal with employment issues

including recruitment and retention, grievance and disciplinary procedures, equal opportunities and harassment policies. In some of these Councillors have a defined role to play in terms of which they must act in accordance with these employment related procedures and the law. Beyond that Councillors should not become involved in matters relating to the employment circumstances of a member of the Council's staff.

- 7.3 Councillors should not be approached by employees on matters relating to their personal circumstances as a member of the Council's staff; should decline to discuss an employment issue if approached; and should not seek to discuss an employment related matter with an employee.

A councillor should not pursue any particular matter on behalf of an employee; to do so may well prejudice any procedures which are already underway and would not be in the Council's or public's interests.

8 COMPLAINTS PROCEDURE

- 8.1 From time to time things may go wrong. When this happens the Council wants to put it right quickly and take action to prevent it happening again.

The Council has a corporate complaints procedure. There are other procedures which apply in certain circumstances. The definition of a complaint covers such as:

- dissatisfaction with the implementation of policies
- delays in responding to service requests
- failure to achieve the prescribed standard of service
- failure to follow a prescribed procedure
- employee behaviour or attitude.

- 8.2 The main benefits of having a corporate system for dealing with complaints are:

- it is better for the public; everyone should know how to complain and the way their complaint will be handled.
- it is fairer; everyone is treated equally and consistently
- it is better for employees; they can be confident about what to do when they get a complaint and how to deal with it
- it helps the Council to improve services; by analysing all the complaints which are considered through the procedure, Councillors and managers can see how to make services better and more responsive
- it enables the Council to respond properly to any investigation by the Ombudsman

- 8.3 Councillors and Officers at all levels should respect the Corporate Complaints Procedures as the vehicle for dealing with complaints. They should understand the Procedure and show their determination to make it work. The Procedure sets out what steps officers should take to investigate complaints and they should do so fairly and consistently.

- 8.4 Complaints by members of the public are often referred through third parties, including Councillors and MP/MSPs. Such complaints will be dealt with in the normal way through the Complaints Procedure. The Councillor's role is to assist a person who has a complaint to access the complaints procedure and if necessary to check progress through the procedure. Councillors should not put pressure on an Officer to reach a particular decision. Officers should be

left to make decisions that:

- are objective and can be accounted for; and
- are fair and consistent in their application.

However, where a member of the public has sought the assistance of a Councillor in resolving a complaint the Councillor will, subject to any constraints which may be imposed by Data Protection legislation, be advised of the outcome of the complaint.

9 WARD MEETINGS

If an Officer arranges a meeting regarding a local issue relevant to a particular Ward(s), the Officer will invite all Councillors for the Ward(s) in question.

If a Councillor calls or requests a meeting about a local Ward issue and requests the attendance of an officer, such an officer will only attend where their Director or Head of Service considers it appropriate. The Director may consult the Chief Executive before responding to the request and his/her decision will be final. Attendance of an officer will be conditional (amongst any other considerations) on all Councillors for the Ward having been invited to attend, or they are all agreeable to the meeting taking place.

10 OTHER ISSUES

Any issue of concern which arises at any time and which is not dealt with by this protocol will be discussed with the Chief Executive, who may in turn raise the matter with the Leader of the Council.



Shetland Islands Council

CONSTITUTION

PART G

SCHEME OF COUNCILLORS' APPROVED DUTIES

1.0 Notes

- 1.1 The Ethical Standards in Public Life etc. (Scotland) Act 2000 introduced a Code of Conduct, which came into effect on 1 May 2003.
- 1.2 Section 3.6 of the Code states ***“You must comply with the rules for the payment to Councillors of remuneration, allowances and expenses.”***
- 1.3 A Councillor may forego any remuneration or allowances to which they may be entitled.

2.0 List of Approved Duties

	Meeting/Event	Prior Authorisation Required	Approved Duty
ALL COUNCILLORS			
Council and Internal Bodies/Events etc			
1	Council Meetings etc	No	Attendance at any meeting of the Council, or a body which is part of the political management framework.
2	Site Visits and Community Engagement	No	Visits to sites of planning applications or other site visits, or a meeting arranged for the purposes of community engagement or any similar event, called or authorised by the Council or any body which is part of the political management framework, or where the invitation to attend is issued by or on behalf of the Council.
3	Advisory or Working Group	No	Attendance at a meeting of an Advisory or Working Group where the Councillor has been appointed by the Council or a body which is part of the political management framework, or on an occasional basis where the Councillor has been invited to attend by the Group.
4	Meetings with Officers	No	Attendance at a meeting called by an officer, for the purposes of consultation or otherwise in connection with the discharge of the Council's functions.
External Bodies etc			
5	Licensing Board	No	Attendance at Licensing Board Meetings by Councillors appointed to the Shetland Islands Area Licensing Board.
6	Joint Boards etc	No	Attendance by a Councillor (or or in their absence their appointed substitute) who is appointed to represent the Council at meetings called by a Joint Board, or by any Joint Committee to which any of the functions of the Council have been delegated, and attendance by a Councillor at other meetings where the Joint Board or Joint Committee authorises or appoints that Councillor to participate at that other meeting, but only where such bodies are not themselves bodies which reimburse travel and subsistence costs.
7	CoSLA	No	Attendance by any Councillor who is appointed to represent the Council at meetings called by COSLA; and attendance by a Councillor at other meetings where COSLA authorises or appoints that Councillor to participate at that other meeting, and which is not specifically covered by other sources of funding.

	Meeting/Event	Prior Authorisation Required	Approved Duty
8	Community Councils	No	Attendance at a Community Council meeting relevant to their ward, unless the Member is an Elected Member of the Community Council.
9	Parent Councils	No	Attendance at any Parent Council meeting relevant to their ward except where the Councillor is an elected or co-opted member of the Parent Council.
10	Other External Organisations	No	Attendance at a meeting of an external organisation to which a Councillor has been appointed by the Council or a body which is part of the political management framework, or a meeting associated with that body where the organisation has authorised the Councillor's attendance, and which is not specifically covered by other sources of funding.
11	Courts, Tribunals etc	No	Attendance at any proceedings before any court, tribunal, or parliamentary committee or other committee of inquiry where the Councillor has been appointed, or called, to give evidence on behalf of the Council , or in the case of a Planning Public Local Inquiry where the subject matter is of direct relevance to the Councillor's ward.
Community Bodies and Events			
12	Councillor Surgeries	No	Attendance at a surgery pre-advertised by the Councillor or by the Council on the Councillor's behalf organised to enable members of the public individually or in groups to meet their Councillor, or to visit any constituent in circumstances where they are unable to attend a surgery by reason of disability or infirmity.
13	Ceremonies, Commemorative and Civic Events etc	Sometimes – seek advice	Attendance at any ceremony, commemorative or similar event to which a formal invitation has been extended – <ul style="list-style-type: none"> - by the Convener or otherwise on behalf of the Council (or where the Councillor has been requested by the Convener to represent him/her); - by or on behalf of the Lord Lieutenant; or - by or on behalf of a Government Minister; or otherwise where attendance is authorised by the Chief Executive following consultation with the Convener.
Training, Seminars and Conferences etc			
14	Training seminars etc	No	Attendance at a seminar, training or similar event, called or authorised by the Council or any body which is part of the political management framework, or where the invitation to attend is issued by or on behalf of the Council.
CONVENER, LEADER AND CHAIRS In addition to the duties set out above –			
15	Meetings, conferences and other events	No	Attendance by the Convener or the Leader of the Council or the Chair of a body which is part of the political management framework at any meeting, conference, or other event which they consider to be connected with the Council or Shetland or local government business generally and where in their view it is in the interests of the Council to attend.

	Meeting/Event	Prior Authorisation Required	Approved Duty
16	Discharge of Functions	No	Attendance by the Convener or the Leader of the Council or the Chair of a body which is part of the political management framework at the Council's offices for administrative and related purposes associated with discharging the functions attached to their role.

3.0 REMUNERATION

3.1 Basic Remuneration

This is payable to all elected Members and the sum payable by each Council is set by the Scottish Ministers. From 1 April 2009 the basic remuneration payable is £16,234 per annum. In addition, the Council provides Members with laptops, printers and internet access, normally from home, for use on Council approved duties. The cost of this equipment and the inherent consumables is paid directly by the Council.

The basic remuneration commences being payable to members from the first full day after the date of acceptance of office.

3.2 Senior Councillor Remuneration

With the exception of the Convener and Leader of the Council, whose remuneration is prescribed in the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, certain Senior Councillors as set out below receive remuneration in terms of arrangements approved by the Council, subject to the provisions of the 2007 Regulations.

Convener	£20,294
Leader of the Council	£27,058
Chair for Children Families and Learning	£18,804
Chair for Communities, Health and Wellbeing	£18,804
Chair for Economy and Development	£18,804
Chair for Environment	£18,804
Chair – Audit and Standards	£17,832
Chair – Development Management Committee	£17,832
Chair – Licensing Committee	£17,832
Chair – Harbour Board	£17,832
Chair – Shetland College Board	£17,832

Only **one** payment of any remuneration is allowed. Where a Councillor carries out more than one responsibility, the higher value will be paid.

Remuneration is payable from the first full day after appointment to the position of responsibility.

Levels of remuneration will be uprated automatically in accordance with amounts prescribed in regulations made by Scottish Ministers and the amounts payable to Senior Councillors will be uprated to maintain the percentage relationship with the Leader of the Council provided the overall quantum available to the Council for this purpose is sufficient.

3.3 Civic Allowance

The Council will pay the Convener, as Civic Head, or any other person deputising for the Convener in carrying out civic duties, a civic allowance of up to £2,000 per annum to reimburse any receipted expenditure incurred by the Civic Head or deputy in carrying out civic duties. This is separate from entitlement to be reimbursed for travel and subsistence costs.

END

SHETLAND ISLANDS COUNCIL

PROTOCOL FOR CHIEF OFFICER APPOINTMENTS

May 2011

1 VISION AND STRATEGY

- 1.1 The Council is developing a modern, competent workforce and establishing a strong culture of corporate focus and performance management, lead by high performing chief officers, designed to inspire the confidence of employees and the wider Shetland Community.

This protocol should be read alongside the Councils Recruitment and Selection policy, which applies to all council staff and sets out the legal and policy framework within which this protocol will operate.

- 1.2 The Council's recruitment and employee development strategies are based on a vision which is designed to ensure -

- employees are of the highest calibre and meet the highest quality requirements for qualifications and skills
- the Council provides continuous professional development
- the Council creates strategies for fostering talent in the workforce and career paths that motivate and retain staff
- the Council provides training, development and learning activities

- 1.3 This Protocol and other parts of the Council's employee development strategies are designed to help the Council realise its ambitions to attract and develop its most senior managers as people who are flexible and responsive in a culture that encourages innovation, able to lead and manage organisational change and improvement, building the capacity, appetite and confidence for change at all levels.

2 SCOPE AND PURPOSE

- 2.1 The Protocol applies to appointments to the chief officer posts of Chief Executive and Directors. Appointments to manager posts below the level of Director will be made in accordance with the Council Recruitment and Selection Policy and arrangements approved by the Chief Executive.
- 2.2 The Protocol applies to all Councillors, employees, advisers or assessors who participate in the recruitment and selection process relevant to the positions to which this protocol applies.

The Scheme of Administration and Delegations in Part C of the Council Constitution requires the Executive Committee to establish an Appointments Panel to undertake the tasks set out in the Protocol in respect of the posts of Chief Executive and Directors. The Appointment Panel will be no fewer than 5 or more than 9 Councillors, and will include, and be chaired by the Leader of

the Council, or in his/her absence will be chaired by another Councillor appointed by the panel members present. While officers or advisers may provide advice to the Appointment Panel as set out in this Protocol they will not be members of the Panel.

2.3 The Protocol is designed to ensure –

- the appointment is widely known and the best available candidates are attracted to apply
- the best information is available to the Council about the qualities, skills, experience and personal attributes of candidates
- information about candidates is assessed effectively and fairly during the assessment, selection and appointment process

The law requires that appointments are made solely on merit. To demonstrate this, those who are responsible at each stage of the recruitment process will demonstrate a professional approach and will assess all candidates honestly and fairly.

3 RECRUITMENT

- 3.1 Making the wrong appointment will cost the Council considerably more than the costs associated with a carefully planned and thorough recruitment and assessment process. For appointments to posts to which this protocol applies suitably qualified and experienced external recruitment consultants will be engaged to support the Council's HR Service provide the services set out in this Protocol.

A clear shared understanding of the Council's requirements and a close working relationship is required between the Council and the recruitment consultants in order to ensure the best circumstances for a successful appointment. Developing this understanding includes seeking advice from the consultants about all aspects of the post, recruitment campaign, and assessment, and requires close liaison between the Council's Senior Responsible Officer (see below) and the consultants.

Roles and Responsibilities

- 3.2 A Senior Responsible Officer (SRO) role should be allocated in respect of taking forward any appointment to work with the HR Manager. That person will hold responsibility for ensuring the recruitment process is carried through from the outset to successful conclusion. SROs are allocated as follows. In the case of appointment to the post of Chief Executive, the outgoing CE will not play a role beyond being available to provide informal information about the post and the Council to prospective candidates, and the SRO will not, obviously, be a candidate for the post.

Post	SRO	Responsibility
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Chief Executive	Interim/Depute Chief Executive, or another designated Director supported by HR Manager	All aspects of recruitment process including liaison/instructing consultants; supporting/advising Appointments Panel, excluding assessment advice which will be provided by external consultants
Director	Chief Executive supported by HR Manager	As above including assessment advice

The HR Manager is responsible for ensuring that the Council's policies and procedures are implemented and adhered to throughout the process and that the appropriate level of administrative support is provided throughout.

Job Description and Person Specification

- 3.3 On each occasion before an appointment is made, a job description for the post and the specification of the skills, experience and attributes to be successful in the post, need to be reviewed to make sure that as well as achieving the actual outcomes for which the post exists, they are relevant to changing circumstances and make a significant contribution to the strategic development of the organisation. Consideration will need to be given at this stage to learning from best practice elsewhere and this is likely to include securing advice from external sources with relevant expertise.

The Recruitment Campaign

- 3.4 Ensuring the Council is presented with a pool of candidates which best match its requirements starts with the recruitment campaign. This needs to be planned well in advance.
- 3.5 The national recruitment advertising portal (myjobscotland) will be used, and Chief Executive and Director posts will be advertised in suitable national media. The emphasis of the advertisement is on selling the job and the attributes of the Council and Shetland.
- 3.6 Using suitable recruitment consultants may also secure access to their executive search portfolio of potential candidates throughout the public sector and beyond, and this should be included in the consultants' contract for Chief Executive and Director posts.

The Recruitment Pack

- 3.7 The recruitment pack must include the following documents.

- 1 Welcome page from the Leader of the Council in respect of Chief

Executive appointments or from the Chief Executive in respect of Director appointments

- 2 The job advertisement
- 3 Key positive information about the Council, including its governance and organisational arrangements
- 4 The Council's approach to the development of the organisation, including its goal and values, corporate plans and priorities
- 5 Key positive information emphasising the attributes of Shetland
- 6 Employment Package including full job description and person specification, conditions of service, relocation package, advice on politically restricted posts
- 7 Application Proforma to be used for Chief Executive and Director appointments
- 8 Information on how to apply and about assessment process and pre-employment vetting and screening

4 TRAINING

Councillors taking part will be familiar with the Council's recruitment and selection policies and must have received formal training in this, including interview techniques, assessment and evaluation. Consideration will also be given, in the context of any particular post, as to the need for any further refresher training that may be required.

5 ASSESSMENT

- 5.1 In the case of Chief Executive appointments the external recruitment consultants will receive applications. In the case of Director appointments the applications will be received by the HR Manager.

All applications should be assessed through the following stages –

Stage 1 - Long Leeting	Post	Responsibility
	Chief Executive	Recruitment consultants
Initial appraisal against job description and person specification and select long leet	Director	CE with recruitment consultants, with support from HR Manager

Stage 2 - Short Leeting

(1) Interview long leet candidates and prepare assessment report of each candidate with recommendations for short leet	Chief Executive	Recruitment consultants
	Director	CE with recruitment consultants, with support from HR Manager
(2) Sign off short leet.	Chief Executive	Appointments Panel
	Director	Chief Executive

Stage 3 - Assessment Centre Day 1

Professional detailed assessment of short leet candidates	Chief Executive	Recruitment consultants
	Director	CE with recruitment consultants

Stage 4 - Assessment Centre Day 2

Final Interview and selection of successful candidate	Chief Executive	Appointment Panel
	Director	Appointment Panel

Stage 5 - Confirmation	In the case of Chief Executive, confirmation of the appointment by the Council.	
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5.2 Stage 3 Assessment Centre Day 1

At least day 1 of the assessment centre should take place away from the Council's offices. The elements of day 1 should be structured to –

- assess a candidate's written response to a given scenario and ability to discuss that
- assess a candidate's ability to prepare and deliver an oral briefing across a range of scenarios arising in a hypothetical day
- assess a candidate's skills working together in discussion with other candidates to agree a way forward on a complex issue

- provide for a presentation to and discussion with a panel of relevant partners along the lines of the candidate's priorities for the job and how they will work with partners to deliver
- in the case of the post of Chief Executive to provide for a one to one session with the Leader of the Council covering (in a two way dialogue) the Council's strategic vision, corporate and organisational development priorities, and "chemistry"
- in the case of the post of Chief Executive, to provide a time limited, informal (not an interview) opportunity for more informal conversation between candidates and Councillors who are not on the Appointment Panel.

5.3 Stage 4 Assessment Centre Day 2

Day 2 consists of Appointment Panel interviews with each candidate for the post of Chief Executive or Director. The Panel will be accompanied by the SRO, and an external recruitment assessor in the case of Chief Executive appointments and by the Chief Executive and an external recruitment assessor for Director level appointments. The elements of day 2 should be structured as follows –

- candidates should be interviewed in the order chosen by lot the previous day by the candidates themselves
- an overall report back from a recruitment consultant on the previous day's activities
- prior to each interview an appraisal of the candidate by the recruitment consultant, suggesting areas of strength and weakness to be discussed during the interview, in addition to the set questions
- an opening 10 minute presentation by each candidate on a simple corporate topic which allows the Panel to hear the candidate's views on the challenges of the role and what the candidate can offer to move these forward
- core questions relevant to the requirements of the post, supplemented by other questions set against the assessor's suggested areas of strength and weakness, which should be designed to probe core competencies for chief officers such as strategic perspective, leadership, instigating and managing transformational change, managing performance and improvement, communications and negotiating skills.

5.4 Evaluation

Following the completion of all interviews the Panel should –

- Receive an assessment from the recruitment consultant of each candidate against the requirements of the post, and in the case of Directors hear the Chief Executive's assessment. While the final decision rests with the Panel, Panel members must pay careful attention to officer/recruitment consultant

advice they receive and should not seek to override clear and proper concerns from them that a particular candidate would not be acceptable;

- Evaluate the relative strengths of all the candidates consistently to ensure the successful candidate is the one who most closely matches the requirements of the post. Each Panel member should record his or her evaluation using a consistent rating scale. At the close of the process the evaluation form should be signed by the member and then retained centrally by Human Resources.

5.5 Making the Selection

The following process should be followed –

- Panel members must ensure they leave out of account issues of personal or political difference between members of the Appointment Panel, or any other consideration, which must not be allowed to detract from the legal requirement to appoint solely on merit.
- At the outset the Panel should seek to agree which candidate or candidates might by unanimous agreement be considered unsuitable; this allows the Panel to concentrate on the candidates who are most in contention.
- For each candidate in contention, in turn, the Chair should invite each Panel member to provide his or her assessment of the candidate. Panel members should direct their assessment to the merits of the candidate using the evaluation form as a basis, rather than focussing on contradicting other members' opinions. This process may allow a preferred candidate to emerge quite quickly; sometimes this may need to be repeated through a further process of elimination.
- Voting should be avoided; it is far preferable to seek to end with a consensus. If a vote is the only way to reach the decision it is preferable that those who vote for the unsuccessful candidate should be prepared to accept that the decision is unanimous. Whatever the outcome the minute will simply record the name of the successful candidate.
- If the Panel has reservations about making an appointment it should not do so. There are a number of options including re-interviewing one or more candidates, or another candidate who may not have been short listed, or re-advertising. Appointing the wrong person can be a costly and damaging mistake.
- If possible, in addition to selecting a preferred candidate the panel should select another candidate as reserve, who may be offered the appointment in the event that the preferred candidate turns the offer down. The reserve candidate should be agreed as a positive choice and not as a compromise and a person should only be selected as such if they meet the requirements of the post

6 THE APPOINTMENT

6.1 Making the offer

In the case of the post of Chief Executive the Leader of the Council should make the offer orally. This should take place before, and be conditional on, the appointment being confirmed by the full Council. In that context steps should have been taken to hold the Council meeting quickly after the interview process; it is not necessary to wait until after the interview process to issue the notice calling the Council meeting.

6.2 Making the appointment

The relevant Council officer undertakes the job of making the appointment formally and creating the contract of employment.

Before making or confirming the appointment there are a number of formalities. Certain checks need to be made and satisfied by the SRO, and relevant documents should be inspected and copied –

- references where these have not been available prior to interview
- academic and other professional qualification certificates
- evidence of eligibility to work in the UK
- driving licence where required
- criminal convictions disclosure form
- health questionnaire

Candidates should have been advised to bring these documents with them to Day 1 Assessment Centre where the relevant HR officer can inspect and copy these as necessary.

The letter of appointment should ensure that the offer of appointment is conditional on receipt of an acceptable medical certificate from the Council's Occupational Health Service. Where the appointment is to a post designated for the purposes of the protection of vulnerable groups then the appointment is conditional on a satisfactory enhanced level Disclosure Scotland check.

Finally arrangements should have been put in hand to communicate the outcome of the appointment process to Councillors, employees and the media.

Following completion of the appointment process each candidate should be asked to provide feedback on their experience of the recruitment process. All recruitment processes should be a positive experience for candidates and for

the Council and getting feedback is important material.

Shetland Islands Council
Note for Resumed Council Meeting – 12 May 2011

Governance and Constitutional Arrangements

This note attempts to capture issues which were discussed or clarifications which were given at the Council meeting on 9 May 2011 as Members considered the various constitutional documents which were before them, as an aid to decision taking on these issues at this resumed meeting. **Items marked X in the right hand column are for decision.**

Item	Issue	Clarification/Decision Required	
Part A – Governance			
1	Page 5 sub para 2	Policy Framework	Clarification accepted that approving, adopting or amending the strategies in the policy framework are matters which are reserved for decision by the full Council
2	Page 7 sub-para (4)		Delete - duplicates sub-para (1) page 4 X
3	Page 9 para 5(1) and (2)	Principles of decision making	Clarification accepted regarding meaning of proportionality that the provisions of ECHR apply generally to the work of the Council and Article 6 in particular to the Council acting in a quasi-judicial capacity
4	Page 10 sub-para 2 first bullet point	Public participation	Delete first bullet point on the basis that it was clarified that Members felt this was something to be addressed at a future time and to proceed in the meantime with the provisions regarding petitions and deputations X
5	Page 11 para 7(1)	Position of Vice Convener	Clarification provided that there is no requirement to appoint a Vice-Convener and that the Council had decided at the present time the Leader would act as Vice Convener. Propose add the words “if appointed” before the words “the Vice Convener” to clarify further X
6	Page 11 para 8 (and elsewhere)	Names of Committees	There appeared to be general consensus that the word “Lifelong” should be deleted so the Committee would be “Children, Families and Learning”. The names for other committees were discussed but many members wanted the names to reflect the wider range of functions of the new committees. X
7	Page 12 para 9(3)	Directors	Clarification accepted that the provision regarding Directors does not constrain the Council as to their future management

structure. The Chief Executive would carry authority to make administrative changes to reflect later Council decisions.

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|----|-------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------|----------|
| 8 | Page 15 para 2 | Role of Councillors | Change “scutiner” to “scrutineer” in third bullet point | X |
| 9 | Page 18 para 6(5) | Spokesperson reports | Change “spokesperson” to “chairs” reports | X |
| 10 | Page 19 para 7 | Convener functions | Clarification accepted that this paragraph described the functions of the Convener not the appointments which that person might carry | |

Part B - Standing Orders for Meetings

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|----|-------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| 11 | Page 9 para 9.3 | How motions are handled | Clarification was provided that the wording in this para did not constrain the number of amendments that might be before the meeting, simply that they would all be known before voting took place and to ensure that an overall majority of votes across all the proposals would always be achieved. This proposal was one alternative to the status quo, which does not currently allow members to know all the proposals before they vote on any. Another alternative would be to require that before any votes are taken, members are required to give notice of further amendments and state the terms of these. | X
see
attach
ment |
| 12 | Page 16 para 16.1 | Minutes | Clarification was provided that the approval of minutes of a body as a correct record can only be done by the body which held the meeting (usually at the next meeting), not by any other body. It was generally agreed that as a matter of administrative practice if a member disagreed with the draft minutes but was unable to attend the meeting at which the minutes would be approved, that member might give a note of her/his concerns to the Head of Legal and Administration who would bring this to the committee’s attention. It was also clarified that that the approval by the Council of any matter on which the committee did not have delegated powers would be dealt with by way of a report from the committee being submitted to the Council. | |

13	Page 21 para 19.1	Suspension of standing orders	There seemed to be general agreement to alter the wording from “ two-thirds of the Councillors present” to “ two-thirds of the total membership of the body”	X
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Part C - Scheme of Delegations

14	Page 3 para 1.2.1 (2) (b)	Membership of Children Families and Learning Committee	In response to a matter raised, advice was given that the provision requiring the appointment of 3 persons interested in the promotion of religious education reflected a statutory obligation on the Council to appoint such persons in the manner prescribe by law.	
15	Page 4 sub paras 3, 6 and 7	Membership	For the period until the elections in May 2012 paras 3, 6 and 7 will contain a reference to the effect of the recent Council decision to retain the current membership until May 2012 (so for College Board would be 3 co-opted members)	
16	Page 6 para 1.3.2 (3)	Mid Term Review	There appeared to be a general wish to provide for a mid term review of appointments of chairs etc. Propose to add the words at the end of paragraphs 1.3.2 (3) and 1.3.3 (3) “always provided that the Council has confirmed those appointments for the remaining period following a review conducted mid way through the life of the Council”	X
17	Page 9 sub para (j)	Honorary Freemen	It was clarified that the description referred to the statutory definition of Honorary Freemen	
18	Page 11 sub para 9	Executive Committee functions	Change “cross functional transformation initiatives” to “cross departmental change”	X
19	Page 12 para 2.3.1	Committee functions	1)There was further discussion regarding functional areas to be included in a committee remit. The areas mentioned were arts, culture, libraries. (2) Clarification was provided that the provision of offender services is the responsibility of the Criminal Justice Authority but it is proposed to add this to Community Health and Wellbeing for any interest of the Council; in relation to links with ZETRANS matters relating to strategic transportation (including roads) strategy would be dealt with by Economy and Development Committee whereas matters relating to transport (including roads maintenance) service provision would be dealt with by the Environment Committee.	

			(3) It is proposed to add “community safety” to Communities Health and Wellbeing; “community learning and development” to Children Families and Learning	X
20	Page 13 para 2.6.1 item 7	Anti-fraud culture	Change “develop” to “promote”	X

Part F - Protocol for Councillor Officer Relations

21	Page 2/3 paras 1.4 and 1.5	Expectations	Reverse order paras 1.4 and 1.5	X
22	Page 8 para 6.2 and 6.4	Media releases	Advice was given that some changes needed to be made to section 6 of the protocol. Propose to add the words “(or his nominee)” following the words “cleared with the Chief Executive” in paras 6.2 and 6.4.	X
23	Page 8 para 6.4	Media enquiries	Propose to add the words “or other officers designated by the Chief Executive” after the words “will be channelled to the Communications Team” in the first sentence. Proposed that second sentence reads “The preparation and issue of responses to media enquiries will be prepared by the relevant designated officer in conjunction as necessary with the Communications Unit.	X

Jan Riise
Head of Legal and Administration
12/05/2011

Draft replacements for currently drafted SOs 9.3 – 9.6, to make provision for notices of further amendments

- S** 9.3 Every motion and amendment must be moved and seconded. The terms of any motion and amendments will be stated immediately when they are moved and seconded and before the mover and seconder speak to the motion or amendment. A Member may not move or second more than one motion or amendment. Where a motion and an amendment are before the meeting, a Member may give notice of a further amendment and will specify the terms of the further amendment at the point the notice is given. Any motion or amendment and all notices of amendment will be known prior to any vote being taken.
- If the Convener decides, a motion or amendment will be written down, signed by the mover and seconder, and given to the Head of Legal and Administration who will read it to the meeting.
- S** 9.4 When a motion and one amendment only are before the meeting a vote will be taken between the motion and the amendment and the proposal receiving a majority of the votes of the members present and voting will become the decision of the Council.
- S** 9.5 When a motion and an amendment are before the meeting and notice has been given of one or more further amendments the Convener will consider if any of the proposals or potential proposals implies that “no action” or “no immediate action” be taken. At this point the member who has give notice of such an amendment will speak to it and following it being seconded and debated a first vote will be taken between “for” and “against” the proposal which implies “no action” or “no immediate action” as the case may be. If the proposal implying “no action” or “no immediate action” is carried it will become the decision of the meeting. If the proposal implying “no action” or “no immediate action” is not carried a further vote or votes will be taken as set out in 9.6 below.
- S** 9.6 (a) A vote will be taken between the motion and the first amendment moved (unless either has already been dropped by virtue of a vote taken under Standing Order 9.5 above in which case the process will follow that set out in Standing Order 9.6(b) below). The proposal which receives the fewer votes will be dropped.
- (b) It will then be open to the Member who first gave notice of a further amendment to move to that effect which, on being seconded, will be debated and voted on against the proposal which remains on the table as a result of the process at Standing Order 9.6 (a) above.
- (c) This procedure for disposing of proposals will be repeated in respect of any further notices of amendments until either the motion or one amendment remains which has the support of a majority of the Members voting. That motion or amendment will become the decision of the meeting.
- (d) At any stage in the process provided in Standing Orders 9.5 or 9.6, if any proposal receives the support of an overall majority of the Members present that proposal will become the decision of the meeting, and any further process will be discontinued.