

# **MINUTES**

**Shetland Islands Council  
Room 6, 8 North Ness, Lerwick  
Wednesday 22 April 2020 at 10am**

## **B - PUBLIC**

### **Present:**

M Bell

### **Present via remote link**

D Anderson	
P Campbell	A Cooper
S Coutts	A Duncan
S Flaws	J Fraser
A Hawick	C Hughson
S Leask	M Lyall
A Manson	E Macdonald
R McGregor	A Priest
D Sandison	I Scott
C Smith	G Smith
T Smith	R Thomson

### **Apologies:**

None

### **In Attendance (Officers):**

M Sandison, Chief Executive  
C Ferguson, Director of Corporate Services  
N Grant, Director of Development Services  
D Bell, Executive Manager – Human Resources  
J Manson, Executive Manager – Finance Services  
J Riise, Executive Manager – Governance and Law  
J Lewis, Principal, Shetland College  
A Cogle, Team Leader – Administration  
P Wishart, Solicitor  
C Anderson, Senior Communications Officer  
L Malcolmson, Committee Officer

### **Chairperson**

Mr Bell, Convener of the Council, presided.

Mr Bell welcomed everyone to this first virtual meeting of the Council, and set out his rules as to how the meeting would proceed. The Convener also indicated that whilst the public were excluded from this meeting, he had given consent for members of the press to be present in another room within 8 North Ness to view the proceedings via remote link.

### **Circular**

The circular calling the meeting was held as read.

### **Declarations of Interest**

Mrs Macdonald declared an interest in item 2 “College Merger – Ministerial Merger Business Case (MMBC)” and advised that she would leave the meeting after item 1.

Mr Sandison declared an interest in items 2, “College Merger – Ministerial Merger Business Case (MMBC)”, and 3, “Transitional Funding – College Merger”, as a Trustee of the NAFC Marine Centre and advised that he would leave the meeting during consideration of these items.

27/20 **COVID-19 – Update Report**

The Council considered a report by the Executive Manager – Governance and Law (GL-10-20-F) that provide information regarding decision-making arrangements undertaken by the Chief Executive and Directors, during the current Coronavirus pandemic.

The Executive Manager – Governance and Law introduced the report and explained the changes made to the operation of the Emergency Planning Forum. He said that Public Health would normally lead the emergency response however due to the overwhelming situation Public Health faced it was agreed that the Chief Inspector of Police Scotland in Lerwick would Chair the forum meetings.

The Executive Manager - Governance and Law also explained the structures in place to ensure information is fed up to management in order for instructions to flow down. He explained the structures in place to ensure Members continue to be informed by the Chief Executive as matters arise and on any decision required.

The Executive Manager – Governance and Law went on highlight the recovery phase of the incident and how that would be progressed through the change programme and that it would be the subject of a future report.

The Executive Manager – Governance and Law referred to the measures in place to ensure Community Councils continue to make decisions when required. In drawing attention to the Appendix he sought Members comments on the template to be used and how that would aid scrutiny of the decisions taken going forward. He advised on the involvement of the Chief Internal Auditor and assured Members that a comprehensive report would be presented to a future meeting of the Audit Committee.

Mr Cooper declared a non-pecuniary interest as Chair of Delting Community Council and advised that he would remain but not take part in the discussion regarding Community Councils. The Executive Manager – Governance and Law advised that because the interest stated was non-financial and the decision required was in regard to technical matters the Council would be better served by Members participation on operational matters and would not preclude Mr Cooper from participating.

The Convener advised Members that the template attached was for illustration purposes only. In responding to a suggestion for Red, Amber, Green ranking of priority, the Executive Manager – Governance and Law explained why that system would not be appropriate but that he would give it consideration. A further question was asked in regard to External Audit’s review of the Council’s procedures during this time. The Executive Manager – Governance and Law explained that the Council would receive the final accounts and in taking their lead from the Chief Internal Auditor the External Auditors would provide an opinion of their own on how the Council managed over this period, and hopefully they would be in a position to give Members the assurance they are looking for.

During debate the Leader said that he was happy with the recommendations and said that no one expected to be in the current position. He commented on the extent of the change required, indicated by the Appendix and the timely decisions to be made. The Leader said that he was confident that decisions were being taken with the community in mind and that scrutiny would come later. He said that Management's commitment to Members and the wider community had been good and noted that the Council activities had changed. He paid tribute to all staff at this time and noted that this would be an extended emergency that needed the continued and collective efforts of everyone.

Mr Coutts moved that the Council approve the recommendations contained in the report. Mr Thomson seconded.

The Convener offered each Member the opportunity to contribute to debate on a ward by ward basis, during which Members expressed their appreciation at being kept well informed through good communication. It was noted that the Appendix provided an indication of the work staff had undertaken to put actions in place and reassurance was taken that a good level of scrutiny was being sought. The Convener added his thanks to the Chief Executive, all staff and Members and his appreciation for the efforts made to keep Members fully informed during this situation.

---

#### **Decision:**

The Council **RESOLVED** to:

- 1.1. Note the cancellation of all meetings of the Council and its Committees from 23 March 2020 until the date of this meeting.
- 1.2 To delegate authority to the Executive Manager – Governance and Law, in consultation with the Chief Executive, Convener, Leader and Committee Chairs to resume the calling of, or approve the cancellation of, any scheduled meetings thereafter, or to call any special meetings during this period if necessary.
- 1.3 Note the temporary revocation of Section 10 and supplement Sections 6 and 7 of Shetland Community Council Constitutions, so that unanimous or majority decisions of Community Councils can be determined via email or by other remote means, e.g. telephone conference, in the event that meetings of the Community Council are unable to be held as a result of the continuing COVID-19 outbreak. Detailed guidance will be provided to Community Councils with regard to protocols, recording decisions and reporting; and
- 1.4 The Council **AGREED**, that the template set out in Appendix 1 will be used for reporting ongoing decisions undertaken by the Chief Executive and Directors in line with the Council's constitution – Scheme of Administration and Delegations - for the purposes of future reporting of such decisions as required.
- 1.5 **NOTED** that all of the above temporary arrangements will be kept under review, taking cognisance of national guidance and direction, and may, by reporting to the Council, be extended or revoked at the appropriate time.

*(Mrs Macdonald and Mr Sandison left the meeting)*

**College Merger – Ministerial Merger Business Case (MMBC)**

The Council considered a report by the Director of Corporate Services (CRP-10-20-F) that presented the College Merger – Ministerial Merger Business Case (MMBC) for approval.

The Director of Corporate Services introduced the main terms of the report and summarised the process undertaken, explained the current situation and highlighted the next steps. She advised that Professor Jane Lewis would provide some detail on the MMBC. The Director of Corporate Services said that the revised timeline included a period of formal consultation before the MMBC is presented to the Scottish Ministers for approval. She added that the final draft of the MMBC had been endorsed and recommended by the Shadow Board and that the next stage of the process could not progress until the two funding bodies had approved the MMBC. The Director of Corporate Services also drew attention to the additional information provided, in advance of the meeting, in response to question raised at Monday's meetings of the Employees JCC and College Lecturer's JCC.

(Ms A Hawick attended the meeting)

Prof. Lewis said that it was a privilege to come to Shetland to work with others in securing the future of tertiary education. She advised that the MMBC proposes a new college that includes all elements of provision on the Islands, working together using the skills of staff and students to move forward. She said that working sustainably and being resilient was important and this was evident in the current circumstances. Prof. Lewis referred to the chart on page 24 of the MMBC and she advised that all elements of provision had been grouped together in the new sections and these were linked to economic activities, having been amended through discussion with staff.

Prof. Lewis said that the new College would be part of the UHI and offer students a network across the UHI, for both young and old and support them to undertake education. She explained that consideration was given to the learner journey from school, or low knowledge base, to graduate and PhD in all areas. She said this was underpinned by strong engagement with industry for the delivery of apprenticeships.

Prof. Lewis said that this had been a long process but everyone had coalesced around the proposal and she was excited by what it offers for the future.

The Convener sought questions from Members on a ward by ward basis.

In responding to a question, on the accuracy of financial figures, Prof. Lewis advised that the finances were reworked between January-March and predicted on up to date figures to that point. She said that the figures were based on a start date for September by agreement with the SFC as a convenient start date. She said the figures were the most up to date before the current situation with COVID-19.

In terms of future funding from the SFC and how standards can be kept when the merger is borne of assumptions and forecasts, Prof. Lewis advised that the finances had been done to the best of everyone's ability. She said that the future would be challenging and the College would be active in seeking funding across all areas to secure its future in Shetland. She advised that funding challenges were a situation that was not unique to Shetland and that the MMBC set out what was both

reasonable and achievable and the UHI and SFC agreed that the model was both of those things.

Further assurances were sought on the accuracy of the figures provided particularly given the global impact on the economy as a result of the coronavirus. The Director of Corporate Services advised that with any projection over a 5 year period figures would be reviewed and monitored going forward. She advised that COVID-19 was unprecedented and all organisations are looking at the implications from that across Scotland and the UK and the government has to continue to fund public sector services. She said that it was important move forward with the MMBC as this was the best way to guarantee sustainability for the future and that partnership working had been good and was at the heart of the process. The Executive Manager – Finance agreed and stated that 5 year forecasts do have more uncertainty but the new College would review the figures on an ongoing basis. Prof. Lewis said that there would be a challenge for all Universities and Colleges in the new reality following COVID-19. She said that the finances set out were as robust as they could be. She said that there was a need to develop an agile and able college to respond to such incidents and this is what the MMBC set out to do. She cautioned however that there is no certainty and the position would continue to be challenging.

During further questions clarity was sought on the status of the new College, if the recommendations are approved, in terms of funding. The Director of Corporate Services referred to the full analysis provided by Anderson Strathern and provided a lay person summary of how an incorporated college would differ from a non-incorporated college in terms of funding and governance. She advised that there were a lot of restrictions on incorporated colleges and having considered Anderson Strathern's advice the Shadow Board had settled on the non-incorporated model as set out in page 76 of the MMBC. The Director of Corporate Services responded to a supplementary question and advised that she did not have the exact detail on the number of incorporated or non-incorporated colleges but it was a mixed picture across Scotland with the lower number being non-incorporated. She said that there were various accounts of difficulty in public sector colleges that are struggling at the moment and she went on to explain the issues in regard to governance, scrutiny and controls. The Director of Corporate Services stressed however that the final decision on the status of the new college rested with the Scottish Government and that had been made clear to Officers by the SFC.

Prof. Lewis advised Members that the decision to recommend the non-incorporated college had been made before she became involved but she had reviewed everything again and was happy that this had been looked into in great detail. She explained that as she understood the situation, the incorporated model was used and was appropriate for further education but the non-incorporated model was more applicable for a university situation. She said that as the new college would be doing work in both areas so the non-incorporated option was better for the broad activity the college would seek to provide. Prof. Lewis said that this would not reduce scrutiny as the new college would be subject to a variety of quality controls and this would be very thorough. She said that the new college would follow the code of good governance for colleges therefore it would be no different from Colleges across Scotland in that sense. The Chair of the College Board provided an example of where an arms-length organisation was used to attract funds but any funds received had to be requested and may not be given, therefore he supported the non-incorporated college option.

Assurance was also provided in regard to staff terms and conditions which Members were advised, were protected under the terms of the TUPE transfer. The Director of Corporate Services advised that after a period of time the expectation was that there would be harmonisation of terms and conditions but Prof. Lewis had provided the same assurances at the JCC meetings and this was covered in the MMBC. She said that harmonisation would be up the way, so some staff would benefit from that. Prof. Lewis added that the new College would be expected to follow national bargaining in bringing terms and conditions for lecturing staff to comparability.

Prof. Lewis responded to a question on the new College's ability to diversify its offering and explained that there would be regular reviews of the College's curriculum working with partners, where there is a relevant request it would be considered for delivery to support development across Shetland. She said it was important to focus on need and to anticipate need.

During debate the Convener invited comment from the Chair of the College Board (Mr Campbell). Mr Campbell thanked the Director of Corporate Services and Prof. Lewis for their presentation of the MMBC and the many other staff involved including the Chief Executive, Finance Services and Legal Services. He said that the report would not be possible without contributions from the NAFC Trustees, Shetland College and Train Shetland working together for Shetland. He said that a conclusion may still be some time away due to COVID-19. Mr Campbell said that the MMBC had required a great deal of diligence and time had been taken to bring it forward to this point. He said that it provided the opportunity to move forward with one united new entity responsible for tertiary education in Shetland. Mr Campbell moved that the Council approve the recommendations in paragraph 1.1a)-f).

The Chair of Education and Families Committee (Mr G Smith) said that the amount of work put into the MMBC could not be underestimated and he too extended his appreciation to the staff and partners involved. Mr G Smith said that the MMBC was of vital importance and sets out clearly a single, stronger approach with a vision of education at the heart. He said that the MMBC was suitable and critical to the successful delivery of strategic plans nationally and locally. He commented on the recommendation of the Shadow Board for a non-incorporated college but understood that EIS had a strong view that it should be an incorporated college. He said that there would be a further period of consultation but the final decision on that matter rested with the Scottish Government. Mr G Smith said that there was no doubt that the projections would change and it was incumbent on the UHI and SFC to review and revise. Mr G Smith seconded Mr Campbell's motion.

The Convener invited Member's comments on a ward by ward basis. There followed comments of appreciation towards all parties involved and for a speedy conclusion by the funding bodies and the Scottish Government.

The Convener allowed a further request for clarity on the formation of a new college board and how that differed between an incorporated and a non-incorporated college system. The Chair of the College Board provided a clear explanation of how the process of appointments to a new college board would be undertaken, and he pointed out that the membership of an incorporated college board would include the addition of a regional strategic body representative. He said that person would be from outwith Shetland and have influence in the decisions required locally.

Comment was made that the Coronavirus proved that any situation can change the way we work quickly, and it was important to learn from this situation and rebuild

Shetland with an effective College in place that will underpin the economic revival needed when that time comes. An acknowledgement was made that the Council would be scrutinised as the MMBC moves forward.

The Convener added his appreciation to everyone involved and thanked Members for attending the meeting for this important matter.

---

**Decision:**

The Council RESOLVED to:

- a) CONSIDER and NOTE the content of the final draft Ministerial Merger Business Case (MMBC) attached at Appendix 1;
- b) CONSIDER the information with regard to Estates and Assets in Appendix 3 and APPROVE the recommendations in Appendix 3 including that the lease for the buildings that will be made available to the new entity comprising the Shetland College buildings and the NAFC Marine Centre should be a lessee full repair and maintenance lease at a cost of £39k per annum; that the Textile Facilitation Unit (TFU) is transferred to the new entity for a capital investment cost of £100k and that the MMBC is revised accordingly;
- c) AGREE and ENDORSE the proposal to merge;
- d) DELEGATE authority to the Chief Executive (or her nominee) to liaise with, negotiate, or otherwise engage with the other parties to the merger and with any regulatory, parliamentary, statutory or other bodies and generally to take any action and take any decision necessary to achieve the merger, as per the timeline to merger, including input into Scottish Government led consultation, prior to submission of the merger proposal for approval by the Minister;
- e) APPROVE governance arrangements and responsibilities of the new merged entity and NOTE that if Ministers approve the merger, responsibility for the subsequent academic development and financial accountability and sustainability of the merged institution will lie with a single governing body, namely the new college;
- f) AGREE that the original delegation of authority granted to the Shetland College Board on 29 June 2016 [Min. Ref. SIC 53/16] to support potential further stages of the Project remains in place until such time as the merger completes on the Vesting date.

**In order to avoid the disclosure of exempt information, Mr Bell moved, Mr Thomson seconded, and the Council RESOLVED to exclude the public in terms of the relevant legislation during consideration of the following item of business.**

*(Prof. Lewis, Councillor Anderson, and the Press left the meeting).*

**29/20     Transitional Funding – College Merger**

The Council considered a report by the Director of Corporate Services that presented information in regard to the Transition Funding for the College Merger process.

The Director of Corporate Services introduced the report and officers responded to Members questions.

Mr Coutts moved that the Council approve the recommendations contained in the report. Mr Leask seconded.

During discussion Mr Campbell moved an amendment to the recommendations. Ms Hawick seconded.

Following summing up and a roll call vote, the motion to approve the recommendation contained in the report was the decision of the Council.

---

**Decision:**

The Council approved the recommendations contained in the report.

The Convener thanked the Team Leader – Administration for facilitating the remote meeting.

The meeting concluded at 12.50pm.

.....  
Chair



