



**Development Committee**

**5 September 2012**

**Management Accounts for Development Committee:  
2012/13 - Quarter 1 (April 2012 - June 2012)**

**F-038-F**

**Report Presented by Executive Manager -  
Finance**

**Corporate Services**

## **1.0 Summary**

1.1 The purpose of this report is to enable the Development Committee to monitor the financial performance of services within its remit to ensure that expenditure incurred and income generated has been delivered within the approved budget, so that timely action can be taken when required to mitigate projected overspends. The report reviews for the first quarter:-

- the projected outturn position for the year;
- the position on the approved recurring savings projects; and
- the revenue management accounts.

1.2 The projected outturn is an overspend of £0.250m.

## **2.0 Decision Required**

2.1 The Development Committee is asked to RESOLVE to:

- review the Revenue Management Accounts, from 1 April 2012 – 30 June 2012, including the projected outturn position and savings in the year; and
- identify and/or instruct officers to bring forward alternative savings proposals to address the projected overspend.

## **3.0 Detail**

3.1 The budgeted expenditure and savings levels included in the services within the remit of the Development Committee were approved by the Council on 9 February 2012. As such, they form part of the Council's objectives of reducing General Fund expenditure to £119.9m in

2012/13, which includes the requirement to make savings of £15.4m across the Council this year. This is necessary to move the Council towards a position of financial sustainability.

At present the Council's level of expenditure is not sustainable and if left unchecked will result in reserves becoming fully depleted by 2017/18.

Any instances whereby a budget is overspent, or savings targets are not being achieved, have a direct impact on the Council's reserves. It is therefore vital to the future economic wellbeing of the Council that its budget, incorporating that of the services within the remit of the Development Committee, are delivered in full.

- 3.2 Appendix 1 shows the projected outturn position for the first quarter by service area along with explanations of the major variances. This appendix shows the most vital information indicating the likelihood of an additional draw on reserves being required, in breach of Council policy.
- 3.3 Appendix 2 shows the position on approved recurring savings projects for the first quarter by service area along with explanations of the major variances.
- 3.4 Appendix 3 shows the revenue management accounts for the first quarter by service area along with explanations of the major variances.

## **4.0 Implications**

### Strategic

- 4.1 Delivery On Corporate Priorities  
There is a specific objective within the Corporate Improvement Action plan to ensure that, "the Council has established a rigorous process to ensure that its use of resources is on a footing consistent with implementing and sustaining its financial strategy, and demonstrate that it delivers services in a way which achieves Best Value".
- 4.2 Community /Stakeholder Issues – None.
- 4.3 Policy And/Or Delegated Authority  
Section 2.1.2(3) of the Council's Scheme of Administration and Delegations states that the Committee may exercise and perform all powers and duties of the Council in relation to any function, matter, service or undertaking delegated to it by the Council. The Council approved a budget on 9 February 2012 for the 2012/13 financial year. This Report provides information to enable the Committee to ensure that the services within its remit are operating within the approved budgets.
- 4.4 Risk Management  
There is a risk that services will not be delivered within the approved 2012 budget resulting in an additional draw on reserves, which is unsustainable.

4.5 Equalities, Health And Human Rights – None.

4.6 Environmental – None.

#### Resources

4.7 Financial

The approved recurring savings projects are not likely to be achieved and there is a need to find one-off savings as a temporary substitute. At the end of quarter 1 the projected outturn is currently £0.250m over the approved budget.

4.8 Legal – None.

4.9 Human Resources – None.

4.10 Assets And Property – None.

### **5.0 Conclusions**

5.1 The outturn position is projected to be over budget by £0.250m, therefore alternative savings require to be found to ensure that an additional draw on reserves will not be required.

5.2 The position on approved recurring savings projects is that there is a projected annual shortfall of £0.250m.

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#### List of Appendices

Appendix 1 - Development Services - Outturn Position for 2012/13

Appendix 2 – Development Services - Approved Recurring Savings 2012/13

Appendix 3 – Development Services - Revenue Management Accounts (April to June 2012)

#### Background documents:

Approved Budget Report, SIC 9 February 2012

<http://www.shetland.gov.uk/coins/Agenda.asp?meetingid=3449>

END

**Development Services**

**Projected Outturn 2012/13**

<b>Description</b>	<b>Annual Outturn 2011/12 £000</b>	<b>Annual Budget 2012/13 £000</b>	<b>Projected Outturn 2012/13 £000</b>	<b>Budget v Proj. Outturn Variance £000</b>
Directorate	101	105	105	
Economic Development	6,827	5,982	5,982	
Planning	1,515	1,765	1,765	
Transport Planning	5,648	5,585	5,834	(250)
<b>Total Controllable Costs</b>	<b>14,091</b>	<b>13,437</b>	<b>13,687</b>	<b>(250)</b>

**Explanation of Projected Outturn Variances:**

- **Transport Planning** - £0.250m overspend – the Rural Transport review has been carried out and is reported separately on today’s agenda. It recommends that the implementation ties in with the tendering of contracts next year, so savings are undeliverable in the current year.

**Development Services**

**Approved Recurring Savings 2012/13**

<b>Description</b>	<b>Approved Recurring Savings 2012/13 £000</b>	<b>Approved Recurring Savings Banked 2012/13 £000</b>	<b>Surplus/ (Shortfall) Year to Date 2012/13 £000</b>	<b>Projected Annual Surplus/ (Shortfall) 2012/13 £000</b>
Directorate				
Economic Development	1,773	673	(1,100)	
Planning	206	125	(81)	
Transport Planning	543	296	(247)	(250)
<b>Total</b>	<b>2,521</b>	<b>1,093</b>	<b>(1,428)</b>	<b>(250)</b>

As can be seen from the above table, the approved recurring savings under the remit of the Development Committee totals £2.521m, of which £1.093m has been banked to date. The Director of Development Services is confident that a further £1.178m can be banked by the end of the year, and is predicting a shortfall of £0.250m.

Within the Economic Development service area, there is an approved saving of £1.0m on Return of Shetland Development Trust capital from investments – this payment is subject to a legal process, however the money is currently held in the SDT account, and should be transferred when the legal process has been completed. The Director of Development Services is confident that this issue will be resolved, and the saving achieved before the end of the financial year.

**Explanations of Predicted Shortfall Variances:**

**Transport Planning**

- £0.250m – the Rural Transport review has been carried out and is reported separately on today’s agenda. It recommends that the implementation ties in with the tendering of contracts next year, so savings are undeliverable in the current year.

If the overall shortfall in recurring savings of £0.250m cannot be met in the current year, an equivalent sum of additional recurring savings above the £14.4m already required in 2013/14 will need to be found to ensure ongoing reductions in expenditure.

**Development Services****Revenue Management Accounts (April 2012 – June 2012)**

Description	Quarter 1 Budget 2012/13 £000	Quarter 1 Actual 2012/13 £000	Quarter 1 Variance 2012/13 £000
Development Directorate	26	25	1
Economic Development	1,498	446	1,052
Planning	470	355	115
Transport Planning	1,109	1,194	(85)
<b>Total Controllable Cost</b>	<b>3,103</b>	<b>2,020</b>	<b>1,083</b>

**Explanations of Major Variances:****Real Variances****Economic Development (£1,052m under budget):**

- £0.288m underspend on grant to NAFC, as a portion of the NAFC grant is coming from SDT surplus in 2012/13. This is a real underspend against budget set.

**Planning (£0.115m under budget):**

- £0.049m underspend relating to salary payments due to vacancies. This is a real underspend against budget set.

**Timing Differences****Economic Development (£1.052m under budget):**

- £0.466m underspend on grant payments. This is not a real underspend, it is a timing difference against budget plan.

**Planning (£0.115m under budget):**

- £0.049m underspend relating to grant payments. This is not a real underspend, it is a timing difference against budget plan.

**Transport Planning (£0.085m over budget):**

- £0.123m overspend across bus contracts. This is not a real overspend but a timing difference against the budget plan.



**Development Committee**

**5 September 2012**

<b>Development Services Quarter 1 Performance Overview</b>	
<b>Report No: DSD-02-12-F</b>	
<b>Report Presented by Director of Development Services</b>	<b>Development Services</b>

## **1.0 Summary**

- 1.1 This report summarises the activity and performance of the Development Services Directorate for the first quarter of 2012/13, against the objectives and actions in the Development Directorate Plan, as endorsed by Development Committee on 21 June 2012 (Min Ref:DC 36/12).

## **2.0 Decisions Required**

- 2.1 Members are requested to discuss the contents of this report, comment on progress against objectives and outcomes to inform the activity for the remainder of this financial year and to inform the planning process for the next and future years.

## **3.0 Detail**

- 3.1 The Development Committee endorsed the Development Directorate Plan on 21 June 2012. The Council's Planning and Performance Management Framework and the Council's constitutional arrangements require periodic reporting of activity and performance to functional committees. The Development Directorate report will be reported to Development, Social Services, and Education & Families Committees, in line with the reporting requirements of each of the services in the Development Directorate.
- 3.3 The Development Directorate Plan identified 19 Directorate wide objectives. Appendix 1 details the progress on objectives.

## 4.0 Implications

### Strategic

- 4.1 Delivery On Corporate Priorities – Effective Planning and Performance Management are key features of the Council’s Improvement Plan.
- 4.2 Community /Stakeholder Issues – Consultation with customers and other stakeholders is on-going as an integral part of each aspect of service delivery.
- 4.3 Policy And/Or Delegated Authority –
- 4.3.1 The Council’s Constitution – Part C - Scheme of Administration and Delegations provides in its terms of reference for Functional Committees (2.3.1 (2)) that they;
- “Monitor and review achievement of key outcomes in the Service Plans within their functional area 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.”
- 4.4 Risk Management – Embedding a culture of continuous improvement and customer focus are key aspects of the Council’s improvement activity. Effective performance management is an important component of that which requires the production and consideration of these reports. Failure to deliver and embed this increases the risk of the Council working inefficiently, failing to focus on customer needs and being subject to further negative external scrutiny.
- 4.5 Equalities, Health And Human Rights – NONE
- 4.6 Environmental – NONE

### Resources

- 4.7 Financial – The actions, measures and risk management described in this report will be delivered within existing approved budgets and are aimed at ensuring delivery of the Council’s agreed budget strategy.
- 4.8 Legal – NONE
- 4.9 Human Resources - NONE
- 4.10 Assets And Property – NONE

## **5.0 Conclusions**

- 5.1 The report demonstrates good progress against the priorities identified in the 2012/13 Development Services Directorate Plan.

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*29 August 2012*

### List of Appendices

Appendix 1 – Development Services Directorate Plan 2012-13. Quarter 1 Performance Update.



Development Services Directorate Plan 2012-13, Quarter 1 Performance Update

**Aim:** We will promote the Community Plan ensuring it is bought into and that it drives service planning:

<b>Development Services Objective</b>	<b>Action</b>	<b>Lead Responsibility</b>	<b>Timescales</b>	<b>Outcomes/Measures</b>	<b>Progress</b>
The Council has a clear vision and sense of purpose which reflects local needs and we can demonstrate linked-up strategic planning and resourcing to deliver that vision	Promote Community Plan with partners, and work with partners to ensure buy in.	Director of Development Services and Executive Manager Community Planning & Development	March 2013	Delivery on first year targets in the SOA	Year one delivery on target.
The Council gives strong community leadership and delivers improvement with its partners and we engage effectively with communities in understanding their needs and in making decisions	Implement the new Shetland Partnership governance arrangements at all structural levels, including the Shetland Partnership Board, the Performance Group, Theme Groups, the Community Engagement	Executive Manager Community Planning & Development	July 2012	New governance arrangements fully implemented and understood by all partners	New governance arrangements have been implemented.

	Network and local community fora.				
Ensure Development Directorate policies are in line with delivering the Community Plan.	Review Development Directorate policies to ensure they are in line with community plan.	Director of Development Services and Development Services Management Team	March 2013	Policies reviewed and updated.	Economic Development Policies are currently being reviewed.

**DRAFT**

**Appendix 1**

**Aim:** We will demonstrate progress in key priority areas:

<b>Development Services Objective</b>	<b>Action</b>	<b>Lead Responsibility</b>	<b>Timescales</b>	<b>Outcomes/Measures</b>	<b>Progress</b>
Establish whether there is clear case for proceeding with a prioritised programme for fixed links.	Develop further the programme of fixed links to refine the current priorities in to a programme with funding models agreed by Council.	Executive Manager Transport Planning	March 2013	Decision can be taken to proceed or otherwise on fixed links.	Funding options for fixed links and currently being evaluated.
Provide Planning and Economic Development policy on renewable energy.	Develop Local Development Plan (LDP) policy and Supplementary Guidance for Council approval and consultation.	Executive Manager Planning	March 2013	LDP policy and Supplementary Guidance agreed at local level.	Planning policy on renewable energy development will be presented as supplementary guidance at special Development Committee on 10 <sup>th</sup> October.
	Provide policy on renewable energy development, including infrastructure development, assistance schemes and advice.	Executive Manager Economic Development	October 2012	Approved policy in place	Renewable energy policy will be considered by the Economic Development Policy Review Team in September.
We will have an approved Community Benefit policy on renewable energy.	Liase with Association of Community Councils, other community stakeholders,	Executive Manager Economic Development	October 2012	Approved Policy in place.	Draft policy will be presented to Development Committee on 5th September.

	developers and other local authorities to develop policy framework.				
Draft Local Development Plan (LDP) presented to Council	Present draft plan to special Committee meeting in October. Arrange member's seminars. Provide update reports at each committee cycle.	Executive Manager Planning	October 2012	LDP submitted to Scottish Government by March 2013	The Local Development Plan will be discussed at seminars on 18 <sup>th</sup> September and presented for local decision to a special meeting of the Development Committee on 10th October 2012.
Local Housing Strategy five key themes will continue to be delivered	Update quarterly on: <ul style="list-style-type: none"> <li>• Future supply of housing</li> <li>• Homelessness</li> <li>• Housing Support</li> <li>• Fuel Poverty</li> <li>• Private sector</li> </ul>	Executive Manager Housing	Quarterly	Quarterly updates	National homelessness target on track to be achieved.
Digital (broadband) implementation plan agreed	Infrastructure and operational plans approved	Executive Manager Economic Development	Sept 2012	Implementation plan agreed. High speed broadband service available in South and Central Shetland mainland	South and Central Shetland broadband connections available. Contract for 'phase 4' fibre from Lerwick to Sellaness has been awarded.
We will have an agreed Employability, Skills & Learning Strategic	Work with community partners in the Employability, Skills & Learning Partnership	Director of Development Services and Executive Manager	March 2013	Strategy adopted	Skills, Learning and Employability Strategy currently being developed by partnership – on

Plan	to develop strategic direction.	of Community Planning & Development			target.
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**Aim:** We will constantly measure, and maintain or enhance internal and external customer satisfaction.

<b>Development Services Objective</b>	<b>Action</b>	<b>Lead Responsibility</b>	<b>Timescales</b>	<b>Outcomes/Measures</b>	<b>Progress</b>
Measure and maintain or enhance internal and external customer satisfaction	Review existing practice in relation to customer satisfaction surveys across the Directorate, including defining who the customers are.	Executive Manager Community Planning and Development	November 2012		Review currently being planned.
	Agree a Directorate format.	Director of Development Services and Development Services Management Team	January 2013		
	Establish an agreed system across the directorate.	Director of Development Services and Development Services Management Team	March 2013		

**DRAFT****Appendix 1**

**Aim:** We will achieve a balanced budget.

<b>Development Services Objective</b>	<b>Action</b>	<b>Lead Responsibility</b>	<b>Timescales</b>	<b>Outcomes/Measures</b>	<b>Progress</b>
To deliver the agreed budget strategy within the timescales agreed by Council.	Achieve all budget savings identified for 2012/13 or provide options for alternative savings where planned savings cannot be met. Plan for savings in 2013/14 and future years.	Director of Development Services and Development Services Management Team	March 2013.	Balanced Budget.	£3,364k of budget savings identified across Development Directorate.  On track for full savings to be delivered across Development Directorate.
Achieve Best Value service provision across the Development Directorate.	Plan and carry out service reviews, in each service area.	Director of Development Services and Development Services Management Team	March 2014	Reviews complete and actions implemented	Review of Planning Service in progress.

**Aim:** We will 'live' the golden thread from national plans to individual performance reviews including strong performance management processes.

<b>Development Services Objective</b>	<b>Action</b>	<b>Lead Responsibility</b>	<b>Timescales</b>	<b>Outcomes/Measures</b>	<b>Progress</b>
A clear link will be apparent from national policy and community plan and	Develop and review plans which cascade objectives from Community	Director of Development Services and Development	March 2013	Directorate plans, Services plans, and individual personal objectives are clearly	Performance objectives are being developed.

SOA through Council Action Plan, Directorate and Service plans to individual performance objectives.	plan to individual's performance objectives	Services Management Team		linked.	
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**Aim:** We will ensure Shetland's demographics are consistently used and shared to influence the work of our Directorate and the rest of the Council.

<b>Development Services Objective</b>	<b>Action</b>	<b>Lead Responsibility</b>	<b>Timescales</b>	<b>Outcomes/Measures</b>	<b>Progress</b>
To better understand Shetland's Demographics and their future impacts on our economy and community services.	Analyse census data when it is published later in 2012 and thereafter prepare a report on what it means for the Council	Executive Manager Economic Development	January 2013 (subject to when census data is published)	Report Presented	National census data still to be published.
	New policies will be developed as necessary following the analysis report.	Director of Development Services and Development Services Management Team	March 2013	Policies identified	

**Aim:** We will demonstrate that we are an effective, cohesive team with a reputation for innovation.

<b>Development Services Objective</b>	<b>Action</b>	<b>Lead Responsibility</b>	<b>Timescales</b>	<b>Outcomes/Measures</b>	<b>Progress</b>
The Directorate Services will work more cohesively and be recognised for developing innovative solutions and plans.	We will hold a team building event by June 2012	Director of Development Services and Development Services Management Team	Review monthly	Directorate plan delivered effectively	Team building event still to be held.
	We will all commit to attend team departmental meetings		Review monthly		Ongoing, Development Management Team meets twice monthly.
	We will have regular quarterly team half day development events aimed at discussing specific directorate issues and 'Action Learning Set' type activity		Review quarterly		Quarterly development event to be arranged.

**Aim:** We will make more effective connections with key external partners including Scottish Government and European Parliament.

<b>Development Services Objective</b>	<b>Action</b>	<b>Lead Responsibility</b>	<b>Timescales</b>	<b>Outcomes/Measures</b>	<b>Progress</b>
We will better use our MSP, MP, and MEPs, this will include seeking to secure formal meetings on behalf of the directorate on a 3-6 month basis.	We will be more proactive in getting Ministers to Shetland, and more formally plan how we use the time we have with Ministers	Director of Development Services and Development Services Management Team	March 2013	Visit plan	Meeting with Local MSP has been arranged.
We will plan and agree in advance the Key issues we want to get across to high profile visitors.	Develop and update plan.	Director of Development Services and Development Services Management Team	July 2012	Visit plan	Ongoing
We will promote representation on relevant national and European committees and take opportunities to engage	Develop and update plan.	Director of Development Services and Development Services Management Team	March 2013	Increased % of European and external funding levered into projects.	Behind schedule.



# Shetland Islands Council

**Development Committee**

**5 September 2012**

<b>Rural Transport Review</b>	
TP-07-12-F	
<b>Executive Manager Transport Planning</b>	<b>Development Services</b>

## **1. Summary**

- 1.1 As part of the overall aim to reduce Council expenditure the Transport Planning Service developed a number of measures to reduce the costs of the Service and these were presented along with other services' proposals to Council on 9 February 2012.
- 1.2 The Council accepted all the measures proposed by the Transport Planning Service except for the Rural Transport cuts, which the Service was asked to review and report back.
- 1.3 This report describes the manner in which the review is being undertaken and proposes to the Committee that the review of Rural Transport Services is addressed in the overall redesign of the transport network and that the savings that were attributed to this area will be found at departmental level for this financial year.

## **2. Decision Required**

It is recommended that the Committee resolve to: -

- 2.1 Approve the proposal to include the review of Rural Transport in the wider transport network redesign process.
- 2.2 Note that the savings of £249,946 attributed to this area of service will be achieved through one off Departmental savings. This will be reported separately by the Director of Development Services.

### **3. Detail**

- 3.1 As part of the overall corporate objective to reduce Council expenditure to sustainable levels the Transport Planning Service proposed, amongst other things, a number of Rural Transport services that could be considered to be cut by the Council. (The services are listed in Appendix 1. This also includes community ferry runs provided by the Council's Ferry Operations Service that is paid for from the Rural Transport budget.
- 3.2 The Transport Planning Service is in the process of a root and branch review of the entire public transport network and the review of rural transport services is included in that review.
- 3.3 The aim of the review is to create a more efficient network of services and to create an opportunity for the bus industry to link together services in a manner that makes best use of their assets.
- 3.4 Transport Planning Service cannot estimate the overall cost of the redesigned network of service because it does not control any of the operators that will be tendering for the 150 or so contracts. However, by removing duplication, integrating services where possible and enabling the bus industry to see and understand the entire network of public and education services clearly, it is considered that this will be the best way in which to create the opportunities for efficiencies and reduced costs.
- 3.5 To remove the Rural Transport services at this stage would weaken the potential to reduce costs and protect frontline services. Therefore it is recommended that the Committee support the proposal to include these services in the overall review of bus services (see timetable given in Appendix 2).
- 3.6 Once this is done, if the total cost of the tenders exceeds the available budget then the Committee can consider the network of services as a whole and, through the application of the prioritisation framework that was reported to Committee 21 June 2012, (Min Ref: 45/12) make informed choices on which services to provide.
- 3.7 In the meantime, to maintain progress towards savings targets in the current financial year, alternative one off savings are being identified at Departmental level to offset the deferral of savings in public transport services.

### **4. Implications**

#### Strategic

- 4.1 Delivery On Corporate Priorities  
The Council's Corporate Plan states:

*Shetland's communities are scattered and have different needs. To best address those, we must have sustainable road, sea and air transport systems, internally and externally, that ensure everyone is able to access the places, services and opportunities they need.*

- 4.2 Community /Stakeholder Issues – Rural Transport services provide important services to lower income and groups such as the elderly and young who don't have access to their own transport. Most of the services provide transport to shops and health centres for those without a car.
- 4.3 Policy And/Or Delegated Authority - In accordance with Section 2.3.1 of the Council's Scheme of Administration and Delegations, the Development Committee has delegated authority to implement decisions within its remit.
- 4.4 Risk Management – Social inclusion and independence for younger and older people is an essential requirement in a modern society. Failure to achieve this is likely to lead to loss of social development opportunities for the young with the potential to lead to growing social problems in communities. With regard to older people, access to health and shopping is essential to well being and if this is diminished then other services could be called upon to address any problems arising from the withdrawal of transport and the resultant reduced independence.
- 4.5 Equalities, Health and Human Rights – the withdrawal of transport services could have impacts on low income groups, young people, those without a car and older people. This could have effects on physical and mental health within these groups.
- 4.6 Environmental – reductions in the number of vehicles on the road would have the effect of lowering emissions (albeit almost negligible).

#### Resources

- 4.7 Financial – the targeted savings of £249,946 through reductions in Rural Transport will not be achieved in the current year. However there will be Departmental one off savings identified in the current year to offset this and the full saving will be delivered in the next financial year through the Transport Network Redesign.
- 4.8 Legal – there are no legal implications for the Council at this stage.
- 4.9 Human Resources - there are no implications for staff at this stage.
- 4.10 Assets And Property – there are no implications in terms of the Council's assets at this stage.

## **5. Conclusions**

- 5.1 It is considered that there would be benefits in considering Rural Transport services as part of the wider transport network review. The

aim of this review is to reduce the overall costs of bus services whilst striving to protect frontline services.

- 5.2 To offset the savings that cannot be achieved through Rural Transport Services in the current year the Development Services Department are working up one off savings to ensure that in overall terms savings targets are still met. These will be reported separately by the Director of Development Services.

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*24 August 2012*

List of Appendices

Appendix 1 – List of Rural Transport Services

Appendix 2 – Timescales for the Transport Network Review

Background documents:

None.

END

## Appendix 1

<b>Rural Transport Service</b>
Sullom to Brae DAR
Ollaberry to Hillswick Surgery
Collafirth to Ollaberry Shop
Eshaness to Hillswick Surgery
Heylor/Urafirth Shopper
Hillswick Shop/Surgery DAR
North Roe to Ollaberry
North Roe to Hillswick Surgery
Unst Shopper
Aith Shopper DAR
Ness to Levenwick Surgery
Bressay Shopper
South Mainland DAR
Mossbank Night Service
Hillswick Shopper
Brae Scatsta Voe Shopper
Ollaberry Shopper DAR
Muckle Roe to Brae
Voe to Brae
Brae to Brae Shops/Health Centre
Lerwick to West Burrafirth
Weisdale to Lerwick Shopper
Fetlar DAR
Ulsta DAR
Sandness Shopper
Lerwick Wall Night Service
West Burrafith Pier to Lerwick DAR
Weisdale Shopper
Bixter to West Burrafirth DAR
Sandwick DAR
Sandwick Lerwick Shopper
Cunningsburgh DAR
Sumburgh Late Night Service
Cunningsburgh Lerwick Shopper
Sumburgh Express
Gruting Shopper
Tingwall Airport DAR
Quarff Shopper
Bressay Service
Ferries Community Hires

## **Appendix 2**

### **Shetland Transport Network Review and Redesign Process**

**Step 1** – Map the current network in terms of services provided and identify levels of access to travel needs factors. (complete)

**Step 2** – Identify and understand the differences across Shetland in terms of access travel needs factors. (complete)

**Step 3** - Develop and agree policy on access to travel needs factors. (complete)

**Step 4** – Develop and agree first draft of revised network and service levels for all areas of Shetland. (complete)

**Step 5** – Consult communities/ stakeholders on first draft. (September 2012)

**Step 6** – Refine network and services dependent on feedback. (late September 2012)

**Step 7** – Construct route and service specifications. (October 2012)

**Step 8** – Review and agree fare structure. (October 2012)

**Step 9** – Prepare contract documents and tender services. (to be issued 9 November)

**Step 10** – Review and assess tenders. (4 January 2013 to end January 2013)

**Step 11** – If tenders are over budget then report to Committee with framework of cost cutting measures based on priority of travel need factors. (February 2013)

**Step 12** – Award contracts (1 March 2013). New contracts come into effect on 13 August 2013. The lead in period is to allow operators to acquire new vehicles where required.

Once all this complete we will develop the public information systems to support the introduction of the new network of routes and services bearing in mind there will be over five months between contract award and implementation of new services.

**Development Committee****5 September 2012****Shetland Local Development Plan- Development Plans Scheme Current Position****Report Number : PL-21-12-F****Report Presented By : Team Leader -  
Development Plans and Heritage****Development Services Department  
Planning****1.0 Summary**

1.1 As agreed by the Development Committee an update on progress on the preparation of the Shetland Local Development Plan (LDP) is reported to Committee each cycle. This report updates Members about:

- Preparation of the LDP policies.
- Supplementary Guidance.
- Supporting documents
- Timetable leading to adoption by the Council.

**2.0 Decision Required**

2.1 That the Development Committee resolves to approve the progress and timetable outlined.

**3.0 Detail**

3.1 The main statutory stages in the preparation and delivery of the Shetland Local Development Plan are:

- Publication of the Development Plan Scheme.
- Main Issues Report and draft Environmental Report.
- Prepare and Publish Proposed Plan, alongside the Strategic Environmental Assessment and other impact assessments.
- Submission of Plan to Scottish Ministers.
- Examination
- Adoption of the Shetland Local Development Plan, Environmental Report and Action Programme.
- Implementation, Monitoring and Review.

- 3.2 Scottish Planning Policy sets the broad principles that should underpin a genuinely plan-led modernised system. Development plans should be succinct and set out ambitious long term visions for their areas. They should be kept up to date and provide a practical framework to enable the determination of planning applications with a degree of certainty and efficiency. All interests should be engaged as early and as fully as possible, and there should be a clear focus on high quality outcomes. The primary responsibility for operating the development planning system lies with planning authorities.
- 3.3 One of the main thrusts of the Scottish Government's Modernising Planning priority, which flows from the Planning etc (Scotland) Act 2006, was to establish a plan-led system where national, strategic and local plans clearly set out development priorities and guide individual planning decisions. The National Planning Framework sets out national priorities for development planning and provides the context for regional and local developments. 4 strategic plans and 34 local development plans will replace structure and local plans and these should be updated every 5 years. These new plans are mandatory and set out the priorities for development at the regional and local levels.
- 3.4 LDPs concentrate on the long-term development of local areas and all planning authorities, including the national parks, must prepare these. Development planning shapes the areas we live in.
- 3.5 We have been working closely with the planners in the Scottish Government Built Environment Directorate. At regular meetings, we have ensured that our process, consultations, strategies and planning policies comply with statutory processes and national policies.
- 3.6 The Shetland Local Development Plan is required by the Planning etc. (Scotland) Act 2006, to contain a Vision and a Spatial Strategy, these were reported to the meeting on 9 March (Minute 23/12).
- 3.7 The Development Plans and Heritage Team completed the strategic policies at the end of May, which is in line with the programme. Work on the development of the Supplementary Guidance (SG) was completed during August and the next milestones are to complete the supporting documents (various assessments, including the Strategic Environmental Assessment).

#### Member Awareness Briefing Sessions

- 3.8 We will present these documents for discussion at 2 informal briefing sessions that are open to all Council Members at the following times:
- **13 September 2012 2 - 5 PM**
  - **18 September 2012 10 AM -1 PM**
- 3.9 The LDP will be formally discussed at a special meeting of this Committee on 10 October 2012, with the intention that the Committee recommend the LDP to the Council in December for it to be accepted as the Council's settled view. The final content of the LDP, including the Vision and Spatial Strategy, make up the Council's "settled view".

- 3.10 Thereafter, the proposed LDP will be published for representations, the SG will be published for consultation and the supporting documents will be made available.
- 3.11 Attached, for ease of reference, are the “record of consultation and information sharing” (Appendix 1) and the outline programme timetable for the preparation of the Development Plan (Appendix 2). Both these documents were prepared for previous update reports; the first shows the extensive consultation already completed for the plan. Appendix 2 is an extract from the Development Plan Scheme (DPS) that is updated annually, it shows the work completed to date and remaining on the plan as a whole, including the various formal stages through to adoption of the LDP, estimated for summer 2014.

## 4.0 Implications

### Strategic

- 4.1 Delivery of Corporate Priorities – When complete, the new Shetland LDP will be the strategic tool for the Council’s development priorities. In conjunction with other Council policies (including the Local Housing Strategy), it will contribute to meeting the spatial aims of the Community Plan and the Corporate Plan.

The LDP will provide more certainty to the assessment of planning applications, as decisions will be made against an up to date framework. Failure to deliver an up to date development plan will jeopardise the speed and quality of decision making.

- 4.2 Community /Stakeholder Issues – The extensive consultation exercises already undertaken have been identified in this report and explained in detail previously. Stakeholder consultation continues during the policy writing aspect of the LDP preparation.

As plan preparation continues over the coming months various LDP content will come before the Members again, as outlined above, prior to the Council being asked to approve the completed draft LDP as the settled view of the Council. Once the settled view has been agreed the community will have a further opportunity to comment on the LDP. It is likely that an Examination will be undertaken.

- 4.3 Policy And/Or Delegated Authority – In accordance with Section 2.3.1 of the Council’s Scheme of Administration and Delegations, the Development Committee has delegated authority to implement decisions within its remit.

- 4.4 Risk Management - The lack of an up to date Development Plan could prevent the Council from supporting developments that are in line with its priorities, and result in more challenges to Council decisions. The LDP is formulated to reflect the Council’s priorities.

- 4.5 Equalities, Health And Human Rights – The process to deliver the LDP includes addressing the Council’s obligation to comply with equalities legislation and policies, guidance and actions are being analysed and

assessed against these obligations. A full assessment will be completed for submission alongside the LDP.

- 4.6 Environmental – The LDP is subject to strategic environmental assessment and a revised environmental report will accompany the LDP, this will show how environmental implications have been considered and impacts mitigated. The planning authority is also subject to the over-arching requirement to exercise the function (of preparing development plans) with the objective of contributing to sustainable development imposed by The Planning etc. (Scotland) Act 2006. A Habitats Regulations Appraisal is also being undertaken to determine whether the LDP is likely to have a significant effect on any European site.

#### Resources

- 4.7 Financial – All costs in relation to the Local Development Plan Project will be met from existing budgets.
- 4.8 Legal – None.
- 4.9 Human Resources – Members have asked for an update on resourcing the development plan process. As part of the Organisation and Management review, the Development Plans Service and the Heritage Service were combined under one team leader. In agreement with the Director of Development Services a set of measures have been identified to ensure appropriate human resources are provided to achieve the challenging timescales of this project, that also deliver on the required efficiency savings. These measures include provision of project resources from other services within the Development Directorate.
- 4.10 Assets And Property – None.

### **5.0 Conclusion**

- 5.1 The report highlights the ongoing work to produce an up to date and fit for purpose Local Development Plan that meets statutory requirements, national policy and local priorities and aspirations. The Planning Service will present two briefing sessions in September about the LDP and supporting documents.

For further information please contact:

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23 August 2012

#### List of Appendices

Appendix 1 – Record of Consultation and Information Sharing

Appendix 2 – Outline Programme Timetable

END

**Shetland Local Development Plan - Record of Consultation and Information Sharing  
from November 2007 until September 2011**

Appendix 1

Consultation	Nov-07	Dec-07	Feb-08	Jan-09	Jul-09	Aug-09	Oct-09	Nov-09	Feb-10	Mar-10	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Aug-11	Sep-11	
Member Awareness Session on new planning approach - Grantfield																												
Member Awareness Session on new planning approach - Lystina House																												
Supplementary Planning Guidance Proposed Consultation																												
Letters sent to Service Head and Agencies call for proposals for new LDP																												
Letters sent to Community Councils proposing briefing sessions for new LDP																												
Good Agricultural Land Meeting																												
Informing the MIR Workshop 1																												
Informing the MIR Workshop 2																												
Developers Meeting - informal meeting on the process of the LDP																												
Letters to Community Councils on regarding the consultation on the LDP																												
Progress Report to Planning Board																												
Report to Planning Board on MIR																												
Meeting with the Community Workers																												
Call for Proposed Development Sites																												
Consultation on the Main Issues Report																												
Planning Consultation Exhibition in the Shetland Museum and Archives																												
LDP and MIR SEA Environmental Report Published																												
Presentation to the Infrastructure and Environmental Forum on the MIR																												
Press Release - On the MIR and the upcoming Consultation Process																												
Public Notice (Shetland Times) Notice of Production and Publication of MIR																												
Developers Meeting																												
Crofters Commission Meeting																												
MIR Consultation - 175 Commercial Street (Shop Outreach Drop In Day)																												
Public Notice (Shetland Times) Advert for upcoming consultations																												
MIR Consultation - Skerries School (Drop In)																												
MIR Consultation - Cunningburgh Hall (Drop In)																												
MIR Consultation - Aithsting and Sandsting (Community Council)																												
Article from 'Isles Views' (ST) on MIR meetings in the North Isles																												
Front Page (ST) Advert for MIR website																												
Advert for upcoming MIR consultations - Shetland Times																												
MIR Consultation - Mid Yell Hall (Drop In)																												
MIR Consultation - Mid Yell Hall (Workshop)																												
MIR Consultation - ASCC																												
Planning Board - Report on the Revised Development Plan Scheme																												
MIR Consultation - Bixter (Drop In)																												
MIR Consultation - Bixter (Workshop)																												
MIR Consultation - Scalloway Hall (Drop In)																												
MIR Consultation - Scalloway Hall (Workshop)																												
MIR Consultation - Tingwall Hall (Information Stall)																												
MIR Consultation - Brae Hall (Drop In)																												
MIR Consultation - Brae Hall (Workshop)																												
Letter to MIR workshop participants																												
MIR Consultation - Symbister Hall (Drop In)																												
MIR Consultation - Bressay Hall (Drop In)																												
MIR Consultation - Foula (Drop In)																												
Advert for upcoming MIR consultations - Shetland Times																												
MIR Consultation - Lerwick CC (Community Council)																												
MIR Consultation - Whiteness and Weisdale (Drop In)																												
MIR Consultation - Gulberwick Hall (Drop In)																												
MIR Consultation - Hillswick (Drop In)																												
Advert for upcoming MIR consultations - Shetland Times																												
MIR Consultation - Baltasound Hall (Drop In)																												
MIR Consultation - Fetlar (Drop In)																												
MIR Consultation - Sound Hall (Officer's Workshop)																												
MIR Consultation - Sound Hall (Drop In)																												
MIR Consultation - Sound Hall (Workshop)																												
MIR Consultation - Boddum Hall (Drop In)																												
MIR Consultation - Fair Isle Hall (Drop In)																												
Local Development Plan Update Newsletter																												
Launch of the LDP and the MIR Introduction Webpage																												
MIR Consultation - Anderson High School																												
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Call for comments on Areas of Best Fit from Stakeholders																												
Report for Development Committee Completed																												



## Outline programme timetable for the preparation of the Local Development Plan November 2011

Stage	Local Plan	SEA	Process	Estimated Timescale	Notes
1	Development Plan Scheme		Report to Planning Board & 2 copies to Scottish Ministers	20 Feb 2008  Annual Review November 2011	Annual Review
	Publish Development Plan Scheme		Place copies in public libraries and on website	November 2011	Annual Review
2	Topic Area Identification of Key Policy Issues	Identify main implications by way of a screening and scoping report outlining the potential for the LDP to impact on the environment	Evidence gathering, baseline information	February 2008 – February 2009	Completed
	Identification of Main Issues and preparation of Main Issues Report		Consultation/participation with key players for specialist input	May 2009 – June 2009	
			Wider Consultation/ Participation with the community	July 2009 - October 2009	
	Presentation of Monitoring Statement, Main Issues Report and Draft Environmental Report	Highlight the main environmental implications of the strategic options within the Main Issues Report	Report to Planning Board SIC	February 2010	Slippage from November 2009, due to delaying consultation so it did not occur over the festive season. This therefore causes an impact to the rest Development Plan Scheme timescale. <b>Completed</b>
	Main Issues Report Publication and Public Consultation and Participation		Consultation: as identified in Participation Statement	27 <sup>th</sup> March – 7 <sup>th</sup> June 2010	Completed
	Summary update of issues brought forward by the Main Issues Consultation		Report initial findings to community groups for information.	June –July 2010	Via newsletter. <b>Completed</b>

<b>Stage</b>	<b>Local Plan</b>	<b>SEA</b>	<b>Process</b>	<b>Estimated Timescale</b>	<b>Notes</b>
<b>3</b>	Preparation of Proposed Local Development Plan, Action Programme and Supplementary Guidance based on results of the Main Issues Report and National Guidance	Assess strategic direction, policies and site specific proposals against SEA objectives and related criteria. Prepare Environmental Report		<b>June 2010-September 2012</b>	Devising new methodologies for site allocations appraisals, developing new policies in line with MIR consultation and National Guidance for the Proposed Plan. Expand policies in Supplementary Guidance
	Call for proposed allocations sites (This stage has been added as direct response to the Main Issues Report Consultation.)		Media publicity – press releases, articles, radio interview	<b>April 2010 - April 2011</b>	<b>Completed</b>
	Publish details of submitted sites		Press release, landwise article Public information folders at various locations incl. leisure centres in each locality and on the Planshetland website	<b>April 2011 – August 2011</b>	<b>Completed</b>
	Assess submitted sites	Assess sites against SEA objectives	Professional assessment, site visits, consultee and public responses	<b>July 2011 – February 2012</b>	<b>Completed</b>
	Presentation of Proposed Plan, Action Programme and Supplementary Guidance	Publish Revised Environmental Report	Report to Development Committee SIC	<b>September 2012</b>	
	Proposed Plan Publication and Public Representation		Representation: as identified in Participation Statement	<b>September – December 2012</b>	
	Presentation of Proposed Plan Representation Responses	Assess feedback from the representation	Report changes we make to the Plan. Assess feedback from the representation of the Proposed Plan. Development Committee SIC	<b>January – March 2013</b>	
	Notification of Modifications & Report of Conformity		6 week Consultation	<b>April- May 2013</b>	

Stage	Local Plan	SEA	Process	Estimated Timescale	Notes
4	Examination		If there are unresolved representations Scottish Ministers will appoint a person to examine the plan.	Preparation 3 months  Approximate ly 6-9 months required for the PLI	
	Consider recommendations of the Examination		Publish any changes in preparation for adoption	November 2013 – February 2014	
	Adoption of Local Development Plan (LDP)	Adopt the environmental Report and publish a post-adoption statement (this says how we have considered the environmental report and how we will monitor the effects the LDP has on the environment)	Publish Modifications and Statement of Explanation. Report to Development Committee SIC Advertise intention to Adopt LDP Allow 28 days Subject to Scottish Ministers adopt the LDP	Summer 2014	
	Implementation of Action Programme		Discussion with Council departments, developers and community groups	Summer 2014 onwards	
	Preparation of additional Supplementary Guidance	Assess against SEA objectives		Summer 2014 onwards	
	Monitoring and Review of Local Development Plan and Supplementary Guidance	Revise and update as necessary		Ongoing	



**Development Committee****5 September 2012****Consultation on Crofting Commission Draft Plan 2012 –17 – Council Response**

DV039-F

**Executive Manager****Economic Development****1.0 Summary**

- 1.1 The purpose of this report is to obtain the Committee's agreement for a response on the Crofting Commission's draft plan for the next 5 years.

**2.0 Decision Required**

- 2.1 The Committee is asked to resolve to accept the response to the Crofting Commission's Draft Plan, as set out in Appendix 2, or to amend the response.

**3.0 Detail**

- 3.1 Following the passing of the Crofting Reform (Scotland) Act 2010 by the Scottish Parliament, the Crofting Commission has obtained enhanced regulatory duties and powers to ensure the proper use of croft land in the Highlands and Islands. The new Crofting Commission, consisting of nine Commissioners, came into office on 1 April 2010. It has prepared a draft operational plan for the next five years and is seeking comments on the document. The draft plan is attached as appendix 1.
- 3.2 The response from the Council (attached as Appendix 2) has been prepared following a meeting with representatives of NFUS, the Crofting Foundation and Shetland Livestock marketing Group. There are deep concerns about the impact on crofting in Shetland if the plan is adopted without amendment.
- 3.3 While the consultation period was set to end at the end of August, the Council has obtained an extension to enable discussion at the meeting today.

## 4.0 Implications

### Strategic

- 4.1 Delivery On Corporate Priorities – The Council's Single Outcome Agreement with the Scottish Government specifies increasing sustainable economic growth and increasing economic participation as outcomes.
- 4.2 Community /Stakeholder Issues – Consultation has taken place with the key bodies involved in agriculture in Shetland.
- 4.3 Policy And/Or Delegated Authority – This report is based on the Main Aim of the Shetland Economic Policy Statement 2007-12, which states:

The main aim of the Council's economic development service is to improve the quality of life of Shetland residents by promoting an environment in which traditional industries can thrive and innovate alongside newer emerging industries.

The Policy Statement was approved by the Development Committee on 24 April 2008 (Min. Ref:02/08) and by the Council on 14 May 2008 (Min Ref: 55/08).

The Development Committee has delegated authority to implement decisions within its remit, in accordance with Section 2.3.1 of the Council's Scheme of Administration and Delegations.

As the subject of this report is covered by existing policy the Development Committee has delegated authority to make a decision.

- 4.4 Risk Management – There is a risk that the Crofting Commission will proceed with its five year plan, as written in draft, to the detriment of crofting in Shetland.
- 4.5 Equalities, Health And Human Rights – none.
- 4.6 Environmental – none.

### Resources

- 4.6 Financial – none.
- 4.7 Legal – none.
- 4.8 Human Resources – none.
- 4.9 Assets And Property – none.

## 5.0 Conclusions

- 5.1 It is very important that undue levels of regulation from the Crofting Commission do not hinder the relatively active crofting sector in Shetland.

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*22 August 2012*

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END





DRAFT FOR CONSULTATION

# **CROFTING COMMISSION**

# **PLAN**

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# CROFTING

## Historical context

1. Crofting is a form of statutorily regulated tenancies unique to the Highlands & Islands of Scotland. The traditional model combines individual tenancy of a croft, alongside a share in the common grazings. However, this unique combination of land tenure rights presents some difficulties within a modern context where individual property ownership is the usual form of land holding.
2. Up until the Second World War, crofting was primarily a subsistence form of agriculture. Crofts were grouped together in townships, with the average size of crofts approximately five acres of inbye or arable land, on which the croft house and agricultural buildings were situated, and with a share in the township common grazings, jointly managed along with the other crofter shareholders, for livestock. The size of crofts and pattern of townships remain largely unchanged, although the traditional crofting agricultural mix of arable and livestock, usually centred around cattle, is increasingly rarely practised.
3. The Crofters Holdings (Scotland) Act 1886, established legal definitions and protection for crofters for the first time, following decades of clearances, rent rises and other abuses by landlords. The Taylor Report which led to the 1955 Act provided the basic system of croft tenure which in large part remains the basis of crofting to this day. A succession of crofting Acts have added legal complexities to the system, with the biggest change to the ethos of crofting being introduced with the Crofting Reform (Scotland) Act 1976. From the 1886 Act to the 1993 Act the principles of security of tenure, the right to a fair rent, and a crofter's right to compensation for permanent improvements have not changed materially. However, the 1976 Act gave crofters an absolute right to purchase their croft house site and a qualified right to negotiate with their landlord to obtain a title deed to their croft. The 1976 Act was also notable for allowing decrofting, and enabling crofters to share in the value of any land taken from them for development. Finally, although old-style "owner-occupiers" as landlords of vacant crofts were created by the 1976 Act, owner-occupier crofters were not defined until the 2010 Act. The legal definition of crofters now includes both tenants and owner-occupier crofters.
4. The pattern of owner-occupier crofters is now geographically very different over the crofting counties, with a much greater concentration of owner-occupier crofters in the Northern Isles, while in the Western Isles, a very large percentage of crofters have remained tenants.

## Recent Legislation

5. Despite being a small scale system of agriculture with its legal origin in the 19<sup>th</sup> Century, the Scottish Parliament recently re-affirmed its commitment to continuing and protecting the system of crofting by passing the Crofting Reform (Scotland) Act 2010. The Act was developed following the Committee of Inquiry into Crofting, chaired by Professor Mark Shucksmith - the most comprehensive investigation into the state of crofting since the Napier Commission in 1885. The Shucksmith Inquiry established that there was a widespread opinion throughout the crofting counties that crofting should be more effectively regulated.
6. The 2010 Act gives the Crofting Commission enhanced regulatory duties and powers:

- To ensure crofts are occupied by their rightful tenant or owner-occupier crofter
  - To curb speculation
  - To prevent neglect of the land
  - To ensure that crofts are worked or put to other purposeful use.
7. The 2010 Act places a duty on the Commission to investigate suspected breaches of duty by crofters and owner-occupier crofters, and a duty to take action where a breach is suspected. The Act also introduces a requirement that, in exercising its functions, the Commission must have regard to the desirability of population retention, and the impact of changes in the totality of land held in crofting tenure on the sustainability of crofting.

### **The Commission**

8. The Crofting Reform (Scotland) Act 2010 created the Crofting Commission, which came into being on 1 April 2012, taking over from the Crofters Commission. It is a Non-Departmental Public Body (NDPB) which operates on a day-to-day basis independently of the government, but for which Scottish Ministers are ultimately responsible. The Commission comprises of six Crofting Commissioners elected from six geographic areas in the crofting counties, and three Commissioners appointed by the Scottish Government. The Convener will be appointed by the Scottish Ministers from among the nine Commissioners. The Commission is supported by a staff of some 54, led by a Chief Executive (who is appointed by Scottish Ministers in consultation with the Convener of the Commission). The Commission's Headquarters is based in Great Glen House, Inverness.
9. Since the implementation of the Crofting Reform (Scotland) Act 2010 ('the 2010 Act'), the Crofting Commission's principal function is regulating crofting, re-organising crofting, promoting the interests of crofting and keeping under review matters relating to crofting. The Act also places a duty on the Commission to investigate reports of breaches of duty by tenants and owner-occupier crofters. It can advise the Minister on matters relating to crofting and it can also collaborate with other bodies for the economic development and social improvement of the crofting counties. However, it cannot act as a lobbying body.

# A CROFTING STRATEGY FOR SCOTLAND

## Introduction

10. This draft Plan reflects intense discussions and much thinking by the new Commission, since coming into office on 1 April 2012. As Commissioners we are aware of the Interim Plan prepared by our predecessor body, and found much merit in it. But we are unanimous in wanting to start, so far as possible, from first principles, and to express in this draft our aspirations and ambitions for crofting, over the five years of our tenure and well beyond. It is something all nine of us care about passionately. We have therefore tried to avoid being timid or cautious in setting out our ideas, even if this means we have to revise some of the proposals in here in the light of responses or resource constraints.
11. The statutory timetable for preparing, consulting on and submitting the draft Plan to the Minister means that we have a 6-week consultation period. We will be listening very carefully to any views and responses we receive, and we will continue to listen – even after adoption the Plan can be amended, and will be if necessary. What is eventually agreed with the Minister will guide all our decisions as crofting’s regulator, and may be taken into account by the Scottish Land Court. So we would urge all whom we are consulting, and all who have an interest in crofting, to read this draft carefully and let us have your comments.

## Consultation on the Plan

12. The 2010 Act requires the Commission to consult Local Authorities in the crofting counties and Highlands & Islands Enterprise on its draft Plan before submitting to Ministers, and allows for wider consultation. The Commission has chosen to widen the consultation to relevant bodies and organisations with an interest in crofting, and to make the draft available publicly so that anyone may submit views. The full list of consultees and all responses (unless requested otherwise) will be published.

## Purpose of the Plan

13. The Plan explains to tenants and owner-occupier crofters, organisations and agencies **how** the Crofting Commission plans to make decisions in line with legislation. It also explains **why** crofting must be consistently and firmly regulated, in line with crofting legislation (and case law as it develops), by identifying the many benefits that effective regulation of crofting can bring to communities in the crofting counties, and to the whole of Scotland.
14. The Commission recognises that regulation of crofting will be considerably more effective if its regulatory decisions are understood and supported by the actions and decisions of other agencies. It is hoped that this Plan will:
  - Guide council planning authorities when considering developments on crofts and when writing their Local Plans and Development Plans.
  - Enable Highlands and Islands Enterprise (HIE) and Scottish Government to develop or deliver grant and support programmes in such a way as to reinforce the regulatory decisions being taken by the Commission, by rewarding crofting and community activity which is in line with crofting legislation.

- Help to explain to the Scottish Land Court the reasons for regulatory decisions by the Commission. The Crofting Reform (Scotland) Act 2010 provides that the Scottish Land Court may have regard to the Plan when considering appeals.
- Support the work of organisations who work with tenants and owner-occupier crofters and crofting communities, such as the Scottish Crofting Federation and its members, Community Land Scotland and the social enterprise movement.

### **Plan Timetable**

15. Following the consultation process, the Plan will be redrafted to take account of responses and then submitted to the Minister for approval. The submission is due within six months of the Crofting Commission elections. Once approved, the Plan will be used to guide the Crofting Commission over the next five years as it exercises its regulatory powers. Any substantive changes will require further consultation and submission to Ministers.

### **Structure of the Plan**

16. Part 1 of this Plan outlines the new Commission's ambitions and priorities for crofting over the term of its office (until April 2017), and the main policies it is proposing to adopt to guide how it regulates crofting. Part 2 gives more detailed explanations of how the Commission is intending to use its main regulatory functions to help achieve its objectives. Crofting law is very complex, the 2010 Act has yet to be fully tested, and future decisions of the Scottish Land Court may require changes to be made. Therefore, to supplement this Plan, the Commission will, once the Plan has been agreed and adopted, be making available on its website full details of the statutory requirements, processes and procedures for each type of application or regulation.

# **PART 1: STRATEGIC POLICIES**

## **Introduction**

17. The next five years are a critical period for crofting, and will require effective regulation by the Crofting Commission - combined with support from other agencies and organisations - to ensure that crofting is well placed to once again become a mainstay of remote rural areas of Scotland. Crofting has a crucial role to play in supporting and growing the rural populations in the crofting counties, and making a significant contribution to the agricultural, economic, social, cultural, ecological and environmental sustainability of those communities. Crofting has played this role in the past and we firmly believe that, with effective regulation and the right support systems, it can now, and in the future.
18. The passing of the Crofting Reform (Scotland) Act in 2010 confirms that the Scottish Government regards crofting and land held in crofting tenure as something that requires both protection and regulation, just as our water is protected and regulated by SEPA and our natural environment is under the stewardship of SNH. At the heart of crofting is both people and land. This creates a challenge for the Crofting Commission, as sometimes the interests of an individual crofter can go against the interests of the croft or the interests of a crofting community or the wider community.
19. Therefore, the policies we will follow while performing our regulatory duties, seek to deliver a balance between the interests of wider communities, crofting communities, the interests of crofting and those of individual tenants and owner-occupier crofters. This balance between community and individual is embedded in the 2010 Act and is essential for ensuring that crofting contributes effectively to sustainable rural development.
20. In all of its decision-making, the Crofting Commission will be guided by the understanding that crofts and the crofting system are a precious and finite resource that must be both protected and nurtured for future generations. As we enter uncertain times when availability of energy, food and water will become increasingly pressured globally, we believe that the crofting system provides many answers to these escalating problems. The Commission's aim is to secure a long term future for crofting and for communities in the crofting areas and also many benefits for the wider community of Scotland.

## **Our Vision for Crofting**

21. Crofting is an integral part of life in the Highlands & Islands and can deliver a wealth of benefits for Scotland. It has a central role to play in emphasising the area's uniqueness, including language, the arts, culture and landscape. Effective regulation of crofting will create stronger, more resilient, ambitious, sustainable and culturally rich communities, and a well managed landscape and environment in the crofting areas.
22. A well-regulated crofting system will encourage these wider benefits:
  - Population retention and growth in remote rural areas through occupation of crofts, with a particular emphasis on retaining young people
  - Affordable housing solutions - an incoming crofter of a bareland croft will be eligible for the Croft House Grant Scheme

- An attractive and well-managed landscape and environmental biodiversity in the crofting counties through active use of crofts
  - Increased production of livestock and food from crofts for the local market, the tourist market and for export to the rest of Scotland
  - A contribution towards Scotland's food security through croft produce
  - Increased recognition that crofting is an excellent model for delivering food sovereignty
  - Carbon emissions reduction through availability of local croft-grown food with short food miles, and through increased renewable energy production on crofts and common grazings
  - Increased enterprise and micro enterprises being created by tenants or owner-occupier crofters and groups of tenants or owner-occupier crofters
  - The strengthening of shared management practices and development of common grazings schemes
  - Increased community land ownership through purchase of assets by strong, cohesive and confident crofting communities
  - Reinvigoration of the traditional arts, skills and cultural knowledge associated with crofting communities
  - Retention and strengthening of culturally rich crofting communities and the resultant cultural landscapes which create an iconic tourism resource.
23. This section explains how, through effective regulation, the Crofting Commission can deliver a wide range of benefits to communities in the crofting counties.

### **Why is Effective Regulation of Crofting Important?**

24. The desired outcomes of the Scottish Government are clearly outlined in the 'Scotland Performs' Framework. Crofting has a key role to play and Government has asked the Commission to promote regulatory policies and decisions which:
- Deliver continuous improvement and efficiency to Commission processes and are responsive to crofters and the needs of crofting communities
  - Contribute to realisation of economic potential and the development of employment opportunities in crofting areas
  - Contribute to strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others
  - Contribute to creating well-designed, sustainable communities that are able to retain and grow services and amenities
  - Encourage the enjoyment of our natural environment and cultural landscapes alongside protecting and enhancing them for future generations
  - Contribute to Scotland's targets for reducing its carbon footprint
  - Contribute to preserving and promoting the unique identity, traditional languages, culture and knowledge associated with crofting, helping to create an iconic brand of which Scotland can be proud.
25. The Crofting Commission is now required, as part of its Annual Report, not only to report on the exercise of its functions but also on:
- The issues affecting crofting communities
  - The contribution crofting has made to sustainable development.
26. Before making its report, the Commission must consult each Local Authority in the areas where there are crofts and with Highlands and Islands Enterprise.

## REGULATION ON OCCUPANCY | CROFTERS' RESIDENCY DUTY

27. The Crofting Acts require the Commission to ensure that all tenants and owner-occupier crofters must reside on or within 32km of their crofts, with certain permitted exceptions. The Commission believes that there will be many benefits for crofting communities from firm action on absenteeism.
28. There are currently some 1700 crofts with an absentee owner-occupier or tenant (where an absentee is someone who is not ordinarily resident on or within 32 km of the croft). Vibrant crofting communities require people living on the croft and working in the area throughout the year. They also require a good demographic mix to ensure population sustainability and the retention of a full range of services, facilities and amenities.
29. Under the Scottish Government's Urban Rural Classification, most of the crofting areas are classified as 'Remote Rural'. The remote rural areas of Scotland saw a 5.3% increase in population between 2001-2008, against a national trend of 2.1%. However, remote rural areas have a much lower percentage of the population in the age bands 16-24 and 25-34 than the national average, and a higher proportion in the older age bands, especially at pension age.
30. Currently the average age of tenants and owner-occupier crofters is estimated to be over 55. However, where young people are given the chance to enter crofting, such as through family assignation, there is evidence that they are well placed to become enthusiastic crofters, particularly in townships where active crofting is still practised.
31. It is believed that there is considerable, but at present unrealised, demand for crofts by people who wish to remain in, return to, or move to the crofting counties. Remote rural areas score very highly as a desirable place to live, with 80% of people rating their neighbourhood as a 'very good' place to live, in comparison to 69% in accessible rural locations and 51% in the rest of Scotland.
32. Through effective regulation to ensure occupancy of crofts, the Commission will contribute towards:
  - Confidence in its effectiveness as an organisation, by tackling an issue which adversely affects many crofting communities
  - Helping to create vibrant, confident crofting communities
  - Increasing the availability of participants for grazing committees, shared management of common grazings and communal croft work practises by increasing the number of resident crofters
  - Retaining and growing remote rural populations
  - Helping to rebalance the demographics in crofting communities, when young people are given the chance to acquire crofts and croft tenancies
  - Helping to increase the self-build housing stock in crofting communities, through croft houses built by new entrants to crofting, many of whom will be eligible to apply for support through the Croft House Grant Scheme
  - Growing the potential for economic activity in fragile remote rural areas, with population growth increasing the turnover for local businesses and trades-people
  - Increasing the likelihood of retaining or growing community services and amenities, such as schools, shops, community facilities, through population growth
  - Increasing the number of people able to live in remote rural areas, which are consistently rated as a 'very good' place to live
  - Increasing confidence in crofting as a way of life

- Supporting and raising the status of the indigenous languages and dialects, and traditional culture, skills and knowledge associated with crofting.
33. Where someone decides to leave the area but feels a strong family connection to a place, they can choose to retain their family croft house through decrofting. It is expected that action on residency will result in increased turnover of crofts, meaning that those who wish to return and take part in active crofting in the future will have increased opportunities to acquire a croft.
  34. The Commission recognises that there may be reasons why a croft is without a resident crofter. There are a number of options open to tenants or owner-occupier crofters who are unable to meet their residency duty for the time being, and we will seek to find equitable and lasting solutions with them to resolve the situation.

## **REGULATION ON ACTIVE LAND USE**

35. The Crofting Acts require all tenants and owner-occupiers of crofts to cultivate and maintain their croft and not to neglect or misuse their croft.

### **Duty to Cultivate and Maintain**

36. In the past, crofting provided much of a crofting household's food, although this is now rare. From the 1980s, as a result of changes to agricultural support schemes, both inbye crofts and common grazings land were increasingly used for extensive sheep grazing. However, in recent years, a number of reports have found a serious decline in both sheep and cattle keeping, with a Scottish Agricultural College report in 2008 putting the decline as high as 60% in the North West Highlands. A Scottish Natural Heritage report in 2011, which studied three areas in Scotland, including the crofting area of South Skye, linked the decline in livestock keeping to a threat to biodiversity in these areas. There is growing concern that active land use on both crofts and common grazings is in decline and the Commission recognises the need for more specific data to help inform debate and decisions.
37. However, some crofters and townships are bucking the trend and are showing a growing interest in using crofts for food production again, particularly for subsistence agriculture and horticulture, with some evidence of interest in cattle keeping as a result of SRDP grant schemes for traditional breeds of cattle. Increasingly, agri-environmental schemes reward traditional crofting practises because of the environmental benefits they bring for biodiversity and for specific species such as corncrakes and corn buntings. Decisions made about the CAP reform and about the future of SRDP funding, could re-incentivise small scale agriculture such as crofting.
38. Agriculture makes a significant contribution to the rural economy in Scotland and, with the right conditions, crofting has the potential to contribute to the growth of the Highlands & Islands economy, as well as to support and enhance environmental biodiversity. Crofting has evolved over time and will continue to change. A tenant or owner-occupier crofter is entitled to put their croft to "another purposeful use" (essentially non-agricultural use), instead of cultivating it (essentially agricultural use), by which they will be fulfilling their statutory duty. The Commission's consent is only required if a tenant wishes to put their croft to a purposeful use but is refused consent by the landlord. The Commission welcomes beneficial change and supports economic development that will help to secure the future of crofting. However, crofting is essentially an agricultural activity and the use of crofts for purposes other than

agriculture should not compromise the effective and efficient use of land for agriculture in the present or for the future.

### **Duty Not to Misuse or Neglect**

39. Inbye crofts and common grazings land have been improved by centuries of hard work by tenants and owner-occupier crofters, including enriching with seaweed and manure, drainage, enclosing with walls or fences, managing weeds and maintaining buildings. Land, fences, drains and buildings which have been neglected or badly managed impose a heavy financial and resources burden for any incoming active crofter wishing to take over or use the croft. Weed seeds or blocked drains on a neglected croft can have an adverse impact on the ability of a neighbouring crofter to drain or keep their own land clear of weeds. The sight of neglected and weed-infested land reduces the attractiveness of the landscape to residents and tourists. The Shucksmith Inquiry found a desire among respondents for the Commission to take action to prevent neglect of crofts.
40. In all its policies the Commission will have regard to the Nature Conservation (Scotland) Act 2004.
41. Through effective regulation to ensure that crofts are cultivated and maintained, and not misused or neglected, the Commission will:
  - Ensure that the resources of inbye and common grazings land, fences, buildings and drainage are kept in good condition for future generations
  - Increase the number of active tenants and owner-occupier crofters, so growing the possibility for the sharing of crofting tasks, machinery and skills between crofters
  - Increase the amount of croft-grown food and contribute to Scotland's food security
  - Ensure that crofting is recognised as an excellent model for delivering food sovereignty
  - Help to reduce Scotland's carbon footprint through the production of local food with fewer food miles
  - Retain and enhance biodiversity through the careful management of the natural environment by tenants and owner-occupier crofters
  - Increase woodland in the landscape as crofters develop woodland and forestry schemes
  - Create an attractive, living, cultural landscape, enhancing the quality of life for residents
  - Create an iconic resource and the potential to grow tourism around the crofting brand, crofting landscapes and the crofting way of life.

### **REGULATION ON SPECULATION**

42. The 2010 Act gives the Commission important new powers, which means that in exercising all of its functions, it must have regard to the desirability of supporting population retention where crofting takes place and to the impact of changes to the overall area of land held in crofting tenure on the sustainability of crofting. With regard to decrofting, when deciding if the decrofting is in the public interest, the Commission can take into account the sustainability of crofting, the crofting community and the environment and landscape in that area, as well as the effect of any decrofting on the social and cultural benefits associated with crofting. It can come to its own decision on the decrofting, even if the land already has planning permission.

## **Background**

43. Since the 1976 Act, crofters have had the ability to purchase their croft or part of their croft. They can also apply to decroft land or to divide their croft. There is nothing to prevent someone collecting multiple crofts, except for action on occupancy if the owner or tenant lives more than 32km from any of the crofts. Since the rapid rise in house prices throughout the UK in the late 1990s, the value of crofts, croft tenancies, house sites and former croft houses, particularly in the more popular tourist areas of the crofting counties, have risen so that they are now outwith the pocket of many who live within the area. It is particularly difficult for young people to get access to crofts because of the difficulty of getting loan finance. The demographics of the crofting counties show an imbalance, with young people between 18-35 seriously under-represented.
44. Before the introduction of the 2010 Act, the Scottish Land Court indicated that tenants and owner-occupier crofters may have the right to remove land from crofting for the sale of house sites or other development on the open market in order to realise the value of their assets. If planning permission was already in place, the Court indicated that it was not the place of the Crofters Commission to act as a second planning authority by refusing to decroft.
45. Since 1977, 15,433 decrofting directions have resulted in 10,974ha of land being decrofted. Twelve decrofting directions accounted for 5,668ha, over 50% of the total. There is concern that, with the exception of the larger areas, it is the better inbye land that is being decrofted.
46. A study in 2010 of two crofting townships in south Skye showed that 80% of all house and house site sales on the open market over the previous 10 years had been for holiday homes for people from outwith the Highlands.
47. Division of crofts is increasingly being considered by tenants and owner-occupier crofters. The result is that some of the crofts being created are extremely small.
48. The Crofting Acts place a duty on the Commission to consider the effects of decrofting on croft land for communities and for the sustainability of crofting and to consider the extent to which it would detract from the social and cultural benefits associated with crofting.
49. By effective regulation to curb or control non-essential decrofting and sale of part crofts, division of crofts into unsustainable units and through action on residency on multiple owner-occupier crofters or tenants, the Commission will contribute to:
  - A reduction in the loss of croft inbye land to non-essential housing
  - Population retention in rural areas
  - Increased occupancy of crofts and homes in crofting townships
  - Availability of crofts
  - Increased access to crofts for young people.

## **REGULATION ON COMMON GRAZINGS – COMMUNITY COHESION THROUGH SHARED ASSETS**

50. It is well documented that the sustainability and social cohesiveness of communities is closely linked with the shared management of common resources. Crofting provides a unique opportunity through common grazing land to take advantage of the benefits

derived from shared management. Reciprocal help between crofters with crofting tasks was also once commonplace and persists still today in some places.

51. However, changes to support mechanisms and crofters' working patterns have resulted in the demise of communal and reciprocal work practises in many areas. These are increasingly supplanted by individual interest to the detriment of the wider collective.
52. It is also possible that the introduction of individual property rights, through the 1976 Act croft purchase provisions, may have helped to increase a sense of individualism amongst crofters. It is important to note that the highest concentration of community land ownership, in the Western Isles, where over 60% of land is now in community ownership, coincides with the area within the crofting counties where the fewest number of tenants have chosen to buy their croft. In Scotland, over 500,000 ha of land is now in community ownership and crofting communities, where communal work practises are still practised or recently practised, are well placed to take the step towards community ownership – they are familiar with the idea of working together for the common good and managing their own assets communally.
53. However, the number of active grazings committees continues to decline, with only 511 out of 1036 being regulated in 2012. Nevertheless, in recent years, there have been examples of entrepreneurial and innovative developments on common grazings. We firmly believe that through effective regulation of common grazings, allied with support from other agencies, crofting communities can create crofting and wider community benefit through better management of their common resource.
54. Through effective regulation of common grazings and support for common grazing committees, the Commission will help to:
  - Increase its own ability to regulate – grazings committees often carry unrivalled knowledge about crofting in their township, and a desire for it to prosper
  - Increase stocking levels, crofting activity on common grazings and related activity on crofts
  - Strengthen crofting townships and connections between crofters
  - Improve management of the biodiversity and management of the natural resources on common grazing land
  - Increase the opportunities of management schemes on common grazings
  - Increase the opportunities of renewable energy and forestry schemes on common grazings, with associated carbon reductions
  - Increase confidence in communal working and management of communal assets
  - Increase the opportunities for small parcels of common grazings land to be released for affordable housing or community facilities projects
  - Increase the opportunities for crofting communities to consider community land purchase.

## **WORKING WITH OTHER PARTNERS**

55. The 2010 Act gives the Crofting Commission the functions of promoting the interests of crofting and keeping under review matters relating to crofting.
56. The Scottish Government removed the development and grant-giving functions of the Commission in order to allow it to concentrate on regulation of crofting. The development function was taken over by HIE, while the Croft House Grant Scheme and Crofting Counties Agricultural Grant Schemes are now administered by The Scottish Government Rural Payments and Inspections Directorate. The Crofters Commission also worked with a range of partners on certain projects, such as the former Crofting Communities Development Scheme, and the Planting to Plate schools project.
57. The Commission recognises that by working with partners it can:
  - Strengthen its regulatory effectiveness
  - Promote the interests of crofting
  - Raise public awareness about the wider community benefits of the crofting system
  - Promote the concept that, to deliver the widest range of benefits, crofting must be both properly regulated, as well as supported and developed.

## PART 2: SPECIFIC POLICIES

### Introduction

58. The Crofting Commission's principal function is to support crofting and crofting communities through fair, transparent and consistent regulation. Its functions, powers and duties are defined in the Crofting Acts (and some other legislation) and from time to time clarified through determinations by the Scottish Land Court. The legislation also sets out the responsibilities of crofters and landlords, and Commission powers to regulate in the interests of crofting and the wider crofting communities. The Commission's purpose in publishing its policies and procedures is to show how it reaches decisions in individual cases. The legislation gives the Commission a degree of discretion and the policies illustrate how the Commission's discretionary powers will generally be applied. The Plan and policies of the Commission may be subject to revision following decisions made in the Scottish Land Court or other courts. The Plan may also be changed through further consultation and with the agreement of Scottish Ministers.
59. The Commission's view is that good regulation is essential to protect the future of crofting and for the achievement of the aims set out in Part 1 of this Plan. The specific aims that good regulation support are:
- Promotion of occupancy
  - Purposeful use of crofts
  - Shared management of common land
  - Prevention of the loss of crofts
  - The promotion of good crofting practice
  - The maintenance of accurate, up-to-date and accessible information on crofts through the Register of Crofts.
60. The Commission in carrying out its duties will give clear reasons for its decisions and justifications, particularly where discretion has been used.
61. This Part describes in summary how the Commission will apply policies to its decision-making, in those functions which are most able to contribute to those aims. It is not a comprehensive list of all functions, and it does not seek to explain in detail the procedures and processes associated with each function. That level of information is available on the Commission's website or on request and as part of any application form ([www.crofting.scotland.gov.uk](http://www.crofting.scotland.gov.uk)).

### RESIDENCY DUTY

62. **The Law:** The Acts require that a crofter must be ordinarily resident on, or within 32 kilometres of that crofter's croft.
63. **Policy:** The Commission's policy is unequivocal and will aim to secure occupancy of crofts with all the economic, social and cultural benefits that follow. If the Commission becomes aware that a crofter is not ordinarily resident, it will give notice of the breach of duty. It will take individual and other relevant factors into account. Discretion may be applied in certain circumstances, on receipt of an application for consent to be absent as set out in paragraphs 65 and 66.

64. The Commission is aware of crofts with tenants or owner-occupier crofters who are not ordinarily resident and will give priority to cases based on length of absence. However, it will also investigate all complaints and reports of non-residency within the requisite distance and take action to enforce the residency duty. We will also examine the residency status of anyone making an application to the Commission. The Commission's policy on residency applies equally to tenants and to owner-occupier crofters. Crofters are required by law to submit an annual return to the Commission confirming that they are meeting their residency and crofting duties.

## **CONSENT TO BE ABSENT**

65. The Commission will consider applications for consent to be absent and it recognises that there may be legitimate reasons why a crofter is unable to take up residency on a croft for a time. However, the Commission will not generally grant consent to be absent for a period exceeding 2 years without review. Consent to be absent, if granted, will be subject to conditions and the applicant may be requested to provide evidence that the croft will be maintained in purposeful use during their absence.
66. As residency of their croft is a primary duty of crofters, any application on a regulatory matter from an absentee crofter will be required to demonstrate how the proposed activity will help to resolve their absentee status and ensure that the applicant complies with their residency duty.

## **REGISTER OF CROFTS AND CROFTING REGISTER**

67. **The Law:** Crofters have a duty to provide the Crofting Commission with information on request on the extent, the rent and the tenure of the holding, the ownership or occupation thereof and such other information as the Commission may reasonably require, so that the updated details can be entered on the Register of Crofts held by the Commission. Failure to submit such information may be a criminal offence.
68. **Policy:** The Crofting Commission is committed to updating and modernising the Register of Crofts and making it more accessible, so that it becomes an authoritative record of croft holdings. The Register of Crofts must contain an accurate and up-to-date record of a particular holding before the Commission will consider applications. In cases where the record is not accurate or up-to-date, the Commission will require the register to be updated and will seek available information and, if necessary, further evidence from the applicant and others as necessary.
69. From 2013, most applications to the Crofting Commission will require the applicant to register any changes to the holding on the Crofting Register, administered by the Registers of Scotland. Failure to do so will render the change null and void.

## **CONTROLLING SPECULATION AND PREVENTING THE LOSS OF CROFTS**

70. The Commission considers crofts to be a valuable resource that should be available both now and in the future for existing crofters and new entrants to crofting to use productively. Maintaining the integrity of crofts is also essential for the effective use of common grazings, which can benefit crofting communities and the wider rural community. Consequently, the Commission will take account of the impact on crofting and the wider crofting community when considering applications to decroft, assign, let, sublet or divide crofts.

71. When considering an application to decroft a croft or any part thereof, or to divide a croft, the Commission will take into account the previous history of decrofting or division on that holding. Where there is a history of development or division, the Commission will use its powers to ensure that the application does not lead to speculative development detrimental to crofting and the crofting community.

## **DECROFTING**

72. **The Law:** The Acts allow for decrofting to take place through four distinct routes. These are:

- a. General purpose
- b. House site and garden ground
- c. Fues granted to aged or absentee crofters prior to 1976
- d. Reasonable purpose.

73. General purpose decroftings can be granted under the Commission's discretionary powers, although cases of this type are exceptional. Decrofting directions for a "croft house site and garden ground" are mandatory providing that the area involved is appropriate. Fues granted to aged or absentee crofters prior to 1976 are mandatory and are handled in a similar manner to decrofting for a statutory house site and garden ground. The most common type of decrofting directions are those for a reasonable purpose, where the considerations that the Commission must make on the application are outlined in the Crofting Acts in some detail.

### **Decrofting Reasonable Purpose**

74. **The Law:** Decrofting Directions for a reasonable purpose are discretionary. In applying its discretion the Commission is required to give consideration to a number of issues:

- i. The first consideration is to determine that the stated purpose is reasonable and for the good of the croft or the crofting community in the locality of the croft or the public interest. As part of its considerations, the Commission may also take into account the effect of the stated purpose on the sustainability of crofting or the crofting community or the community in general in the locality and the environment and landscape. In addition, the Commission may also consider the impact of the stated purpose on the social and cultural benefits associated with crofting.
- ii. The second key aspect to consider is whether the extent of the area applied for is appropriate for the stated purpose and not excessive.
- iii. The final consideration requires the Commission to have regard to the general interest of the crofting community in the district and demand for the tenancy of the croft if it were let on the open market.

75. These considerations may in certain circumstances lead to a decision to refuse the application to decroft despite planning permission having been granted.

76. **Policy:** The Commission aims to protect land from being lost to crofting. When considering applications to decroft land for a reasonable purpose, the Commission will generally refuse applications where it is established that the wider interests of the crofting community would be adversely affected. In applying this policy, the Commission will take into account the demand (for a croft tenancy) for the land subject

to the decrofting application. The Commission takes the view that there will generally be a demand for an available croft or part croft.

77. The Commission may place conditions on any decrofting direction, including conditions that relate to the use of the land to be decrofted. An application from a crofter in breach of any of the statutory duties, including the residency duty where consent to be absent has not been obtained, will need to demonstrate how the proposed decrofting will help to resolve the breach.

### **Decrofting Croft House Site and Garden Grounds**

78. The Commission acknowledges and supports the need for a dwellinghouse on a bareland croft to provide the means for a crofter to live and work on the croft. We recognise that most applications to decroft parts of crofts are made to allow the creation of residential house sites. However it is important to note that a site can only be a 'statutory house site and garden ground' once a house has been built. Sites on which houses are going to be built can only be decrofted under the provisions of a reasonable purpose decrofting.
79. **The Law:** The Act requires the Commission to make a decrofting direction where the application relates to the croft house site and it is satisfied that the extent of any garden ground within the site is appropriate for the reasonable enjoyment of the dwellinghouse as a residence.
80. **Policy:** The Commission will generally approve applications, subject to its policy on access, for the purpose of creating a house and garden, where the area being sought is 0.1 of a hectare or less. Where the applicant applies to decroft a greater area, he or she should provide a justification including evidence in support of the application sufficient to satisfy the Commission that the greater area is essential for reasonable enjoyment of the proposed house and garden.

### **Maintaining Access**

81. The Commission will in every case give priority to the provision of appropriate access to **all** remaining parts of the croft in respect of decrofting applications and where appropriate to the common grazings. The provision should allow unrestricted access at all times including access for agricultural machinery. Where access to other parts of the croft and common grazings passes over the croft that is the subject of the decrofting application, unrestricted access including access for agricultural machinery should be retained or otherwise provided for other crofters to enable them to use their crofts and common grazings. Applicants should ensure that the access requirements are clearly and unambiguously shown on any application and provide evidence that this reflects actual arrangements. Failure to meet this condition is likely to result in the application being refused.

### **Unauthorised Development**

82. The Commission is aware that some building or other development may have taken place, perhaps inadvertently, on crofts or common grazings without that land having been taken out of crofting. Where examples of this are identified, it is for the owner of that building or development to regularise the situation, for example through resumption. Any such person would be well advised to seek their own legal advice. It is not part of the Commission's function to resolve such issues. It is unlikely that the person concerned will have any status within crofting legislation.

## ASSIGNATION

83. **The Law:** A crofter must obtain the consent of the Commission to assign their croft, must notify the Commission as to where the proposed assignee would intend ordinarily to reside and must provide any other information requested by the Commission.
84. **Policy:** When considering applications to assign, the Commission will apply its policies on residency, land use and shared management. The application should show that the proposed assignee is both able to and intends to comply with all the statutory duties and in particular that he or she intends to be ordinarily resident on or within 32km of the croft and to cultivate and maintain the croft. The proposed assignee may live elsewhere pending the assignment, but the Commission will need to be satisfied that the assignee intends to fulfil the residency duty within a reasonable time, and may include as a condition that this duty is met within a specified period. The Commission will not generally approve an assignment where it has reason to believe that the proposed assignee will be absent from the croft.
85. In considering applications to assign, the Commission will take into account the number of crofts which the proposed assignee already holds (tenancies or as owner-occupier). The Commission's policy of promoting population retention and increased residency of crofts will not preclude multiple tenancies/occupation provided that the Commission is satisfied that this is in the wider interests of crofting and the crofting community and can contribute to making crofting agricultural activity viable. However, the Commission will also consider the potential for new entrants and new activity on crofts and may refuse assignments to existing tenants or occupiers where assignment to a new entrant or to enable a new development is considered to be in the best interests of crofting and the crofting community.

## LETTING OR SUBLETTING OF A CROFT

86. **The Law:** An owner-occupier must not let the croft, or a crofter sublet the croft, without the consent of the Commission.
87. **Policy:** In considering applications, the Commission will apply its policies on residency, land use and shared management and it will take into account the demand for crofts in the area. The Commission holds the view that there will generally be a demand for crofts.
88. The Commission will generally place conditions on letting and subletting consents including a time limit (unless it is to a tenant as a crofter). The Commission may consider a let to a tenant under a short lease or sublet as a condition of a consent to be absent but such consents will be restricted to the duration of the consent, which is usually no longer than two years.
89. An application from a crofter in breach of statutory duties, including the residency duty and in the latter case, who does not have consent to be absent, will need to demonstrate how the proposed letting or subletting will help to resolve the breach of duty.

## DIVISION

90. **The Law:** Division of a croft requires the consent of the Commission.
91. **Policy:** The Commission recognises that in some circumstances the division of crofts can further the aim of population retention and provide opportunities for new entrants to crofting.
92. Whilst division of larger holdings will generally be considered sympathetically, the Commission will not consent to division where this would lead to the creation of one or more holdings that were unrealistically small or otherwise incapable of being put to purposeful crofting use. The Commission will generally attach conditions to any consent to ensure the continued use of the divided holding for crofting purposes.
93. An application from a crofter in breach of statutory duties, including the residency duty and in the latter case, who does not have consent to be absent, will need to demonstrate how the proposed division will help to resolve the breach of duty.

## MISUSE & NEGLECT AND DUTY TO CULTIVATE AND MAINTAIN

94. Long term misuse and neglect of improved land in the climatic conditions that prevail in the Highlands & Islands can rapidly lead to loss of fertility, water-logging and reversion to scrub land. The Act places a duty on crofters to manage their holdings responsibly, protecting the land for future generations and contributing to economic regeneration. The Commission considers the duty to cultivate land or put it to purposeful use to be a priority, reflected in its policy.
95. **The Law:** The 2010 Act states that crofters must cultivate their croft or put it to other purposeful use. Crofters must submit an annual return to the Commission confirming that they are fulfilling their duties to use and maintain their crofts.
96. **Policy:** Competent reports of croft neglect or misuse will be investigated and where proven, the Commission will enforce the requirement not to misuse or neglect the croft. The Commission will determine whether the croft is being cultivated (including grassland cultivation) and maintained or put to other purposeful use, taking appropriate specialist advice when necessary and by making reference to the requirements of Good Agricultural and Environmental Condition (GAEC).
97. The Commission will also take evidence from grazings committees in determining neglect or misuse. The Commission will use its discretionary powers to allow mixed use of crofts for both production and conservation purposes and will allow realistic time for neglected crofts to be brought back into good condition. It will also allow crofters who, through infirmity or age, are unable fully to work their croft, reasonable time to seek assistance.
98. Any crofter who has consent to be absent from the croft is not released from the duties to cultivate and maintain the croft. In such cases it is likely that the consent to be absent will include conditions to ensure proper management of the croft during the consented absence.

## COMMON GRAZINGS

99. The Commission regards the shared management and productive use of the common grazings to be essential for the sustainability of crofting. To that end it will promote the establishment of effective and active grazings committees for all common grazings. Properly constituted grazings committees with appropriate regulations are, in the Commission's view, the most effective way of ensuring purposeful use of the common lands and they are the most effective safeguard against misuse.
100. **The Law:** The Act provides for the establishment of grazings committees to manage the common grazings and the committees have an obligation to produce regulations which the Commission must approve. The Commission has powers to remove a Committee or member(s) thereof from office if they are found to be in breach of those regulations. Each committee must also submit a report every 5 years to the Commission, on the condition of the grazings and crofting in their area.
101. **Policy:** The Commission will work with crofting communities to promote the establishment of effective grazings committees and will actively support established committees. The Commission may, in the event that a grazings committee or grazings constable is not appointed, move to appoint a Committee or a constable to ensure the proper management of the common grazings. If a committee fails to submit regulations for approval, the Commission may set regulations that will be binding on the users of the common grazings. The Commission recognises the disquiet among grazings committees over the 5-year reporting duty, and will seek ways of ensuring that this requirement is neither onerous nor unfair, but can be used as a tool to support common grazings and to inform policy.

## APPORTIONMENT

102. The Commission through its policies seeks to ensure the proper management and purposeful use of crofts. It recognises that apportioning areas of common grazing for the exclusive use of individuals can in some cases result in better land use. The Commission in considering applications for apportionments will take account of the communal use of common grazings and its aim of promoting shared management by crofters. The Commission will consider apportionment applications where it is satisfied that the interests of crofting and the wider crofting community will not be affected adversely.
103. Recognising that the need for an apportionment is not necessarily permanent, the Commission will generally specify conditions, setting a specific period of time for the apportionment. In most circumstances this is likely to be for a period not exceeding 15 years, although the Commission will, at its discretion, extend the period according to the proposed use of the apportionment. Apportionments could, subject to Commission consent, be renewed thereafter on further application.
104. The Commission will not generally consent to an apportionment unless a grazings committee or constable is in office for the grazings in question. In the absence of a grazings committee or constable, the applicant would need to demonstrate support for the apportionment from other crofters with shares in the common grazing and would need to show good reason for the apportionment to be considered.

105. An application to apportion from a crofter in breach of statutory duties, including the residency duty and in the latter case who does not have consent to be absent, will need to demonstrate how the proposed apportionment will help to resolve the breach of duty.

## INVESTIGATING COMPLAINTS

106. The Commission may investigate allegations of breaches of the regulations by a member of the crofting community within the locality of the croft. In deciding whether to investigate, the Commission will take account of the seriousness of the allegation and the likely impact on crofting and the wider crofting community. The Commission may investigate a complaint by a landlord but would do so only if there was a proven public interest. The Commission will not generally investigate complaints made by landlords of crofts, as the landlord can make an application to the Land Court on his own account. The Commission will not generally consider a complaint from an absentee crofter unless that crofter has consent to be absent.

## WORKING WITH OTHERS

107. Whilst the primary function of the Commission is to regulate crofting, we recognise that regulation is only one tool to help support, promote and underpin crofting.
108. **The Law:** As well as regulating and reorganising crofting, the Crofting Acts charge the Commission with the general functions of promoting the interests of crofting and keeping under review matters relating to crofting.
109. In exercising these functions, the Commission has a duty to collaborate so far as their powers and duties allow, with any body or person in carrying out any measures for the economic development and social improvement of the crofting counties. We also have the duty to advise Scottish Ministers on any matter relating to crofts and crofting conditions which Ministers refer to us or on which we think it is fit to submit advice.
110. The 2010 Act requires the Commission's Annual Report to include an assessment of the issues affecting crofting communities and the contribution crofting has made to sustainable development, and to consult Highlands & Islands Enterprise and the local authorities in crofting areas before making the report.
111. **Policy:** The Commission will seek to work closely with key agencies and organisations to promote a joined-up approach to support and promotion of crofting. In particular, we will want to align as far as possible our regulatory actions with crofting community development initiatives by Highlands & Islands Enterprise (which took over the crofting development role from the Crofters Commission during 2010), Local Authorities and others.
112. The Commission will also pursue with Scottish Government the opportunities for introducing or enhancing cross-compliance of public grants and support for crofts with the statutory duties of crofters.

## PART 3: POLICY ON INTERPRETATION OF KEY WORDS

### Introduction

When making decisions, the Commission has regard to the legislation and to its own policies which have already been covered. In addition there are a number of words and phrases used in Legislation and Policies. The Commission has to work with these on a daily basis and follows the interpretation provided below.

Term or Phrase	Definition	Source
Constituting Landlord	A constituting landlord is the owner of the land at the time it was constituted as a croft under the provisions to create new crofts; or such an owner's successor in title.	Sections 3A and 19B (6) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Acts 2007 & 2010)
Croft	A unit of land subject to the Crofting Acts and recorded in the Commission Register of Crofts.	Crofting Commission
Crofting community	All the persons who (either or both): (a) occupy crofts within a township which consists of two or more crofts registered with the Commission; (b) hold shares in a common grazing associated with that township.	Section 61 of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)
Frivolous	Comments and/or information which is insubstantial and unworthy of serious consideration.	Section 26A (5) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)  Definition from the 'Guidance Note on the consideration of Objections' by the Casework Group: December 2010
Good reason	A good reason is what the Commission requires to have for providing consent for a crofter to be ordinarily resident more than 32 kilometres from the croft or for not enforcing a required crofting duty. A variety of possible 'good reasons' are indicated within the respective individual policies. These are not necessarily exhaustive and will be dependent upon individual circumstances in the context of individual policies.	Crofting Commission
Hearing	A meeting organised by the Commission as part of the decision making process on a regulatory	General

Term or Phrase	Definition	Source
	application. The purpose of the Hearing, which is generally held in public, is to allow 'involved parties' who have notified the Commission in advance, to present evidence and allow that evidence to be tested by the Chair of the meeting. Hearings are heard by either a single Commissioner or by a Quorum of Commissioners. A decision on the case will only be made by those Commissioners who were in attendance at the Hearing.	
Involved or Interested Party	Anyone or anybody with whom the Commission is <b>required</b> to consult in the course of making a regulatory decision. Any applicant or entitled objector to an application to the Commission. The Commission will generally <b>only</b> consult those who are defined in the legislation as involved or interested parties.	Crofting Commission
Misuse	Where a crofter wilfully and knowingly uses the croft otherwise than to cultivate it or put it to an approved purposeful use; fails to cultivate it; or fails to put it to any such purposeful use. Misuse can therefore be by active management or omission.	Section 5B(2) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)
Neglect	A crofter neglects a croft where it is not managed so as to meet the standards of Good Agricultural and Environmental Condition referred to in Regulation 4 of, and the schedule to, the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 (SSI 2004 No. 518).	Section 5B(3) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)
Newspaper	A daily or weekly publication composed of folded sheets containing news, advertisements, topical articles, correspondence etc circulating in the local area. The Commission may accept adverts in fortnightly newspapers. However, for this to happen consent would have to be given in advance by the Commissioner for that area on a case by case basis. This allows the Commissioner to satisfy themselves that the publication meets the criteria and is circulating in the local area.	Chambers Dictionary and Policy Paper (adopted at Commission Board Meeting of 18 <sup>th</sup> August 2010)
Occupation	The Commission will use the powers available under the Crofting Acts to ensure that tenants and owner-occupier crofters of crofts are ordinarily resident within the required distance of the croft, unless there is a good and clear reason for them not to be. It considers that each vacant croft is a missed opportunity for people to live in crofting communities and to actively contribute to the economy of these areas.	Crofting Commission
Ordinarily Resident	Ordinarily resident is the term used in the context of a crofter's residency duty. A crofter is	Crofting Commission

Term or Phrase	Definition	Source
	<p>required to be ordinarily resident on or within 32 kilometres of his or her croft. It is accepted that it may be possible to have more than one place of ordinary residence. There is also a requirement to look at the term in the context of crofting legislation. The factors to be considered in establishing ordinary residence are:</p> <ul style="list-style-type: none"> <li>• Is there a degree of settled purpose?</li> <li>• Is there a degree of continuity?</li> <li>• Is the residence part of the usual order of the crofter's life?</li> <li>• Can absences from the croft be described as temporary or accidental?</li> </ul> <p>The Commission will interpret this from the starting point of "settled purpose": that the person concerned has an established presence on the croft – which would normally be the main residence; able to work the croft properly and regularly him/herself; and has a recognised and positive impact on the crofting community. Any long periods of absence would require consent to be absent and meeting the conditions of that consent.</p>	
Owner-Occupier Crofter	<p>A person will be recognised as an owner-occupier crofter if: they are owner of a croft and they were either the tenant crofter who exercised the right to buy the croft or a crofter's nominee or an individual who purchased the croft from the constituting landlord (or a successor in title to these persons). In addition, the croft must not have been let to any person as a croft since it was acquired from the landlord or constituted as a croft.</p>	<p>Section 19B(2) to (4) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010).</p> <p>The Commission is aware that it was Parliament's intention that owner-occupier crofters should have the same duties and responsibilities as crofters and will be guided by that principle in all of its policies.</p>
Purposeful use	<p>Purposeful use means any planned and managed use which does not adversely affect the croft, the public interest, the interests of the landlord or (if different) the owner; or the use of adjacent land.</p>	<p>Section 5(8) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)</p>

Term or Phrase	Definition	Source
Reasonable purpose	Reasonable purpose must have relation to the good of the croft or of the estate or to the public interest or the interests of the crofting community in the locality of the croft. Reasonable purpose includes; the building of dwellings; small allotments; harbours, piers, boat shelters or other like buildings; churches or other places of worship; schools; halls or community centres; planting; roads practicable for vehicular traffic from the croft or township to the public road or to the seashore; the generation of energy; any other purpose likely to provide employment for crofters and others in the locality. Reasonable purpose also includes the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.	Section 20 of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2007)
Shared Management	Most land held under crofting tenure is managed in common, whether as part of a common grazing or as runrig. Over the years, arrangements for the shared management of these areas have deteriorated and the Commission will seek to promote better shared management of common land in the future. Good shared management of common land helps to foster stronger communities and delivers economic benefits through reducing the likelihood of these areas being abandoned or overgrown. This also delivers environmental benefits as some wildlife depends on certain levels of grazing.	Crofting Commission
Use of crofts	Land is one of Scotland's most valuable natural resources and it is important that it is fully utilised in order to ensure that it contributes fully to the Government's goal of sustainable economic growth. The system of crofting requires that crofts are either cultivated or put to another purposeful use, which again makes it a useful vehicle for ensuring our land resource makes a full contribution to economic growth.	Crofting Commission
Vacant Croft	A croft which has no tenant or sub-tenant:  "... a croft shall be taken to be vacant notwithstanding that it is occupied, if it is occupied otherwise than by:  (a) the tenant of the croft; (b) the owner-occupier crofter of the croft; (c) the subtenant of a sublet to which section 27 applies; or (d) the tenant of a let to which section 29A applies"	Section 23(10) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)

Term or Phrase	Definition	Source
Valid objection	<p>An objection by a valid objector which complies with s.58A (16).</p> <p>Any timeously received objection from a valid objector, the substance of which must be material and worthy of consideration in reaching our decision.</p>	<p>Section 58A (16) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)</p>
Valid objector	<p>A person entitled to object under s. 58A (4)</p> <p>Generally the Commission would consider those people falling within the definition of 'crofting community' at section 61(1) of the Act; the landlord of the croft; the owner of the common grazing (where apportionments are concerned) and in decrofting applications, those people who have expressed an interest in obtaining the tenancy of the land to be valid objectors. From 1<sup>st</sup> October 2011 "any other person the Commission consider has a relevant interest in the application" also came into the category of valid objector. The Commissions policy is to only accept objections from those who are explicitly defined in the legislation.</p>	<p>Section 58A (4) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)</p>
Vexatious	<p>Comments and/or information which is deliberately provocative or offensive or made with the intention merely of causing trouble or annoyance for the applicant and/any other party to the proposed transaction.</p>	<p>Section 26A (5) of the Crofters (Scotland) Act 1993 (as amended by the Crofting Reform (Scotland) Act 2010)</p> <p>Definition from the 'Guidance Note on the consideration of Objections' by the Casework Group: December 2010</p>
Wider public interest	<p>Contributing to and supporting the Government's stated purpose of focussing services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.</p>	<p>Crofting Commission/ Scottish Government</p>

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Our Ref: 20.07.12  
Your Ref: DI/RF 1137

Date: 14 August 2012

Dear Sirs/Madams

**Shetland Islands Council  
Comments on Crofting Commission Draft Plan**

Shetland Islands Council appreciates this opportunity to comment on this important matter. In forming this preliminary response, consultation with the agricultural industry in Shetland has been carried out, but only within parameters possible given the short time allowed. We would request that as the discussion develops on any redrafting, the Commission will allow more time for detailed response to be made. This would enable better engagement with local crofters.

The Council is very worried that the detail of the Crofting Commission draft plan may actually work against the objectives of the Crofting Reform (Scotland) Act to promote population retention and the sustainability of crofting in the Crofting Counties. It is regrettable that the paper presents an ideological approach to regulation, which appears to reach back to the crofting past for its inspiration rather than consider the practice of crofting in the modern era.

The Council also harbours a concern regarding the evidence for the proposed plan. We would assert that radical change requires sound planning, based on stated sources of evidence. While the evidence may exist for the proposed plan, it is not made apparent.

In Shetland crofting continues to be a very active part of the rural community, even in our remotest places. While there has been some abandonment of parts of the common grazings in recent years, the type of crofting that has emerged here is in keeping with a vigorous progressive society. Introducing levels of regulation that you may feel to be necessary in some parts of the Highlands and Islands would be a backward step for crofting in Shetland, and indeed, on discussions we have had, in Orkney and Caithness as well, and would be detrimental to rural society. This needs to be avoided.

Given the regional nature of the issues, the Council recommends that a more regional approach is developed for solutions. This would involve introducing higher levels of regulation in those parts of the Highlands and Islands where problems of absenteeism, abandonment and misuse of crofting land appear to be highest, and more appropriate levels of regulation in the more active crofting areas. A much more flexible system of regulation is required, with full regional policies.

Such a system would also help to reduce the level of resource that is going to be required for regulation. Our view that a blanket approach to absenteeism, plus attempts to deal fully with complaints of misuse and neglect (and we should note the possibility of crofters and others using these issues as a weapon in disputes), plus an attempt to bring the Crofting commission's register up to date, while also supporting all requests from grazings committees, creates a massive workload.

Concentrating the available restricted resources of the Commission on the areas that face the greater issues would seem to be more practical way to proceed rather than adopting a system that will spread effort too thinly to be effective.

In addition to the Council's general concern with the draft plan we have a number of particular issues. These are set out below.

- The Council is extremely worried that the Crofters Commission appears to be moving in a direction to have powers above the Town and Country Planning system operated by Local Authorities, which have democratic accountability.
- Owner-occupiers are a positive element of crofting in Shetland. These individuals are better placed to develop their businesses and do make a telling contribution to crofting districts. At a time when public assistance is ever more restrictive, and bank funding is limited, selling land for rural housing enables these businesses to obtain the cash to maintain active agriculture.
- The plan does not address in any meaningful way the fundamental question of successor planning in the crofting counties. Encouraging young people to engage in crofting needs to be a central feature of the plan.
- The general approval for decrofting, without investigation, needs to remain at 0.2 ha. This is the reasonable area for a house and garden.
- It would be useful if the plan included some evidence to show that community ownership of land does stimulate rural development.
- As a Council which has actively encouraged development in our remotest places for many years, we are alarmed about the statements referring to "regulation on speculation". Decrofting land for housing developments or other forms of socio-economic development is essential for the sustainable future of these areas.

- Individualism needs to be cherished just as much as communal working. It is usually the individuals who achieve better results.
- There appears to be no adequate recognition or engagement with the fact that any activity in the Crofting Counties is a high cost activity, and that therefore any crofting activity is going to depend on a well-designed successor to the current CAP. This applies equally to local food production as well as to halting the decline in livestock.
- The likelihood of a more regular need to appeal decisions to the Scottish Land Court will have costs, both in terms of time and money, for crofters whose developments suffer additional delay and the need for legal advice.

There are positive attributes in the draft plan such as the intention to encourage better use of the common grazings but the general approach of the draft plan is flawed, is unrealistic and will delay the effective operation of the Crofting Commission for at least 5 years.

The Council looks forward to commenting more fully on a revised plan when it becomes available.

Yours sincerely

Convener  
Shetland Islands Council





**Development Committee  
Executive Committee**

**05 September 2012  
10 September 2010**

<b>Shetland Agricultural Strategy – 2012-16</b>	
DV038-F	
<b>Executive Manager</b>	<b>Economic Development</b>

## **1.0 Summary**

- 1.1 This report has been written for the Committee to consider adopting the Shetland Agricultural Strategy 2012 – 16.

## **2.0 Decision Required**

- 2.1 The Development Committee and the Executive Committee RECOMMEND that the Council resolve to adopt the Agricultural Strategy 2012/16 as part of the Council’s strategic policy framework.

## **3.0 Detail**

- 3.1 Shetland Islands Council (SIC) and the agricultural industry wishes to have a new agriculture strategy for Shetland produced that updates and builds on the previous one and takes account of the new circumstances facing the industry now and over coming years, not least of which are the new support regime and stricter limits on public agency support. With regard to public sector support, this strategy is being introduced at a time when public sector finances are being cut back dramatically, with cuts of at least 20% being envisaged. This level of cutback is unprecedented in the modern era and will impact on all aspects of public service. In these circumstances of falling public investment, it is even more important to identify what the priorities are for developing agriculture in Shetland so that any public sector resources required can be deployed for these purposes away from less strategically important areas.

The emphasis in the past has been very much on production with little focus on the market. This needs to change and market demands (consumers and retailers) have to become more central to any new

strategy. A new strategy also needs to take account of the wider rural economy and environment and become more integrated into rural development, the food chain, and environment land management policies. The role of crofters and farmers as custodians of the countryside and rural heritage needs to be taken into account as well. The industry has a wider social and community role that goes beyond the confines of the sector and has to be considered in any strategy.

3.2 Work on the preparation of the Agricultural Strategy began in early 2010 following a tendering exercise and involved a series of meetings with the agricultural community throughout Shetland, together with desk based research and discussions at the Agricultural Panel. Unfortunately the work was delayed because the preparation of the strategy got out of step with the Strategic Environmental Assessment (SEA). SEAs must be prepared, in law, for Council strategies such as this. When the agricultural strategy was underway, the sub-contractor working on the SEA could not begin his work for personal reasons. The main contractor, AB Associates, assumed that the SEA process could catch up but SEA is a staged process and the Scottish Government would not accept the final document. Rather than redo the exercise, which would have incurred significant extra cost, we eventually reached a compromise agreement with the Government to consider the strategy as a high level policy paper rather than an action plan. Following this agreement the SEA process was concluded by the end of June and the strategy can now be adopted formally.

3.3 A copy of the Agricultural Strategy has been placed in the Members Room. Members can also access the Agricultural Strategy via the following link:  
[http://devweb.shetland.gov.uk/economic\\_development/documents/SustainableShetlandAgriculture2012-2016Strategy.pdf](http://devweb.shetland.gov.uk/economic_development/documents/SustainableShetlandAgriculture2012-2016Strategy.pdf)

The vision, set out on page 39 of the Strategy, is shown below:-

***“to achieve a more viable, prosperous and sustainable industry that continues to make a vital contribution to rural development, both social and economic, to maintaining and enhancing Shetland natural environment and heritage, and to reducing Shetland’s carbon footprint.”***

Areas of priority have been defined as:

- Marketing (including Research and Development)
- Improving viability and sustainability of businesses by increasing income
- Maintaining and enhancing high quality products and health status
- Training and new entrants

And ten immediate tasks were identified:

- Lobbying case and campaign re: Support System and CAP reform (LFASS, SFP, and SRDP).
- Investigate the introduction of a loan scheme.
- Develop the local market for meat and crops.
- Introduce a bylaw to strengthen disease controls.
- Support efforts to reduce costs and introduce efficiencies, especially for finishing stock.
- Support for young people to enter the industry.
- Support for a range of short training courses, especially for new entrants.
- Investigate better collaborative control schemes.
- Support for value adding and food processing.
- Set up a separate strategy implementation group.

3.4 At this time, given the financial constraints on the Council, progressing the strategy will be considerably more restricted than was envisaged when the development work was done in 2010. Initially the strategy will help to inform the Policy Review Group and will help to identify where scarcer funds should be targeted. The lobbying work, such as the response to the Crofting Commission on this agenda, and the continuing work with the Common Agricultural Policy review is a key task for the Council. Part of the Policy Review Group's work will be to identify the best way to engage with the agricultural industry in Shetland to progress elements of the strategy, which resources permit.

3.5 The targets for the agricultural industry contained in the strategy are modest, reflecting the current trading environment and support system. Agriculture in Shetland is currently more active than in most parts of the Highlands and Islands so retaining what we have is just as important as expanding the sector. In recent years the Council has supported initiatives such as the construction of the new more efficient abattoir and the refurbishment of the Marts. Good progress continues to be made in the animal health service, which is run through the Council's Environmental Health service.

3.6 The completed Agricultural Strategy has been passed to the local industry bodies for adoption.

## 4.0 Implications

### Strategic

- 4.1 Delivery On Corporate Priorities – The Agricultural Strategy aims to achieve outcomes in the Council’s Single outcome Agreement with the Scottish Government.

Increase sustainable economic growth  
Improve productivity  
Increase economic participation  
Improve Shetland’s reputation for products and services

- 4.2 Community /Stakeholder Issues – There has been extensive consultation with the agricultural community during the preparation of the strategy. The Strategy has also been discussed at the Agricultural Panel.

- 4.3 Policy And/Or Delegated Authority – This report has been prepared in line with all three agricultural policies contained in the Council’s Economic Development Policy Statement.

8. – Shift the emphasis of the agriculture industry in Shetland to a market-led economy which is less reliant on EU and UK subsidy payments.

9. – Add value in all areas of production, but especially in meat products and wool.

10. – Support agricultural development projects that derive income from and enhance Shetland’s natural environment.

The Policy Statement was approved by the Development Committee on 24 April 2008 (Min. Ref:02/08) and by the Council on 14 May 2008 (Min Ref: 55/08).

The Development Committee has delegated authority to implement decisions within its remit, in accordance with Section 2.3.1 of the Council’s Scheme of Administration and Delegations.

A decision on the approval of the Agricultural Strategy stands referred to the Council, taking advice from the Executive Committee. Once approved, the Strategy will form part of the Council’s strategic policy framework as referred to in Section 3 (2) of the Governance procedures.

- 4.4 Risk Management – The adoption of the Strategy and the preparation of related policies should provide better co-ordination of effort in the Economic Development Service.

- 4.5 Equalities, Health And Human Rights – none.

- 4.6 Environmental – The Strategic Environmental Assessment process has been carried out and it is agreed that there will be no detrimental impacts on the environment.

#### Resources

- 4.7 Financial – There are no direct costs arising from the adoption of the Agricultural Strategy. Decisions to finance particular actions will either be taken by this Committee or under delegated authority using approved budgets. The cost of the Strategy was £23,000. The cost of the strategy was funded from within existing budget provision.
- 4.8 Legal – There are no direct legal implications from the adoption of the agricultural strategy. However the implementation of some parts of the strategy will require some legal resources in particular, the adoption of new byelaws.
- 4.9 Human Resources – none.
- 4.10 Assets And Property – none.

### **5.0 Conclusions**

- 5.1 Adopting the Agricultural Strategy 2012-16 will help to co-ordinate the future policy direction of this Committee at a time of public funding restrictions and changes in our agricultural industry.

For further information please contact:

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*22 August 2012*

#### Supporting Documents

[A Strategy for Sustainable Shetland Agriculture 2012-2016](#)

[http://devweb.shetland.gov.uk/economic\\_development/documents/SustainableShetlandAgriculture2012-2016Strategy.pdf](http://devweb.shetland.gov.uk/economic_development/documents/SustainableShetlandAgriculture2012-2016Strategy.pdf)

END





**Development Committee**

**05 September 2012**

<b>Shetland Seafood Marketing Scheme</b>	
<b>Report No. DV035-F</b>	
<b>Report Presented by Marketing Section Head</b>	<b>Economic Development Development Services Department</b>

## **1.0 Summary**

- 1.1 The purpose of this report is to present to the Committee a proposal for the introduction of a Shetland Seafood Marketing Scheme.
- 1.2 The report recommends that a scheme is put in place to support seafood marketing projects which will enable the Economic Development Service to re-engage with seafood marketing and activities in a meaningful way. The scheme would be managed and coordinated by the Economic Development Service

## **2.0 Decision Required**

- 2.1 That the Development Committee resolve to approve the proposed Shetland Seafood Marketing Scheme, outlined in Appendix 1, as a financial assistance programme delivered as part of the range of services delivered by the Council's Economic Development Service.

## **3.0 Detail**

- 3.1 The Shetland seafood industry supports almost a quarter of all jobs throughout the islands and is estimated by SeafoodShetland in 2012 to have a combined turnover value of over £300m, representing the highest value sector in Shetland's economy.

- 3.2 Shetland Islands Council, through its Marketing Development Programme, has a history of supporting marketing-related seafood development projects. Since the 1980's, support has been targeted at a wide variety of marketing-related projects undertaken by private business both individually and as part of trade association development work.
- 3.3 In 2005 an anonymous State Aid complaint was made to the European Commission that related to the legality of financial assistance which Shetland Islands Council made available to the fishing industry. The case, since closed in 2010, meant that it was necessary in 2005 to place an immediate halt on all Marketing Development Programme applications from businesses towards seafood marketing projects.
- 3.4 At this time, the Council via the Economic Development Service engaged with Shetland Fish Producers Organisation, SeafoodShetland, Shetland Aquaculture, Shetland Shellfish Management Organisation, NAFC Marine Centre and Highlands and Islands Enterprise on the Shetland Seafood Development Project. The aim of this initiative was to develop a clear strategy and action plan to realise a positive direction forward for the seafood sector.
- 3.5 This was achieved by publication of the document 'Successful and Sustainable – A Strategy for Shetland Seafood'. The approach had one overarching objective being to increase the value of Shetland Seafood. This strategy was discussed by the Development Committee on 11 June 2009 which agreed adoption of the strategy as Council Policy [Min Ref: 57/09].
- 3.6 The proposed Shetland Seafood Marketing scheme has been developed in line with this strategy and action plan. It follows consultations with the Scottish Government's State Aid and Marine Scotland Unit along with SeafoodShetland and some of SeafoodShetland's member organisations.
- 3.7 It is proposed that the scheme would commence in 2012 and run for a further 2 years subject to budget provision. This has been discussed with the Scottish Government State Aid Unit and a ceiling of £75,000 has been agreed for the scheme in total.
- 3.8 The scheme is aimed at businesses engaged or seeking to engage in adding value to seafood, including creating new products. It will seek to support needs-based projects of businesses in a growth phase and target projects which are deemed to contain an element of risk.
- 3.9 The scheme proposed is grant-based because the anticipated smaller scale of the projects being undertaken would make the cost of borrowing from the Council too expensive due to the legal expenses.

3.10 The Council's Single Outcome Agreement (SOA) with the Scottish Government specifies the following outcomes for the Economic Development Service:

- Increase sustainable economic growth
- Improve productivity
- Increase the number of businesses/start up rate
- Increase exports
- Improve Shetland's digital infrastructure
- Population growth
- Increase economic participation
- Improve Shetland's reputation for products and services

3.11 The targets for the outcomes of the scheme are below:

<b><u>Benefit/impact</u></b>	<b><u>Details</u></b>
Estimated number of projects assisted	10
Jobs created by scheme	5
Jobs maintained by scheme	20
Annual sales generated	£1,250,000
New products/services introduced	5
New markets introduced	7
Business start-ups	2
Inward investment to Shetland (direct)	£50,000
Increase in exports	£750,00
Impact on Shetland Brand	Improve quality of exports – positive impact on reputation
Remote area development	1 development
Skills development	Improve levels of marketing skills and expertise

## 4.0 Implications

### Strategic

- 4.1 Delivery On Corporate Priorities – Development of a Shetland Seafood Marketing Scheme links directly to most of the outcomes of the Council’s SOA with the Scottish Government (detailed at 3.8).
- 4.2 Community /Stakeholder Issues – Consultation on this project has been held with Highlands and Islands Enterprise, SeafoodShetland along with the Scottish Government’s State Aid Unit and Marine Scotland Unit. The scheme is directly in line with the objective of the Council’s contract for the PromoteShetland service in that it seeks to enhance the positive reputation of Shetland through good quality marketing of products and services.
- 4.3 Policy And/Or Delegated Authority – This report has been prepared under the main aim of the Council’s Economic Development Statement, which states:

“The main aim of the Council’s Economic Development Service is to improve the quality of life of Shetland residents by promoting an environment in which traditional industries can thrive and innovate alongside newer emerging industries.”

The Policy Statement was approved by the Development Committee on 24 April 2008 (Min. Ref:02/08) and by the Council on 14 May 2008 (Min Ref: 55/08).

The following policies are relevant to this report:

2 - Enhance Shetland’s reputation as a high quality producer of fish and fish products

24 - Improve Shetland’s reputation as a place that offers:

- Products of excellent quality that meet the needs and aspirations of the consumers most likely to be interested in what Shetland has to offer;
- Services provided to a standard that consistently exceeds customer expectations

25 - Enable individuals and businesses to develop and promote Shetland products and services with confidence and pride

The Development Committee has delegated authority to implement decisions within its remit, in accordance with Section 2.3.1 of the Council’s Scheme of Administration and Delegations.

As the subject of this report is covered by existing policy the Development Committee has delegated authority to make a decision.

- 4.4 Risk Management – The purpose of this report is to seek approval of a scheme which will help work towards realising the objectives of ‘Successful and Sustainable – A Strategy for Shetland Seafood’. That project represented a strong local commitment by the Council along with other stakeholders to work towards a successful future for Shetland’s Seafood industry. This proposal also links very strongly to most of the outcomes of the Council’s SOA with the Scottish Government (detailed at 3.8) and the main aim of the Council’s Economic Development Service. There is a potential risk for the Council that should this scheme not be approved, a negative message could be sent to one of Shetland’s key traditional industries.
- 4.5 Equalities, Health And Human Rights – None.
- 4.6 Environmental – All Scottish public bodies are required to assess, consult and monitor the likely impacts of their plans, programmes and strategies on the environment. This process is known as a Strategic Environmental Assessment. Should the Council approve this scheme, it will be necessary for the scheme to be screened for approval under this process.

## Resources

### 4.7 Financial

- 4.7.1 The scheme proposed would commence in 2012/13 and run for a further 2 years subject to budget provision. A budget of £15,000 would be allocated for the current financial year with an annual budget of £30,000 for 2013/14 and 2014/15. A ceiling of £75,000 (€93,884.96) has been agreed for the scheme with the Scottish Government State Aid Unit.
- 4.7.2 All costs associated with establishing the scheme for the current financial year will be met from existing revenue and support budgets. The specific budget to be used for this will be: GRD14051361. There will be a need for an element of staff time to be allocated to undertaking the associated environmental assessment.
- 4.7.3 The Council approved a Financial Framework and Reserves Policy which includes:
- a presumption against service extension, which will cost more;
  - a focus on efficiencies, especially internal efficiencies; and
  - priority to be given to the provision of statutory services.

The proposal in this report is compliant with the Council's Financial Framework and Reserves Policy as it seeks to use existing marketing budgets for better targeted use, leading to higher sales and more jobs in the fisheries sector.

- 4.8 Legal – None.
- 4.9 Human Resources – None other than those mentioned in paragraph 4.7.2.
- 4.10 Assets And Property – None.

## **5.0 Conclusions**

- 5.1 Adopting the recommendation of the report will allow the Economic Development Service to reengage in a meaningful way with marketing activity undertaken in the seafood sector. It will also help the Service target the effective use of resources towards helping to achieve the objective of 'Successful and Sustainable – A Strategy for Shetland Seafood' and many of the Council's agreed outcomes under the Single Outcome Agreement with the Scottish Government.

For further information please contact:  
*Neil Henderson, Marketing Section Head*  
01595 744 960  
[neil.henderson@sic.shetland.gov.uk](mailto:neil.henderson@sic.shetland.gov.uk)  
22 August 2012

### List of Appendices

Appendix I: Seafood Marketing Financial Assistance Scheme – Explanatory Notes and Additional Information.

END



**Shetland Islands Council  
Economic Development Service**

**Seafood Marketing Financial Assistance Scheme**

**Explanatory Notes and Additional Information**

# SEAFOOD FINANCIAL ASSISTANCE SCHEME

## GENERAL

The Scheme will operate through the provision of up to 50% grant funding to successful applicants up to a maximum of £10,000 within a 36 month period. The scheme will run from September 2012 to March 2015.

All applicants will be required to complete the Council's Corporate Application for Funding Form.

## CONDITIONS

1. The aim of the scheme is to maximise the potential value of the Shetland seafood industry in line with 'Successful and Sustainable – A Strategy for Shetland Seafood'.
2. The objectives of the scheme are to:
  - Increase sales through better targeted marketing practices;
  - Encourage good marketing practice for both domestic and overseas markets;
  - Improve the efficiency of the Shetland seafood chain by helping fish catchers, farmers, growers and processors improve their marketing effort, commercial potential and expertise.
3. All proposals considered under the scheme must show that they represent a significant marketing development and that there is a positive, beneficial impact to expected turnover, employment or efficiency.
4. The Scheme is open primarily to applications from, but not restricted to, businesses and individuals directly related to the seafood, fishing and aquaculture industries based in Shetland. Applicants may be sole traders, partnerships, limited companies, associations or groups involving collaborating producers, or involving producers collaborating with others in the seafood chain.
5. All applications must be directed towards non-capital projects which focus on either:
  - producing consumer-ready seafood products;
  - producing processed raw seafood products for further processing or packing;

6. A wide range of marketing-related projects will be eligible to be considered under the scheme. Projects to be undertaken should generally form part of an overall development or marketing plan – i.e. they are part of a range of planned development activities. A grant of up to 50% is available towards costs for the following types of projects (this list is not exhaustive due to the nature of marketing). Marketing projects and elements of these not specifically listed may be deemed to be considered eligible to be considered for financial assistance at the discretion of Council staff:

(a) Market research

- studies supporting proposals for new marketing projects;
- market research including the collection and collation of market intelligence;
- purchase/access to published market research reports;
- specific market research studies for businesses;
- appointing an agency to carry out specific market research;
- visits and meetings to investigate and discuss distribution issues;
- specific distribution studies;
- product testing e.g. for quality, strength etc;
- consumer surveys e.g. taste survey, product perceptions, design and aesthetics feedback;
- market potential for products in certain regions.

(b) Training

- Training needs surveys;
- Non-statutory training courses on marketing topics such as business planning, exhibition skills, quality management, promotional techniques, new product development, distribution strategy etc.

(c) Promotion

- Trade Fair/Exhibition attendance costs including, stand space, dressing, design, photography, copy writing and promotion within show brochure;
- Travel and transportation costs;
- Website development – only for new, first-time websites;
- Development of new, not replacement, promotional material.

(d) Market Development

- Travel costs for inward and outward investigative visits/missions based on a planned, detailed and agreed itinerary.

(e) New Product Development

- Idea Generation and screening;
- Concept Development and Testing;
- Business Analysis;
- Market Testing;
- Technical Implementation;
- Commercialisation - launch and post development promotion;
- New Product Pricing – cost/competition research;
- Product Launch costs.

(f) Other

- Rebranding Research, concepts and design/photography etc;
- First-time accreditation under seafood quality and consumer recognition schemes and 'chain of custody' development;
- New packaging design costs, photography, copyrighting
- Production costs for initial stocks of new packaging;
- Appointment of specialist public relations representation for specific promotions or initiatives;
- First-time membership for relevant approved quality and provenance recognition schemes.

- (7) Grant is paid at the rate of 50% of the actual eligible expenditure, subject to a maximum payment of £10,000 to any single applicant within a 36 month period.
- (8) For all applications under Conditions, applicants will be required to demonstrate that the project/business will be operated on a commercial basis and that it will be financially viable. Assistance will not be available to any business/project, which, in the opinion of the Economic Development Service, will jeopardise the viability of any existing business.
- (9) Seafish (the industry authority) and SeafoodShetland may be consulted where appropriate on applications submitted under the Scheme. Applicants are advised to discuss their projects with Shetland Islands Council in advance of submitting an application.
- (10) All applicants must contribute a minimum of at least 25% of the eligible costs of the project from their own resources. (This can include a bank loan).
- (11) Before any assistance is actually paid applicants must produce adequate evidence that the balance of the cost of the project has been raised, e.g. letters of offer from other agencies, and/or letter from bank.
- (12) Where appropriate, applicants must produce valid planning permission and a valid building warrant.
- (13) Grant will be paid out on actual eligible expenditure as shown by original invoices satisfactorily received.

- (14) Applicants must obtain the necessary consents, authorisations or licenses from the Council's Infrastructure Services Department or produce evidence that these are not required.
- (15) Assistance will be confined to one project per firm per Council financial year. Applicants will be eligible to apply for assistance on a further project provided that it falls within a subsequent financial year.
- (16) All successful applicants must operate their business within Shetland for a period of at least 5 years from receipt of assistance.
- (17) Any financial assistance awarded must be claimed within ONE YEAR of it being offered. If, by that date, an extension has not been requested and given, the offer of grant lapses. If grant is still sought at that time, a fresh application would be required.
- (18) All successful applicants must make draft promotional material available for inspection by Council prior to being finalised.
- (19) Applicants MUST NOT commit themselves to any expenditure on a project, which is subject to an application for financial assistance before receiving the Council's decision on the application. Any expenditure so committed will not be eligible for assistance.
- (20) All grants will be subject to the availability of finance and all assistance is discretionary.
- (21) All applicants will maintain and operate their premises, machinery and equipment in such a way as to conform, to the satisfaction of the Council, with relevant Food, Health and Safety at Work and other trading legislation.
- (22) The grantee will keep proper books of accounts and will provide the Council with the statement of accounts, reports or other explanations as may be required by the Council.
- (23) Unless otherwise agreed in writing by the Council, these conditions shall endure under this offer for a period of 5 years from the date of the last payment of the grant.
- (24) The Council reserves the right to find out the amount of arrears of debt, if any, owed to the Council by applicants for assistance granted until such time as arrears have been cleared or satisfactory arrangements have been made to clear the arrears.
- (25) Should any of the foregoing conditions be broken, Shetland Islands Council may, at its sole discretion, require repayment of all or part of any grant paid, and may also disqualify applicants from receiving any other grant and loan in terms of the Schemes operated by the Council.



**Development Committee****5 September 2012****Appointment to Shetland Fishermen's Trust**

GL-69-12-F

**Report Presented by Executive Manager –  
Governance and Law****Corporate Services Department****1.0 Summary**

- 1.1 The purpose of this report is to consider a proposal from the Shetland Fishermen's Trust that the Council appoints two persons, as observers, to attend Board meetings.

**2.0 Decision Required**

- 2.1 The Council is asked to RESOLVE to approve that
- 2.1.1 Sheila Keith, Project Manager, Economic Development Service, is nominated as an observer at Shetland Fishermen's Trust Board meetings, and that
- 2.1.2 no additional Council nomination is made at this time.

**3.0 Detail**

- 3.1 A letter from the Shetland Fishermen's Trust, attached as Appendix 2, suggests the Council can nominate two persons to attend Board meetings, as observers. It has been advised that the persons do not have to be Members or employees of the Council.
- 3.2 However, the Directors of Shetland Fishermen's Trust have asked that Sheila Keith be nominated for appointment, as an observer, at Board meetings, and that the Council could also consider making a further nomination.
- 3.3 The Chair of the Development Committee has been consulted on this matter. It was suggested that the appointment of Ms Keith was sufficient to ensure that the Council's interest in the Trust was being maintained. In this regard, it was not considered necessary to appoint

any further observers. It would be the intention that Ms Keith would report back to the Director of Development Services, and any significant matters would be relayed to Members either through a briefing note, or a formal report to the Committee, if necessary. The Director of Development Services will arrange for an officer to substitute for Ms Keith if she is unable to attend for any reason.

- 3.4 As the appointment is for observer status, there is no term of office stated. However the Council would include consideration of the nominations at the time when external appointments are made in the new Council.

## 4.0 Implications

### Strategic

- 4.1 Delivery On Corporate Priorities – The recommendation in this report is not linked directly to any of the Corporate Priorities, but will support the Council’s Improvement Plan in terms of Governance, Accountability and partnership working.

The Council was previously a significant grant funder to this organisation in the late 1980s, and we have in place processes for “following the public pound”. However, as Audit Scotland has observed, it is not always the most appropriate mechanism to follow the public pound by accepting full directorships on grant-aided bodies, not least of all because any such director would have obligations of confidentiality, etc to the grantee. This proposal, that the appointee carry only observer status, is an effective way of achieving the Council’s obligations and continuing interest in the disbursements previously made, whilst at the same time assisting in partnership working with the organisation.

- 4.2 Community /Stakeholder Issues – None.
- 4.3 Policy And/Or Delegated Authority – In accordance with section 2.3.1 of the Council’s scheme of Administration and Delegations, the Development Committee has delegated authority to implement decisions within its remit.
- 4.4 Risk Management – No strategic risks.
- 4.5 Equalities, Health And Human Rights – None.
- 4.6 Environmental – None.

### Resources

- 4.7 Financial – None.
- 4.8 Legal – None.
- 4.9 Human Resources – Attendance at meetings of the Shetland Fishermen’s Trust will form part of the Project Manager’s normal workload.

4.10 Assets And Property – None.

## **5.0 Conclusions**

5.1 This report seeks nomination for Council representation, with observer status, at Board meetings of the Shetland Fishermen's Trust.

For further information please contact:

Anne Cogle, Team Leader - Administration

01595 744554

[anne.cogle@shetland.gov.uk](mailto:anne.cogle@shetland.gov.uk)

28 August 2012

### List of Appendices

Appendix 1- Details of Council appointment to Shetland Fishermen's Trust

Appendix 2 - Letter from Secretary of the Shetland Fishermen's Trust dated 23 July 2012.

### Background documents:

[Shetland Fishermen's Trust – Articles of Association](#)

END

## SHETLAND FISHERMEN'S TRUST

### Purpose:

To strengthen and expand the catching side of the fishing industry in Shetland by the granting of loans to fishermen and those involved in the catching side of the fishing industry, and the promotion of the well being and prosperity of the fishermen of Shetland and of the catching side of the fishing industry in Shetland.

<b>Membership</b>	<b>Method of Appointment</b>	<b>Duration</b>	<b>Approved Duty</b>	<b>Recommendation</b>
Two representatives of the Council, as observers.	Appointment	Council Term	Yes	The appointment of the Project Manager, Economic Development Service, as an observer.

# The Shetland Fishermen's Trust

Secretary: Paul J W Rutherford, Solicitor, Lerwick.

St Olaf's Hall, Church Road,  
Lerwick, Shetland, ZE1 0FD.

Telephone: 01595 695583  
Fax: 01595 695310

Our ref: PR/YS

Your ref:

Date: 23/07/2012

Jan Riise Esq  
Governance & Law  
Shetland Islands Council  
Office Headquarters  
8 North Ness Business Park  
Lerwick  
ZE1 0LZ

Dear Jan

## SHETLAND FISHERMEN'S TRUST

You will recall our correspondence earlier in the year regarding the Council's decision not to retain a formal involvement with the Trust.

The new company limited by guarantee, also known as Shetland Fishermen's Trust, has now been incorporated and I enclose for your records a copy of the Articles of Association of the new company.

The Trustees agreed with regard to the new company that rather than have a "Memorandum of Understanding" as such they were happy to give the Council the right to appoint two persons as observers to attend Board meetings etc. and this right is enshrined in Article 11.5.

The Directors have the right to approve those proposed.

The persons do not of course have to be members of the Council nor do they even need to be employees of the Council.

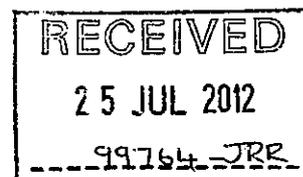
The Directors have however asked me to indicate that they would be very happy if one of these observers were to be Sheila Keith of the Development Department who has in fact attended meetings of the Trustees of the Trust in the past.

I would be grateful to know if the Council is minded to nominate Mrs Keith as an observer and whether it wishes to make any other nomination at this time.

I look forward to hearing from you in due course.

Yours sincerely

Paul J W Rutherford, Secretary





**Development Committee****05 September 2012****Financial Support For Childminders Scheme 2013-2016**

DV040-F

**Report Presented by Business Development  
Project Manager****Economic Development Service****1.0 Summary**

- 1.1 The purpose of this report is to seek a decision from the Development Committee on continued funding for the Financial Support for Childminders Scheme.

**2.0 Decision Required**

- 2.1 That the Committee resolve to approve funding of £7,500 per annum for the Financial Support for Childminders Scheme, to be administered by the Economic Development Service, for the period 01 April 2013 to 31 March 2016.

**3.0 Detail**

- 3.1 The Financial Support for Childminders Scheme is currently operated under delegated authority by the SIC Economic Development Service, in partnership with Shetland Childcare Partnership. The scheme offers a revenue support grant to local childminders with the express purpose of providing short-term sustainability to new childminding businesses while they establish their service in the local community and gain regular business. Support is also offered to existing providers experiencing a downturn in business who require support to maintain their business. The terms and conditions of grant are attached as Appendix I.
- 3.2 Since the inception of the Scheme in March 2010 five childminders have been supported under the scheme, having claimed total revenue support payments of £9,041.34. Of the five childminders supported, one is still claiming grant payments under the scheme, three have

maintained their business in the local area and one has since ceased operating as a childminder. The support has enabled new childcare provision to start up in Burra, Weisdale and Mossbank. The childminders funded under the scheme were each delivering an average of 34 hours of childminding per week at the end of the grant support period. The scheme will have a target of 3 new childminding businesses established per annum.

- 3.3 Childcare provision is a key issue for economic development in Shetland. Responding to a childcare survey carried out by SIC Schools Service in May 2011, 31.4% of parents said that lack of accessible childcare affected the amount of hours they or their partner were available to work. Of the families who responded, 13.5% stated that one partner had to stop work and 32.8% stated that they had to work reduced hours to continue in employment. Barriers to accessing work will result in reduced household spending power, and will affect the ability of families to live in remoter areas where services are less accessible.
- 3.4 Respondents who said that the lack of accessible childcare affected the amount of hours they could work were asked how many additional hours of childcare per week would be required. On average, respondents stated that an extra 10.9 hours per week would be required. This figure is higher for remoter areas, particularly the West Mainland (12.45 hours per week) and the North Isles (15.75 hours per week).
- 3.5 Those surveyed were asked what factors prevented them from accessing childcare. Of those responding, 30.9% stated 'distance/transport', 14.3% stated 'high demand' and 35.7% stated 'lack of flexibility/times available'.
- 3.6 The above results demonstrate a substantial requirement for more accessible childcare, and also demonstrate the effects on families, in terms of access to work, where there are barriers to accessible childcare. The Financial Support for Childminders Scheme provides a certain amount of financial security for new childminders starting up, and will seek to encourage the establishment of new childminding businesses in areas of high demand, thus increasing the ability of local families to access paid work.
- 3.7 The scheme is currently run by SIC Economic Development in conjunction with Shetland Childcare Partnership. Prospective applicants must be registered with the Partnership and provide the Partnership with details of how they advertise for business, names of registered parents using the service and numbers of children registered. Grant recipients must provide the Partnership with information specifying hours of operation, average hourly rate, income, numbers of enquiries for childcare services and the outcome of those enquiries. Childminders must also be registered with the Care Commission and achieve grades of at least '4' in all quality themes.

- 3.8 The scheme addresses a number of the key themes of the Childcare Strategy 2012-15:
- Accessibility: accessible, good quality childcare for all families with children aged up to 14 who need it.
  - Affordability: families to be able to afford flexible, good quality childcare that is appropriate to their needs.
  - Capacity building: to build capacity within communities and across the voluntary and private sectors.
  - Quality: good quality childcare provided across Shetland.
  - Sustainability: to increase the sustainability of childcare.
  - Workforce development: a qualified and skilled workforce across the sectors.

3.9 Information from March 2011 which informed the Childcare Strategy 2012-2015 showed that there were 27 registered childminders in Shetland, of which 12 were located in either Lerwick or Scalloway. The geographical breakdown of the remainder is as follows:

- North Mainland – 3
- North Isles – 1
- Central Mainland – 4
- West Mainland – 4
- South Mainland – 3

Of the above childminders, 3 started up their business with assistance from the Financial Support for Childminders Scheme.

## 4.0 Implications

### Strategic

4.1 Delivery On Corporate Priorities – This report addresses the following strategic priority of the Shetland Single Outcome Agreement 2011/12:

“Shetland Stronger Strategic Outcomes – Childcare  
St 3. We will sustain and, where necessary, grow the number of childcare places, to meet identified need.”

4.2 Community /Stakeholder Issues – The Shetland Childcare Partnership has been consulted with regarding the contents of this report, and the report addresses issues and themes contained in the Childcare Strategy 2012-2015.

4.3 Policy And/Or Delegated Authority – This report is brought forward under the following policy area of the Shetland Economic Development Policy Statement:

“Section E - People and Community  
27. Enable individuals to achieve their full economic potential.”

- 4.4 Risk Management – Grant recipients are required to submit evidence of hours of operation, businesses advertised for and received, enquiries submitted, income received and total number of childcare hours delivered to the Council. Grant payments are made on the basis of hours of childcare delivered and income received, and this is evidenced by submission of invoices to parents. Grant recipients are subject to a review of their business after the six monthly grant payment, and must be registered with the Care Commission, achieving a minimum grade of '4' in each quality theme.
- 4.5 Equalities, Health And Human Rights – None.
- 4.6 Environmental – None

#### Resources

- 4.7 Financial – It is proposed that an annual budget of £7,500 be established for the period 01 April 2013 to 31 March 2016, subject to annual budget estimates exercise. This amount of funding represents the optimum level of funding for the scheme to meet the aforementioned target of supporting 3 childminders pre annum, and is consistent with previous spending levels under the scheme.
- 4.8 Legal – The payment of grants subject to conditions is a contractual arrangement and this will have legal resources implications in the event of any problems arising.
- 4.9 Human Resources – None.
- 4.10 Assets And Property – None.

## **5.0 Conclusions**

- 5.1 Surveys carried out by the Council suggest a significant demand for more accessible childcare, and demonstrate the effects on households of a lack of childcare. The Financial Support for Childminders Scheme will encourage the development of childcare businesses by providing financial support for the initial start-up while contacts and regular business are built up.

For further information please contact:

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*thomas.coutts@sic.shetland.gov.uk*

*22 August 2012*

#### List of Appendices

Financial Support for Childminders Scheme 2013-2016 – Explanatory Notes and Additional Information

END



# Shetland Islands Council Economic Development Unit

## Supplement for

### Financial Support for Childminders Scheme 2013-2016

### Explanatory Notes and Additional Information

Overview of Project –

Applicant Name .....

Project Summary .....

**Please complete all sections of the Council's Application for Funding - Corporate Form with reference to this Supplement, the Guidelines and the Help Notes.**



## **Financial Support for Childminders Scheme 2013-2016**

### **Objectives**

The purpose of the scheme is to provide support through the SIC Economic Development Service (EDS) for childminders who have committed to support working parents but for reasons outwith their control are temporarily unable to generate sufficient income to sustain their service. The objective of this support is to grow the capacity and number of childminders operating in Shetland, thus benefiting the local community and the Shetland economy.

### **Justification**

This scheme will offer support to childcare providers in order to:

- Sustain direct employment in local childcare provision;
- Sustain indirect economic benefits by allowing parents to access employment opportunities;
- Sustain local communities by allowing families to remain domiciled in local areas while able to access employment and childcare;
- Benefit the Shetland economy by allowing those who seek employment to access opportunities.

### **Assistance**

The table below details the proposed income figures which the scheme will aim to provide:

Top-Up Grants by Service Hours Offered

<b>A) Number of hours per week:</b>	<b>B) Top-up grant available to bring weekly income to:</b>	<b>C) Equivalent hourly income if minimum hours worked:</b>
1 to 25	£86	£5.73
25 to 35	£145	£5.80
35 and over	£205	£5.85

If a childminder is currently earning more than the proposed targets figures in columns B and C they will not be eligible for grant assistance.

Assistance will be offered through two key measures:

#### **Measure 1 – Year One Top-Up Assistance**

The purpose of this measure is to give childminders the means to attract customers and establish a stable income from childminding activities. Assistance such as this is intended to mitigate against business ‘downtime’ as local parents establish an essential confidence with the service and determine that their needs can be supported.

The support will be available to all new childminders in Shetland and will be provided in addition to start-up support and grants for new equipment adaptations which are already provided by the Shetland Islands Council.

Assistance will be offered as financial 'top-up' funding in addition to earned income. Support will be offered on the basis of demonstrable need, and this will be determined by the number of hours of service which a childminder is offering to parents per week.

### Measure 2 – Top-Up Assistance for Established Providers

The purpose of this strand is to enable established childcare providers to continue operating when a prolonged period of insufficient demand might otherwise lead to cessation of trading.

Grant assistance under Measure 2 will follow a similar route to Measure 1, in that a top-up grant will be provided, the rate of which will be dependent on weekly hours of childcare provided by the childminder. Assistance will be available for a continuous period of up to 12 months, although EDS will have discretion to extend the period of support based on exceptional circumstances.

Support under this measure will not be available to childminders operating in the Lerwick and Scalloway areas. Again, EDS has discretion to extend support to a provider in these areas depending on exceptional circumstances.

The level of grant assistance available is the same for established childminders as new start-ups, and will follow the same rates as detailed in the table above.

### Conditions

- 1 Grant assistance is available under this scheme to assist childminders who are providing childcare services for 1 family or more per week, 48 weeks a year. Offers of assistance under Measure 2 will only be made following an assessment of circumstances carried out by Shetland Childcare Partnership.
- 2 Childminders must demonstrate that they are willing and able to increase the number of children cared for by their service (Measure 1 only).
- 3 Childminders must offer their services at current local market rates.
- 4 Childminders must be registered with the Care Commission.
- 5 Childminders must be currently providing formally arranged childcare services for a minimum of one child.
- 6 Applicants for assistance under Measure 2 must be operating outside Lerwick and Scalloway, unless at the discretion of the Director of Development Services, or his nominee.
- 7 Grant recipients must complete a weekly form specifying hours of operation, average hourly rate, income, number of enquiries for childcare services and outcomes from each enquiry.
- 8 Grant recipients must achieve a grading of at least '4' in two of the four quality themes inspected by the Care Commission. A grade of '3' or less in any single theme will lead to a review after which assistance may be withdrawn.
- 9 Grant recipients must notify the Council when new business is secured which raises their weekly income from childminding activity above the minimum threshold for assistance.

- 10 Grant recipients will be subject to a review of their business after the sixth monthly grant payment under the scheme. If, at this stage, grant payments represent 50% or more of the childminder's income per month, the appropriateness of continued funding will be reviewed, and assistance may be withdrawn at this stage.
- 11 Grant recipients must keep proper books of accounts and must be prepared to submit these to the Economic Development Service within 9 months of the end of their financial year. Applicants under Measure 2 should submit accounts for their most recent financial year and specify income earned to date in their current financial year.
- 12 Childminders must complete, where possible, a minimum of six hours Continuous Professional Development per annum, in addition to statutory training.
- 13 All grants are awarded on a discretionary basis and subject to the availability of finance.
- 14 Any change in the circumstances of the childminder which could lead to a change in the number of hours available should be notified immediately.
- 15 Applicants will keep all buildings, equipment and other assets, which are the subject of or which relate to the grant offered, fully insured against loss and damage by fire, storm, theft, impact and such other risks as are appropriate, and vehicles shall be comprehensively insured; and you will exhibit the policies and receipts for the premiums to the Council on request.
- 16 The Council reserves the right to ascertain the amount of arrears of debt, if any, owed to the Council by applicants for assistance and to withhold payment of any assistance until such time as the arrears have been cleared or satisfactory arrangements have been made to clear such arrears.
- 17 Failure to observe any of the conditions of the Scheme may involve repayment of the grant and may disqualify the applicant from future assistance from this grant or other grant and loan schemes run by the Council.

## **Delivery**

The scheme will be operated by SIC Economic Development Service. The role of Economic Development staff will be:

- Initiate business review process and identify suitable support based on measures available under the scheme
- Provide funding for support mechanisms
- Administer the Business Gateway support function
- Process applications for funding and subsequent claims, ensuring monitoring and audit guidelines are observed at all times
- Undertake monitoring and evaluation of the scheme and individual projects.

## **Contact**

The first point-of-contact for the scheme is as listed below:

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Economic Development Service  
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## Development Committee

5 September 2012

<b>Renewable Energy Development – Community Benefit Policy</b>	
DV042-F	
<b>Executive Manager – Economic Development</b>	<b>Economic Development</b>

### 1.0 Summary

1.1 This report has been prepared to allow the Committee to have an initial discussion on the broad contents of a Community Benefit Policy associated with Renewable Energy developments in Shetland. If the Committee is in agreement with the direction being taken, more work will be done on the detail prior to full approval by the Council and the Shetland Partnership, being the Community Planning Partnership for the Shetland Islands Council area.

### 2.0 Decision Required

2.1 The Committee is being asked to resolve to accept the broad terms of a Community Benefit Policy for Shetland and to call for more work to be done on the detail.

### 3.0 Detail

3.1 It has become the practice in other parts of Scotland for Councils to adopt Community Benefit Policies for encouraging renewable energy developers to contribute funds towards community projects. Highland Council's policy can be accessed, via the link at the end of this report, to see what a completed Community Benefit Policy looks like. While these policies cannot be legally binding, they can be used to encourage developers to consider wider benefits. The philosophy behind community benefit provision is a goodwill gesture made by developers of renewable energy projects who recognise that their developments may have intrusive impacts on the community. These agreements can be sizeable depending on the scale of the developments concerned. For example Viking Energy has expressed a willingness to pay £5,000 per megawatt of installed generation capacity, which may work out to be around £2,000,000 a year.

- 3.2 It is not the prime purpose of Councils to adopt Community Benefit Policies for the direct benefit of the Councils themselves. The purpose in developing such policies is to enable structured negotiations to take place between Councils and prospective renewable energy developers for the benefit of community projects. There are two stages in these policies, being a process of negotiation leading to an agreement and then the implementation part. It is important that prospective developers understand that any agreement for community benefits, particularly on a transfer of funds, are used in a structured way, involving a policy adopted at the highest level of authority in Shetland. There is also a need to ensure that any funds disbursed under a Community Benefit Policy are disbursed in a way that benefits the communities that are experiencing the most impacts from developments.
- 3.3 The prospect of community benefits from renewable development in Shetland has been a topic of discussion for some time. Discussion at Community Council level has led to the formation of Shetland Community Benefit Fund Limited (SCBFL), which is a registered Cooperative with Financial Services Authority approval. The members of SCBFL are drawn from Community Council areas (but not from actual Community Councils). It should be noted that discussions have taken place between SCBFL and Viking Energy on this subject.
- 3.4 The scope for a Community Benefit Policy for Commercial Renewable Energy Projects in Shetland is set out in appendix one. The main features are the roles of the Shetland Partnership and Shetland Community Benefit Fund Limited. It is intended that the initial negotiations with prospective developers will be carried out by representatives of the Shetland Partnership. It is also intended that the main recipient of funds transferred from developers will be SCBFL. What is proposed is a flexible policy, which allows for different types of agreement to take place when, for example, a developer in a particular locality wants to benefit a project in that locality. The policy can be applied to all forms of commercial renewable developments.
- 3.5 In comparison to Highland Council's Community Benefit Policy, the policy being proposed is simpler. The difference in approach reflects Shetland's small size compared to Highland Council's area and the fact that Shetland will see relatively fewer projects than Highland Council have in their area or expect to have.
- 3.6 The Shetland Partnership is favoured as the body responsible for the Community Benefit Policy because it is one step away from the Council. This should help to avoid any conflicts caused by the Council's work as planning authority and also as a potential investor in future projects. There may be times when Council staff need to help the Shetland Partnership with negotiations and agreement and the detail of this approach needs to be worked out.
- 3.7 The draft policy has been prepared by the Executive Manager of Economic Development in consultation with the Executive Manager of Community Planning and Development.

## 4.0 Implications

### Strategic

- 4.1 Delivery On Corporate Priorities – Having a Community Benefit Policy in Place should help to fulfil many elements of the Single Outcome agreement relating to community related development.
- 4.2 Community /Stakeholder Issues – Discussions on the Community Benefit Policy have taken place with Mr Bobby Hunter of SCBFL. The early indication is that SCBFL is in agreement with the proposed direction.
- 4.3 Policy And/Or Delegated Authority – This report has been prepared on the basis of the following policies contained in the Council's Economic Development Policy Statement:

26 – Support community enterprises engaged in economic activities.

27 – Enable individuals to achieve their full economic potential

The Policy Statement was approved by the Development Committee on 24 April 2008 (Min. Ref:02/08) and by the Council on 14 May 2008 (Min Ref: 55/08).

The Development Committee has delegated authority to implement decisions within its remit, in accordance with Section 2.3.1 of the Council's Scheme of Administration and Delegations.

As the subject of this report is covered by existing policy the Development Committee has delegated authority to make a decision

- 4.4 Risk Management – There are no direct risks to the Council. The main risk is that prospective developers will not negotiate terms of a Community Benefit agreement because there is no structured process in Shetland.
- 4.5 Equalities, Health And Human Rights – SCBFL will be asked to introduce a policy on equality to help ensure transparency in this matter. There are unlikely to be health and human rights implications from the implementation of this policy.
- 4.6 Environmental – A screening exercise for a Strategic Environmental Assessment (SEA) will be undertaken, when the detailed policy is prepared.

### Resources

- 4.7 Financial - Any costs associated with this work will be covered by existing budgets. A fully operational Community Benefit Policy may actually relieve pressure on some Council budgets aimed at community development projects. Cost implications will become clearer when the detailed policy is prepared.

- 4.8 Legal – Any legal implications will become clearer when the detailed policy is prepared.
- 4.9 Human Resources – Work on the project will be done using existing staff.
- 4.10 Assets And Property – none.

## **5.0 Conclusions**

- 5.1 Renewable energy development in Shetland is still at a very early stage in comparison to other parts of the country. The experience from other areas of Scotland suggests that having a structured Community Benefit Policy in place is very helpful in encouraging support for community projects. The first stage in this process is to get an agreement on the broad approach before significant detailed work is done.

For further information please contact:

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22 August 2012*

### List of Appendices

Appendix 1 – Scope of a Community Benefit Policy for Shetland

Appendix 2 – Funds Allocation Process – Shetland Community Benefit Fund Limited

### Background documents:

[Highland Council Community Benefit Policy](#)

END

**Shetland Islands Council  
Scope of a Community Benefit Policy for Commercial Renewable Energy  
Projects**

**General**

The main aim of the policy is to achieve funding for the Shetland community, at all levels, to benefit from the commercial development of renewable energy projects in Shetland.

**Principles**

To achieve a balance between intrusive developments and the economic and social needs of communities throughout Shetland.

To adjust the benefits so that the communities that are affected most by renewable energy development are favoured by the awarding of funds.

To emphasise support for projects that have longer-term legacy benefits rather than projects that are short term in nature.

To ensure that the Community Benefit Policy ties in with policies implemented by the Shetland Partnership

**Approach**

Representatives of the Shetland Partnership will negotiate with prospective renewable energy developers to achieve community benefits.

The community benefit should be set at a minimum of £5,000 per established mega watt or an equivalent figure for smaller projects.

The negotiations will result in a charter (for an agreed fixed period) being drawn up between developers and the Shetland Partnership

Shetland Community Benefit Fund Limited will be the main recipient for funds and will disburse according to guidelines agreed with the Shetland Partnership.

The negotiations with developers may result in specific beneficiaries being identified. For example, a small-scale developer in a particular part of Shetland may be keen to support a community venture in that area.

### **Types of Community Benefit**

The negotiations with developers may cover a number of potential community benefits including:

- Contribution to a community benefit fund
- Possible community part ownership of the project
- In kind benefits such as support for local infrastructure and services (For example a developer may have to improve access roads)
- Job creation, apprenticeships

### **Definition of Commercial Projects**

Any renewable energy project, which has a main aim to earn money from supplying the electricity grid with power.

Projects that have a principal aim to provide electricity for the developer are not covered by the community benefit policy. This includes domestic or business supply and projects such as wind-to-heat in community facilities.

Experimental and technology proving projects are not included (note that such projects may have to negotiate a disturbance levy when, for example, fishing is restricted due to wave or tidal power schemes)

**Policy for the allocation of funds to Community Councils  
for disturbance payment and annual income  
Shetland Community Benefit Fund Ltd  
Adopted Monday 7th May 2012**

**Background**

This policy concerns any sum of money allocated by the Board directly to community councils from an initial disturbance payment from the developers and any sum of money, decided annually by the Board, allocated directly to community councils from annual community benefit payments.

It has been prepared using the proposed Viking Energy windfarm but will be applied to any other commercial renewable energy development in the islands.

It is recognised that using community council boundaries for the distribution of the above funds could result in apparent anomalies or unfairness, but the Board wanted as simple and straightforward a scheme as possible.

1. It was agreed that this policy would be reconsidered in a couple of years time should the Viking Energy development get underway.
2. It was agreed that the areas most affected by Viking Energy (or any other development) should get a bigger share of community council allocations from the disturbance and annual income to the co-operative.
3. It was agreed that it is important all parts of Shetland should benefit and get a share of the co-op's income.
4. The Board would decide on the sum to be allocated directly to community councils from the disturbance payment and the Board would decide annual on the sum to be allocated directly to community councils from the annual community benefit payments.
5. This sum may vary each year depending on the wider commitments or aspirations of the Board.
6. The funds allocated to community councils under this scheme will be held and managed centrally by the co-op and only paid out to recipients on the formal request of the relevant community council. Any monies allocated to a community council but remaining unspent at the end of that financial year will be ring-fenced and remain at the disposal of the community council in future years.
7. After the allocation to community councils, the larger core income from the disturbance payments and annual receipts would be held by the board for any expenditure it saw fit according to the aims and policies of

the co-operative. These could be large Shetland-wide projects, or small local initiatives.

8. For each commercial renewable energy development, allocations to community councils from disturbance and annual income will be based on a weighted zonal system. Community councils which have any part of any development within its boundary will be in Zone 1. All other community councils will be in Zone 2. Community councils in Zone 1 will receive a higher share of the monies allocated to community councils. All other community councils will receive the same payment.
9. The Board will decide which community councils go into which zone for each community benefit scheme.
10. The allocation of funds from either the disturbance or annual payments to community councils, whether in Zone 1 or 2, will not be weighted according to population. (It is expected that there will be proportionally more applications to the Board for assistance from its main core funds from the larger centres of population, simply because of the greater number of people living in these community council areas. This is likely to offset some of the effects of not weighting payments according to population.)
11. For the disturbance payments, community councils in Zone 1 will each get four shares of the allocation agreed by the board. Community councils in Zone 2 will each get one share.
12. For the annual payments, community councils in Zone 1 will each get two shares of the allocation agreed by the board. Community councils in Zone 2 will each get one share.

**Development Committee****5 September 2012****Delegated Scheme for Loans to Purchase Whitefish Quota and/or Fishing Vessel Licences**

Report Number: DV037-F

**Report Presented by Project Manager****Economic Development  
Development Services****1.0 Summary**

- 1.1 The purpose of this report is to seek approval for the continuation of the Whitefish Quota and/or Fishing Vessel Licence Loan Scheme until the end of the financial year 2012/13.

**2.0 Decision Required**

- 2.1 That the Development Committee resolve to:
- 2.1.1 Approve the Whitefish Quota and/or Fishing Vessel Licence Loan Scheme, attached as Appendix 1, as a delegated scheme.
- 2.1.2 Delegate authority to the Executive Manager – Economic Development, or his nominee, to administer the Scheme.

**3.0 Detail**

- 3.1 The Whitefish Quota and/or Fishing Vessel Licence Loan Scheme was established in 2006 by the Shetland Development Trust. In 2010 the Development Committee agreed to adopt the Scheme and delegate authority for its administration to the Head of Economic Development. In June 2011 a review was presented to the Development Committee and the recommendation to continue the Scheme in 2011/12 was approved [Min Ref: 38/11]. This report seeks to renew the scheme until the end of the financial year 2012/13. Process is currently underway to review all economic development policies and priorities. Following this process all delegated authority schemes and support measures, including this scheme, will be reviewed.
- 3.2 Delegated authority to operate the scheme allows applications to be processed quickly. This is important given that applicants will be bidding for licences and quota and need to have finance secured in advance.

- 3.3 The objective of providing finance to purchase Fishing Quota is to increase the amount of fish that can be landed by local fishing vessels. Every extra ton of quota which each vessel has attached to their licence is an extra ton of fish that can be landed on the market. Increased landings will lead to extra income for each vessel and improve the value of the individual businesses.

Over the last few years it has become increasingly difficult to source additional quota by either leasing, or swapping, for species that the boats do not catch. Therefore it has become more important for each boat to secure their own quota in order to maintain the same fishing opportunities and strengthen business performance.

- 3.4 The objective of providing finance to purchase Fishing Vessel Licences is to build up the days at sea allocated to fishing businesses in Shetland so that they can land more fish, improve profitability and be more resilient to changing economic circumstances. Ownership of an additional licence and days at sea will strengthen the viability of the local whitefish fleet.

In addition to strengthening the individual fishing businesses, there are other ancillary businesses that benefit from increased landings in Shetland i.e. the buyers, haulers, gear suppliers, ice suppliers and transport companies. Having extra fish on the market also helps maintain the image of the Shetland fishing industry as a place where European buyers should come to when they want to source high quality, fresh fish.

- 3.5 The Economic Development Service has recently received 4 applications for loan to purchase quota and these applications will be processed if and when the Scheme is renewed. Brief details are included in appendix 2, which has been marked as exempt due to the commercial sensitivity of the information.

## 4.0 Implications

### Strategic

- 4.1 Delivery On Corporate Priorities – The operation of the Scheme helps meet the following outcomes in the Council's Single Outcome Agreement with the Scottish Government.

Increase sustainable economic growth  
Increased exports  
Improve Shetland's reputation for products and services

- 4.2 Community /Stakeholder Issues – The Scheme has the support of the Shetland Fish Producers' Organisation.

- 4.3 Policy And/Or Delegated Authority – This report has been prepared with regard to the pledges contained in the Council’s Economic Development Policy Statement. The Policy Statement was approved by the Development Committee on 24 April 2008 [Min Ref: 02/08] and by the Council on 14 May 2008 [Min Ref: 55/08].

In particular, Policy 1 is relevant:

Policy 1: “To rebuild confidence in the fish catching industry, particularly as regards the whitefish sector.

The Development Committee has delegated authority to implement decisions within its remit, in accordance with Section 2.3.1 of the Council’s Scheme of Administration and Delegations.

As the subject of this report is covered by existing policy the Development Committee has delegated authority to make a decision.

- 4.4 Risk Management – This scheme has operated to help the Council achieve specific objectives for the fish catching sector. Removal of this support measure would reduce the Council’s ability to support the development of the fishing sector of the economy.

Delegated Authority has allowed applications to be acted upon quickly to secure quota/licence purchase. Opportunities to acquire quota and licences will be missed if delegated authority is not granted.

- 4.5 Equalities, Health And Human Rights – None.

- 4.6 Environmental – None.

#### Resources

- 4.7 Financial – The scheme will be funded from the Development Loans code ZZZ 9999 9220, which has a budget of £3,000,000 in 2012/13. Applications will be approved, subject to budget availability.

The interest rate applied to whitefish quota and/or fishing vessel licence loans will be in line with the Interest Rate Policy which was approved by the Development Committee on 21 August 2008 [Min. Ref: 30/08] and ratified by Council on 10 September 2008 [Min. Ref: 113/08]. Each application will be assessed and an appropriate interest rate applied, in line with the aforementioned policy.

Approvals will be subject to a full financial assessment concluding that the applicant can service the term loan.

- 4.8 Legal – The Scheme requires security for each investment by way of an assignation of the quota units/licence to be purchased, i.e. it is held outwith any existing Floating Charge, or security arrangements in place.

4.9 Human Resources – None.

4.10 Assets And Property – None.

## 5.0 Conclusions

5.1 The Whitefish Quota and/or Fishing Vessel Licence Loan Scheme involves the consideration of loans to fishing business engaged in whitefish for the purchase of whitefish quota and/or fishing vessel licences. It aims to improve the value of these businesses and make them more resilient to the short-term fluctuations in catches and price that prevail in the industry. Beyond the impact on individual businesses, the scheme seeks to achieve economic development policies that will strengthen the fishing industry and related ancillary activities in Shetland.

For further information please contact:

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Date: 22 August 2012

### List of Appendices

1. Whitefish Quota and/or Fishing Vessel Licence Loan Scheme.
2. Details of 4 quota loan applications received.

### Background documents:

1. Shetland Economic Development Policy Statement 24 April 2008, [DV012](#), 2007 – 2011, Decision: [Minute Reference 02/08](#)
2. Report approving [Shetland Islands Council Deed of Conditions for Lending](#)
3. Report approving [Interest Rate Policy for Economic Development Commercial Investments](#)

END

**Shetland Islands Council  
Economic Development Unit**

**Whitefish Quota and/or Fishing Vessel Licence Loan Scheme**

**Guidelines for Applicants**

**General**

This scheme involves the consideration of loans to fishing business engaged in whitefish for the purchase of whitefish quota and/or fishing vessel licences. It aims to improve the value of these businesses and make them more resilient to the short-term fluctuations in catches and price that prevail in the industry. Beyond the impact on individual businesses, the scheme seeks to achieve economic development policies that will strengthen the fishing industry and related ancillary activities in Shetland.

**Definition**

In the context of this scheme, a “business” means a fishing partnership or fishing company that exists to fish for whitefish and is based in Shetland. The scheme is also open to the Shetland Fish Producers’ Organisation (SFPO).

**The Measure**

Based on fully commercial objectives, the scheme will consider applications for loans of up to 75% of the cost of whitefish quota, under a ceiling level of £250,000 per application. It is essential that the remaining 25% funding must be derived directly from the business and/or its shareholders.

**Eligibility**

Applications for loans are invited from businesses with whitefish vessels registered and operating from Shetland, that can comply with all of the conditions of this scheme, or from the SFPO.

**Security**

The Council will secure lending against the quota and/or licence. The quota and/or licence, once purchased will be ring fenced and held outside any existing securities involving secured creditors owed by the business. This will be done by the use of an Assignment and/or Deed of Release whereby any secured creditor must agree to the Council holding full security over the quota for the period of the loan. Once the loan is repaid in full the quota will fall under any existing Floating Charges and increase the value of assets of the company and security for any existing secured creditor.

## **Delegated Authority**

Executive Manager – Economic Development has delegated authority from Shetland Islands Council to approve loans to businesses under the conditions of the Scheme.

## **Assessment**

Loans will only be made to partnerships/companies that can demonstrate viability through the production of acceptable projections and historic data on the leasing of quota and/or days at sea. Loans will only be approved where the partnership/company can demonstrate a direct benefit to a named fishing vessel to which the quota and or licence will be attached. The quota must be held with the SFPO pool.

## **Repayment Options**

Each loan will be repaid to the Council over a maximum period of 10 years but usually 5 years for the purchase of quota only. Shorter term loans will be offered where the partnership/company can demonstrate its ability to meet loan repayments.

***The borrower will make monthly interest and capital repayments during the period of the loan.***

## **How to Apply**

In order to be considered for loan funding, businesses are required to submit development proposals for assessment using the Council's Economic Development Application Form for Financial Assistance.

In addition applicants will be required to submit the following details:

- Financial projections for a period of at least 3 years – including profit and loss accounts, balance sheets and cashflows.
- Existing businesses will also be asked to supply their accounts for the previous 3 years.
- Agreement in principle that other lenders are happy for quota/licence to be secured by an Assignment outwith existing security arrangements i.e. Floating Charge.
- Evidence that the applicant is a member of the SFPO or the vessel to benefit from the project is a member of the SFPO.
- Legal advisers details.
- Copy of the partnership agreement/business's incorporation certificate.
- Breakdown of quota or licence to be purchased.

## Conditions

All loans approved will be consistent with Council policy and all conditions in the Deed of Conditions, where appropriate, will apply to each case. In addition the following guidelines have been identified as necessary for a loan release:

- Applicant must provide evidence that all other secured creditors have given approval for the Council to hold full security over the quota and/or licence to be purchased outwith any existing Floating Charge or any other security arrangement.
- Agreement in writing that, should the applicant wish to sell the quota and/or licence during the period of the loan, they must seek prior authorisation from the Council.
- The quota and/or licence must be purchased through a local fishing agent.
- Applicants must provide satisfactory written evidence that the quota will be held within the Shetland Fish Producers Organisation (SFPO).
- Applicants must provide evidence of the minimum 25% of the quota cost from existing business funds or from funds being introduced into the business by the applicants.

## Interest Rate

The interest rate applied to whitefish quota and/or fishing vessel licence loans will be in line with the Interest Rate Policy which was approved by the Development Committee on 21 August 2008 [Min. Ref: 30/08] and ratified by Council on 10 September 2008 [Min. Ref: 113/08]. Each application will be assessed and an appropriate interest rate applied, in line with the aforementioned policy.

## Contact Details

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[Ref:DV037/WMG/16.08.12]