



## **Shetland Islands Council**

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### **REPORT**

**To: Infrastructure Committee**

**14 October 2003**

**From: Safety Manager, Safety and Risk  
Legal & Administration  
Executive Services**

**LA-059-F**

#### **Road Safety Advisory Panel – Reconstitution**

##### **1. Introduction and Background**

- 1.1 In 1999 the Resources Committee approved the re-establishment of a Road Safety Advisory Panel (Resources Min Ref 43/99 and SIC Min Ref 229/99).
- 1.2 Following the setting up of the new Council, it is necessary to reconstitute the panel along broadly similar lines as before, whilst recognising the revised Council structure.
- 1.3 A separate panel to discuss Road Safety matters is needed to enable the specialist constituent members to be represented. Representation should be extended to ensure officer links with current plans and strategies such as the Community Safety Strategy, the Health and Community Care Plan and to take account of the engineering aspects of Road Safety.
- 1.4 Using existing partnership arrangements with Police and NHS Shetland, the panel would add value by increasing the emphasis on educating children and communities, and constructing the building blocks for greater awareness and responsibility in adult life. Under the last Council, a great deal of work has been actively pursued and list of current and future initiatives can be found in Appendix 2 of this report.
- 1.5 The Road Safety Co-ordinator is responsible for developing, reviewing and reporting on the Road Safety Plan. Co-ordination of the Road Safety Advisory

Panel and interaction with the different agencies who have an interest in Road Safety is also a key task. These agencies include Northern Constabulary, Shetland Health Board, Shetland Childcare Partnership and the Scottish Road Safety Campaign.

## **2. History**

- 2.1 The Road Safety Panel was set up in 1996, and since that time has provided the necessary consultation and partnership working opportunities to facilitate a number of initiatives.
- 2.2 Responsibility for Road Safety matters lies with the Safety and Risk Services, whilst engineering matters are the responsibility of Roads. The Panel assists in identifying improvements to the built environment and exists as a means to ensure key participants pull together in terms of their priorities.
- 2.3 It has become customary for the Road Safety Panel to be a basis of input into the development of the Road Safety Plan prior to being submitted to Council. The Plan very much dictates implementation but also serves as a useful tool to monitor progress and instruct priorities.

## **3. Proposals**

- 3.1 It is proposed that the Road Safety Advisory Panel be reconstituted with the following members;

Vice Chairperson Infrastructure Forum – to act as Chairperson of the Advisory Panel

Spokesperson for Transport

Spokesperson for Education, Children and Young People

Spokesperson for Public Health

Spokesperson for Environment

- 3.2 It is proposed that the Road Safety Advisory Panel be reconstituted for the purpose of consultation with interested external parties, and co-ordinating efforts within the Council to improve Road Safety. Terms of Reference are set out in Appendix 1.

## **4. Financial Implications**

- 4.1 The panel proposed is advisory only, without any budget or budgetary authority.

- 4.2 The costs relating to running the panel will include reimbursement of legitimate expenses by Council Members of the Panel as an approved duty (Resources Min Ref 43/99 and SIC Min Ref 229/99).
- 4.3 Funding for initiatives shall be met from within existing budgetary limits and/or sourced through external routes such as the Scottish Executive.
- 4.4 The Panel will advise on prioritisation of the Quality of Life funding and recent additional funding allocations (see appendix 2) received from the Scottish Executive for Road Safety initiatives. This will provide further injections and a different perspective on the listed initiatives, ensuring that prioritisation is consistent.

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

- 5.1 The Infrastructure Committee has delegated authority for the functional areas of roads and transportation, and has authority to determine the role, remit and membership of Advisory Panels. (Resources Min Ref 43/99 and SIC Min Ref 229/99).
- 5.2 The Chairman of Panel will be consulted by the Road Safety Co-ordinator and the Executive Directors of Infrastructure Services and Community Services, for their respective interests on matters of priorities, meeting targets and deliverables.

## **6. Recommendations**

- 6.1 I recommend that the Infrastructure Committee approved the establishment, membership and terms of reference of the Road Safety Advisory Panel as detailed in Appendix 1.

Report no: LA-59-F

7 October 2003

Our Ref: SP/LAG



## APPENDIX 1

### Road Safety Advisory Panel – Reconstitution

#### 1 Scope of the Advisory Panel

- 1.1 The Panel will be established for the purpose of consultation with interested external parties and co-ordinating efforts within the Council to improve road safety.
- 1.2 The panel will examine all alternatives and suggestions put to it regarding road safety and advise on preferred options. This will include prioritisation of initiatives and appreciation of links to other plans and strategies such as the Community Safety Strategy, the Health and Community Care plan, etc.

#### 2 Membership of the Advisory Panel

- 2.1 The Panel will be chaired by the Vice Chairperson of the Infrastructure Committee, and will report to the Infrastructure Committee. Chairman of the Committee will be an ex officio member.
- 2.2 The following Spokespersons shall be appointed to the Panel:
  - a) Transport
  - b) Education, Children and Young People
  - c) Planning
  - d) Public Health
  - e) Environment
- 2.3 A representative of each of the following services be appointed to the Panel:
  - a) Safety & Risk
  - b) Community Safety
  - c) Roads
  - d) Education
- 2.4 The following organisations should each be invited to provide a representative:
  - a) Northern Constabulary
  - b) NHS Shetland
  - c) Shetland Childcare Partnership
  - d) Any organisation or group representing any category of road user.
- 2.5 In line with other advisory panels, representatives of other bodies or groups may be consulted or asked to attend meetings of the Panel.

3 Remit of the Advisory Panel

- 3.1 The panel will meet as required to monitor Road Safety in Shetland. If considered necessary, the panel will recommend updates or amendments to the Road Safety Plan.
- 3.2 The panel will give advice as to proposed revisions to the Road Safety Plan, and will make recommendations to the Infrastructure Committee.

## **Road Safety Provision – Roles, Remits and Initiatives.**

### **Shetland Islands Council**

The Road Safety Co-ordinator is responsible for developing, reviewing and reporting on the Road Safety Plan. Co-ordination of the Road Safety Advisory Panel and interaction with Community Safety, Education and Roads Services and with external agencies who have an interest in Road Safety is also a key task. These agencies include Northern Constabulary, Shetland Health Board, Scottish Road Safety Campaign, and Shetland Childcare Partnership. The initiatives and timescales in place at the moment are listed below.

#### **Operation Limit**

A partnership working group set up to promote Road Safety and reduce casualties in line with the Governments Casualty Reduction Targets for 2010. It is an umbrella group for various Road Safety campaigns.

Current – Drink Driving campaign	– ongoing
Pass Plus	- ongoing
Car Seat Fitting Training	- ongoing
Skid Car	- ongoing
Seatbelt Resource	- ongoing

**Children's Traffic Club Scotland** – This involves distribution of a series of booklets that raise awareness for children aged 3-5 and is sent directly to Child's home. The Road Safety Officer gives presentations as required, and through the Childcare partnership, a drive to increase the take-up rate in playgroups/nurseries is going well having succeeded in achieving an increase from 43% in July to 63% in August.

**Junior Road Safety Officers** – Encourages Children involved to learn about the importance of Road Safety in a fun way. Every school is encouraged to appoint 2 junior Road Safety Officers from P6/7 for a one year period. The aim of the scheme is to empower children to highlight Road Safety issues within their school.

**Cycle Training** – Practical on-road cycle training for children aged 10 upwards complemented by classroom based activities available to all schools. Twenty-six schools took part last year with some schools taking part annually with others taking part every second/third year.

**Street Sense** – A new approach to teaching Road Safety aligned with the Health Education 5-14 national guidelines. It includes a series of 5 packs spread over 9 years with the aim of ensuring that all children receive a minimum amount of Road Safety Education at School

**S1/S2 and S3-S6** Presentations to be offered for Road Safety issues in conjunction with Northern Constabulary. A variety of options are offered in order that each school

can choose the most relevant for their area. Options include a resource to promote the wearing of seatbelts and are demonstrated through the use of the Dim Family.

**The Dims** – A resource to promote the wearing of seat belts involving a mock up car carrying a family of dummies known as the Dims family. The car travels down a track and at the point of stopping the Dims without their seatbelts will hit the windscreen. The same demonstration is then carried out with seatbelts fixed in order to demonstrate the significant difference to the passengers on impact.

**Theatre in Education** – Discussion is underway with the Drama Advisor with a view to promoting Road Safety through staging a play entitled The 9 Lives of Roddy Hogg.

**Young Drivers** – A variety of programmes are in existence including: Pass Plus, which is a practical driving course comprising 6 different modules and is subsidised the Council; First Gear, which is a pre-training programme designed to provide a comprehensive introduction to vehicles and their use; On 2 Wheels, which is a similar programme for motorbikes users.

**Under 10 Cycle Training** – This is new initiative aimed at the under 10's who are currently too young to undertake the Cycle Proficiency programme.

**Safer Routes to Schools** – This initiative involves a variety of options that aim to ensure that the routes taken to school are safe, for example Walking Buses are escorted groups of children in orderly lines walking to school together. Walking buses are in place in Mossbank and Ollaberry with Bell's Brae planning to set up their own Walking bus by Easter 2004.

**Kerbcraft** – This is a Child pedestrian training scheme aimed at P1-3 that will be rolled out to schools at the beginning of 2004 and includes practical advice on where, when and how to cross the road safely.

**School Crossing Patrol Training** – This training is for the School Crossing Patrol Service and provides advice on best practice in escorting children across the road.

**Road Safety Presentations** A range of ad hoc presentations available on request at community events.

**Child Safety Week (yearly)** – A range of Road Safety presentations and events. This year the theme has been conspicuity and seat belt awareness. Presentations are delivered in schools in conjunction with Shetland Child Care Partnership.

**Scottish Road Safety Campaign** – Providers of the majority of the Road Safety materials and initiatives delivered to schools and community groups. A variety of the materials provided by the SRSC can be used in an interesting way in schools/nurseries for example gym cards which encourage road safety based activities concentrating on stopping, moving, etc. and Travel Pack which are a free resource including a Road Safety tape, highway code, etc.

**Intelligent Road Sign** – Operating 2 intelligent road signs. Offered Community Councils and other organisations who have Road Safety concerns and are deploying the sign as requested. Has been on loan to Sullom Voe Oil Terminal, and Northern Constabulary for the Unst Track Event. Schools in particular have requested the sign to track and evaluate vehicle speeds.

**Campaigns coming up** – Winter Safety Campaign 8/12/03 – 06/01/2004  
Road Safety Week 22/9/03-26/09/03  
WHO Safe Roads 7/4/2004

## **Road Safety Provision The Background**

The Department for the Environment Transport and the Regions published a “Road Safety Good Practice Guide” in 2000 (DETR, 2000).

This was to support Government national targets on reducing road accident casualties. “Tomorrows Roads – Safer for Everyone “ (DETR 2000) gives specific targets for reduction in casualties by 2010. Using the average figures for 1994-1998 the new targets seek

- A 40% reduction in the number of people killed or seriously injured
- A 50% reduction in the number of children killed or seriously injured and
- A 10% reduction in the slight casualty rate expressed as the number of people slightly injured per 100 million vehicle kilometres.

The function of local government is to support and achieve these targets. Legislation such as seat belt fitting (1967) and wearing (1983), drink driving legislation (1967) and traffic calming schemes (1980s onwards) have been a vital tool in re-education the public about the importance of road safety. Future legislation aimed at increasing road safety such as a ban on hand held mobile phone use would come into force in December this year.

Local Authorities are under a statutory duty to provide a Road Safety service. This service includes education training and publicity (ETP) programmes and, where appropriate undertaking specific engineering schemes, with enhancing Road Safety as a theme. Most commonly Road Safety Officers (RSOs) take responsibility for the ETP programme and Road Safety Engineers (RSEs) plan, design and install the safety engineering schemes.

The LAA Road Safety Code of Good Practice (LAA 1996) recommends one full-time RSO per 50 000 population and one full-time RSE per 1 000 personal injury accidents.

Many organisations and individuals have a responsibility for Road Safety. This includes individual road users (motorists, pedestrians, motorcyclists, pedal cyclists and equestrians, special needs) and those in local and national government

(Scottish Executive, government agencies, local authorities the police, health education, public transport, commercial companies, charities and special interest groups).

### **The Role of the Road Safety Officer**

In general terms, Road Safety Officers are involved in education, training and publicity (ETP) and encouragement programmes. These approaches help to change road users attitudes and behaviour. Programmes should be aimed at children, young people, new drivers, older drivers and any and all who use roads, pavements and transport systems. Road Safety education in schools can be planned to complement other topics in the National Curriculum. Training programmes are mostly targeted at specific types of road user or age group. They are designed to develop practical road use skills for example cycling and walking. ETP programmes often involve a combination of the above approaches and may involve RSOs working together with other outside bodies such as community councils, police and health board.

### **Monitoring and Evaluation**

Every fatality is regrettable and clearly casualty reduction figures are important but in an area with a small population it is often difficult to demonstrate any significant reduction in statistics without skewing the figures to a point whereby they provide little useful information. This may well be the case in terms of the government's targets for 2010.

### **The role of the School Travel Plan Co-ordinator**

The Scottish School Travel Advisory Report was published by the Executive on 18<sup>th</sup> February 2003. The conclusions recommend that a modal shift on the school journey in Scotland and increased non-car based school travel should be encouraged and funded by the Scottish Executive.

Funding is available from July 2003 and Shetland Islands Council has been allocated £11 300 in 2003/2004 and £15 000 in each of the following two years.

Although the precise duties are for each Local Authority to decide, a general synopsis would be as follows:

- Working with schools, parents, school board members, RSO to put a travel plan in place for all schools
- Promote best practice in individual schools, building on links already made by RSO
- Promote the health and environmental benefits of active school travel choices, in conjunction with active primary school co-ordinators
- Co-ordination of school travel work across all relevant local authority departments

In addition, the supporting of Scottish Road Safety Campaign initiatives such as Kerbcraft (teaching children to cross safely), Junior Road Safety Officers (to support travel choices) and Scottish Road Safety Campaign Cycle Training Scheme (to promote safe cycling to school).

The School travel plan co-ordinator will work closely with the Road Safety Officer. The work of the co-ordinator will impact across local authority Departmental remits. Which management area should have lead responsibility is a matter for each authority to decide although a routine contact with the Executive is anticipated.

### **Additional Funding**

Two additional financial allocations have recently been awarded to Shetland and grant offer letters are shortly to be issue in this respect. The funding comprises:

Cash for Paths and Cycling - Shetland is to receive £74,000 over two years to help develop and introduce a variety of projects for cyclists and pedestrians, including:

- Cycle lanes and pedestrian footpaths
- Installation of pedestrian and cyclists' crossings
- Traffic-free entrances to schools and the provision of secure cycle storage and locker facilities at schools and elsewhere

20mph Speed Limits for schools and related projects – The allocation to Shetland is spread over 3 years and totals £205,000 and is aimed at helping Local Authorities to introduce 20 mph speed limits as part of the drive to meet Government targets to halve the number of children killed and seriously injured on roads by the year 2010.

It will be for each Local Authority to determine its priorities for action and to work with the Police and the Scottish Executive on how best to implement 20 mph limits at schools roads with existing speed limits 40 mph or more.





# Shetland Islands Council

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## REPORT

**To: Infrastructure Committee**

**14 October 2003**

**From: Waste Services Manager  
Environmental Services  
Infrastructure Services Department**

### LANDFILL TAX - REQUESTS FOR FUNDING

#### **1 Introduction**

- 1.1 The purpose of this report is to provide information on an application for Landfill Tax funding and to seek a decision of the Committee on the approval of the application.

#### **2 Background**

The Council's funding criteria for application from Trusts is as follows:

- 2.1 The application must be from an environmental body registered with ENTRUST (mandatory).
- 2.2 The project/work for which funding is being sought, must have received the approval of ENTRUST (mandatory)
- 2.3 All projects/work must be Shetland based (Council discretion)
- 2.4 Projects must have a positive overall impact which should include evidence of the projects impact on the Shetland environment (Council discretion)
- 2.5 The projects/works aims and outputs must be consistent with the policy decisions and planned strategies of the Council (Council discretion)

#### **3 Applications**

The department has received 1 application for funding and this is as follows.

- 3.1 Shetland Amenity Trust (Enrolment No 261039003)

- Remediation of Illegal fly tip at Sandlodge

3.2 Details of this project is contained in Appendix 1. This work is approved by ENTRUST under the scheme and the work is all Shetland based.

3.3 The Project will have a positive impact on the Shetland environment and is consistent with the policy decisions and planned strategies of the Council in protecting and enhancing our environment.

#### 4 Projects

4.1 Shetland Amenity Trust

Clearance closure and landscape of illegal fly-tip at Sandlodge, Sandwick

To clear the large historic dump and provide access with a coastal walk.

#### 5 Financial Implications

5.1 Landfill Tax for the period October 2002 – October 2003 estimated to be £200,000. The Council must contribute 10% of any funds allocated in order to reclaim the Landfill Tax and can only pay a maximum of 6.5% of the total Landfill tax for the year.

5.2 The maximum permitted payment to approved projects for tax paid to date is therefore £13000 and the above project can be part met from this. I would propose that the remainder be funded from the following year tax allowance October 2003- October 2004.

5.3

	Request	Council Contribution	Landfill Tax Reclaimed
Sandwick	20210	2021	18189
Total	20210	2021	18189

5.4 The funding requested is in excess of the budget available for contributions under the landfill tax scheme 2002-2003 and therefore it is proposed to pay £13000 from this tax year and £7210 from next tax year in order to allow this project to progress. The grant conditions to apply to the funding are given in appendix 2. No other contributions have been made in the 2002 –2003 tax year or commitments for the 2003-2004 tax year.

5.5 The Council's 10% contribution will be taken from the GRY83021220 budget. Recovery of Landfill Tax from waste retrieved from the landfill will not exceed the amount of contributions.

#### 6 Policy and Delegated Authority

- 6.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit (Min Refs SIC 19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

## **7 Conclusion**

- 7.1 The applications meet the Council funding criteria.
- 7.2 Council contribution of £2021 from existing budgets will enable £20210 of Landfill Tax to be returned to Shetland for environmentally beneficial projects.

## **8 Recommendation**

- 8.1 I recommend that the Infrastructure Committee approve the provision of funding of the project listed in Section 3 subject to the grant conditions given in Appendix 2.

**Report Number : ES-25-03-F**

File Ref: AD34



## **SHETLAND AMENITY TRUST**

# **Remediation of illegal fly tips in redundant quarries**

### **ENTRUST Project – Application for Landfill Tax Contributions**

#### **Clearance, closure and landscape of illegal fly-tip at Sandlodge, Sandwick**

##### **Background**

Shetland Amenity Trust was approached recently to lead a project which would close, clear and landscape a large historic dump on the banks behind Sandlodge, Sandwick. The dump is now historic and is not active.

The Trust was approached by a wide consortium of community groups/agencies to lead this project and is now in a position to apply for funding through Shetland Islands Council Landfill Tax Credits.

##### **Project**

- To clear, close (to further dumping) and to landscape this large historic dump
- To ensure future public access to this area as it forms part of a coastal walk from Leebitton to Sandwick (without clearance of the dump, the walkway can not go ahead). This walkway will include interpretation (provided by SIC Access Officer)

This project has the full support of Sandwick Community Council, RSPB, Shetland Islands Council, SEPA, Shetland Amenity Trust and the landowner concerned.

The work will be undertaken by a specialist waste management sub-contractor as it is unsure what materials will be uncovered (controlled waste for example). This site also presents logistical challenges as its location is isolated by past mine workings and Listed Buildings. A watching brief will be kept by SEPA and Shetland Islands Council officers. All Project Management issues will be undertaken by Shetland Amenity Trust.

##### **Cost (inc. VAT)**

Sub contractors costs – closure, clearance, landscape and disposal of waste £20,210.00

All Project Management costs “in-kind” by Shetland Amenity Trust

ENTRUST Admin Fee @ 2%

£404.20

**TOTAL**

**£20,614.20**

Total funds applied for - £17,614.20

### Additional Information

This scheme will bring large benefits to this particular area as it will close, clear and landscape a large and problematic historic dump. The area will then be integrated into a public walkway.

The scheme has wide spread support from all sections of the local community, SEPA and various SIC officials.

This project fits ENTRUST'S approved objectives criteria for Remediation of Illegal Fly Tips and also accords with the project approved by ENTRUST (ref:261039.001).

**LANDFILL TAX - FUNDING APPLICATION**

**Grant Conditions**

The grant is offered for the purpose of funding the [Project] as approved by the Infrastructure Committee on [Date and Minute Reference] and is subject to the following grant conditions:

- (a) That the grant is accounted for within 4 months of the end of the funding period by an Income and Expenditure Statement and Balance Sheet showing how the grant was applied and what surplus remains (if any). The funding period should be 1 year from the date of acceptance of the grant.
- (b) Shetland Islands Council may, at its sole discretion, recover any monies not spent for the purpose of the grant at the end of the funding period unless further approval for the use of the grant has been sought and given in advance.
- (c) That the grantee undertakes to spend the grant, and any interest earned thereon, solely in the interest of Shetland and its inhabitants for the grant purpose specified and to demonstrate to the satisfaction of Shetland Islands Council that the grant has been so applied.
- (d) That the grantee makes every effort to obtain external financing which might further reduce the sums presently sought from the Council or increase the overall value of the project(s)
- (e) That the grantee accounts for the application of the grant in quarterly Income and Expenditure Statements.
- (f) That the grantee reports progress of achievement towards the project's aims and objectives in quarterly progress reports in a format to be determined by the Director of Infrastructure Services.
- (g) That the grant offer letter is accepted and returned within 6 weeks of the offer date.
- (h) That in the event of the foregoing conditions being breached the grant may be repayable in whole or in part at the discretion of the Shetland Islands Council.





## **Shetland Islands Council**

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### **REPORT**

**To: Infrastructure Committee**

**14 October 2003**

**From: Service Manager – Environmental Health  
Environmental Services  
Infrastructure Services Department**

#### **PRIVATE SLAUGHTER OF LIVESTOCK: ENFORCEMENT STRATEGY**

##### **1. Introduction**

**1.1 The purpose of this report is for Members to consider, an appropriate Enforcement Strategy in relation to the private slaughter of livestock in response to guidance issued from the Food Standards Agency,**

**1.2 On 26 March 2003 the Resources Committee (Min Ref 35/03) deferred consideration of this Enforcement Strategy until representation had been made with the Food Standards Agency.**

##### **2. Background**

- 2.1 Controls over the slaughter of livestock for human consumption have been a fundamental public health protection measure for some considerable time. All animals entering a licensed slaughterhouse undergo ante-mortem inspection and every carcase is subjected to rigorous inspection.
- 2.2 This inspection regime, along with controls over the slaughter process and the licensing of premises and slaughter personnel ensures that any meat entering the food chain is fit for human consumption.

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2.3 Currently, the principal legislative provisions are contained in the Fresh Meat (Hygiene and Inspection) Regulations 1995 (as amended), primarily enforced by the Meat Hygiene Service although local food authorities have some enforcement responsibilities notably in relation to slaughter of animals otherwise than in a licensed slaughterhouse.

2.4 In recent years the UK has necessarily extended these controls in response to the BSE 'crisis' and risks of other transmissible spongiform encephalopathies (TSE's).

- The most recent legislative development in this area is the introduction of the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2002 which implement EC Regulation 999/2001 and replace controls previously contained in the Specified Risk Material Regulations 1997.
- The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2002 came into force on 19 June 2002 and guidance to local food authorities finalised and issued by the Food Standards Agency in January 2003.
- The regulations and associated guidance have potentially significant implications for local food authorities and for communities where 'private' slaughter is commonly practiced.
- Following the Resources Committee decision (Min Ref 35/03) to defer consideration of the Enforcement Strategy, in relation to the private slaughter of livestock, the Council's Agricultural Development Officer wrote to the Food Standards Agency requesting that a derogation to the TSE (Scotland) Regulations 2002 be put in place to allow private kills to continue in Shetland.
- The Food Standards Agency invited representatives of the Council, along with representatives from other local authorities in the Highlands and Islands and the Scottish Crofting Foundation to a meeting in Inverness on 17 September 2003 to discuss the issue of Private Kill.
- The Council's Agricultural Officer, Eddie Nicol, and Cllr Drew Ratter attended the meeting. The Food Standards Agency outlined the legislation and highlighted that the on farm slaughter of TSE susceptible species (cattle, sheep and goats) is now illegal. In the following discussion the case for a derogation for on farm slaughter by the crofter or farmer for his/her own or his/her immediate family's consumption was put forward. The emphasis was put on: the crofter's right to consume his/her own produce; a traditional practice that is a way of life and the economic and social impact that this legislation will have on fragile rural communities in crofting areas; and the location and future viability of licensed slaughter facilities in the Highlands and Islands.
- The Food Standards Agency made it clear, although they understood the arguments put forward in support of a derogation, that the Food

Standards Agency would not seek to gain a derogation on Private Kill for the Highlands and Islands from the European Commission.

- It was put forward by the Food Standards Agency that the only way to pursue a derogation was to develop a Pan – European lobby in an effort to change the EU TSE Regulations to allow the private slaughter of livestock to continue in areas like the Highlands and Islands of Scotland.

### **3. Information**

3.1 The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2002 are extensive, comprising some 102 regulations with 9 accompanying schedules. For the purposes of this report the focus is on Part IV of the Regulations which relates to controls over specified risk material or SRM.

3.2 Specifically, these controls extend to the removal, collection or disposal of specified risk material; licensing of premises for the removal of certain types of specified risk material and for collection or disposal of specified risk material; the use of specified risk material for human consumption; mechanically recovered meat and laceration of central nervous tissue (pithing); feeding of specified risk material to animals; transport and storage of specified risk material; cleansing and disinfection; and record keeping.

3.3 The Food Standards Agency, through the Meat Hygiene Service is the enforcement agency for premises licensed under:

- I. Fresh Meat (Hygiene and Inspection) Regulations 1995
- II. Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995 and
- III. Wild Game Meat (Hygiene and Inspection) Regulations 1995

and in combined premises as defined in the Meat Products (Hygiene) Regulations 1994 and the Minced Meat and Meat Preparations (Hygiene) Regulations 1995.

3.4 In respect of any other premises enforcement responsibilities rest with the local authority. As previously stated the Food Standards Agency has now issued guidance to local authorities on the requirements of the regulations.

3.5 In relation to all TSE susceptible species, such as cattle, sheep and goats, slaughtered for human consumption Regulation 32 requires that SRM is removed under official supervision in a licensed slaughterhouse, or in the case of the vertebral column of cattle in a licensed cutting plant.

3.6 Regulation 38 prohibits the placing of a carcase on the market for human consumption unless it has been officially inspected and found to comply with the regulations relating to the removal of SRM.

3.7 Regulation 46 prohibits the placing on the market for human consumption any SRM or any food containing SRM and further prohibits the use of SRM in the preparation of food for human consumption.

3.8 The three regulations described above clearly create, for local authorities, enforcement responsibilities in relation to the supply for human consumption of meat and meat products.

3.9 Significantly, Regulation 32 relates to the carcasses of animals slaughtered for human consumption whether or not for sale or supply into the food chain. As a consequence the following activities are no longer lawful:

- I. Slaughter on-farm by the farmer, whether for his own or his immediate family's consumption or for consumption at his bed and breakfast enterprise
- II. Slaughter on-farm by an itinerant slaughter-man
- III. Slaughter in any unlicensed premises.

And enforcement in these scenarios rests with the local authority.

3.10 Where SRM is not removed in accordance with the regulations the entire carcass is deemed to be SRM and thereby fails to meet food safety requirements. In such cases the provisions of the Food Safety Act apply and as such the carcass(es) should be seized, detained and subsequently condemned under the Act.

#### **4. Issues For Consideration**

4.1 The Food Standards Agency, in their guidance, recognise the challenging nature to local authorities of the enforcement responsibilities created by the regulations and suggest that authorities devise appropriate enforcement strategies.

4.2 Any Enforcement Strategy should ensure fair regulation, underpinned by the following principles:

- I. Proportionality in the application of the law and securing compliance;
- II. Consistency of approach in the exercise of powers and duties;
- III. Transparency in the operation of the regulatory regime; and
- IV. Targeting of regulatory effort according to risk.

4.3 It is considered that such a strategy should comprise the following elements:

- I. Awareness-raising
- II. Detecting offences
- III. Enforcement activities

And that it will need to be supported by appropriate operational protocols.

4.4 As is the case in many crofting communities, there is a tradition in Shetland of crofters slaughtering their own stock for their own, or their family's consumption or indeed making use of the services of itinerant slaughter-men for this purpose. The extent of these activities is not known but is believed to be reasonably commonplace.

- 4.5 It is also considered that there may potentially be some illicit supply of illegally slaughtered meat into the food chain.
- 4.6 In public health terms, the implications of consuming potentially unfit meat represent a significant risk, not only in relation to the possible consumption of SRM but also a range of other pathogenic hazards. It is therefore important to discourage the human consumption of meat from animals not subjected to the official inspection regime.
- 4.7 The detection and investigation of incidences of illegal slaughter is difficult and can be resource intensive; especially given that such slaughtering tends to be sporadic and transient in nature. The Environmental Health service does however from time to time receive allegations of such activities which it appropriately pursues.
- 4.8 Whereas previously on-farm slaughter for personal or family consumption was lawful the change brought about by the Regulations necessitates a change of approach to such investigations. In the past investigations were concerned with the issue of supply into the food chain whereas now they need to be concerned with all slaughter taking place other than in licensed premises.
- 4.9 Taking these issues into account and the statutory responsibilities placed on the Council in relation to enforcement of the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2002 a draft Enforcement Strategy has been produced and is appended to this report at Appendix 1.
- 4.10 Members are being requested to consider that proposed Enforcement Strategy.

## **5. Financial Implications**

- 5.1 There are no immediate financial implications associated with this report.

## **6. Policy and Delegated Authority**

- 6.1 The Infrastructure Committee has delegated authority to implement decisions relating to matters within its remit for which the overall objectives have been approved by Council, in addition to appropriate budget provision, (SIC Minute Reference 19/03 and 70/03).
- 6.2 The Enforcement Strategy to which this report relates is supplementary to the Food Law Enforcement Policy also being considered at this meeting of the Infrastructure Committee. Both documents relate to enforcement policy, and whilst matters relating to food law enforcement stand referred to the Infrastructure Committee policy matters do however require a decision from Council.

## **7. Recommendation**

- 7.1 I recommend that the Infrastructure Committee recommend to Council the adoption of the 'Enforcement Strategy For The Control of Private Slaughter' as drafted and reproduced at Appendix 1 of this report.
- 7.2 I recommend that research is commissioned to: 1) establish what level and type of private slaughter is carried out in other EU Member States; 2) establish how other member States have interpreted the EU TSE Regulations; and 3) investigate the possibilities of developing a Pan – European lobby in an effort to change the EU TSE Regulations to allow the private slaughter of livestock to continue in areas like the Highlands and Islands of Scotland.

Report Number : ES-28-03-F

## **ENFORCEMENT STRATEGY FOR THE CONTROL OF PRIVATE SLAUGHTER**

### **1. PURPOSE**

- 1.1 The purpose of this Enforcement Strategy is to set out the approach of Shetland Islands Council in relation to its responsibilities for the enforcement of legislative provisions relating to the slaughter, otherwise than in a licensed slaughterhouse, of livestock for human consumption.

### **2. INTRODUCTION**

- 2.1 Shetland Islands Council, as a local food authority, has a range of statutory responsibilities relating to food safety most of which derive from the Food Safety Act 1990 or statutory instruments made under the Act.
- 2.2 The primary purpose of such legislation is the protection of public health.
- 2.3 In relation to the production etc. of meat a range of legislative provisions are applicable; the principal legislative provisions are contained in:
  - I. The Food Safety Act 1990
  - II. The Fresh Meat (Hygiene and Inspection) Regulations 1995 (as amended),
  - III. The Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995
  - IV. The Wild Game Meat (Hygiene and Inspection) Regulations 1995
  - V. The Meat Products (Hygiene) Regulations 1994 and the Minced Meat and Meat Preparations (Hygiene) Regulations 1995.
- 2.4 These provisions have recently been supplemented by the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2002.
- 2.5 Shetland Islands Council is the enforcing agency for the purposes of this legislation insofar as it relates to activities undertaken otherwise than in premises specifically licensed under the these regulations.

### **3. SCOPE**

- 3.1 The purpose of enforcement is to ensure that preventative or remedial action is taken to protect public health and to secure compliance with a regulatory system. Whilst the Council expects full voluntary compliance with the relevant statutory provisions it also recognises that from time to time it will need to exercise its enforcement powers.

- 3.2 In setting out this Enforcement Strategy for the control of private slaughter the Council has had regard to the following 'principles of good enforcement':

- I. **Proportionality**
- II. **Consistency**
- III. **Transparency**
- IV. **Targeting**

- 3.3 **Proportionality**  
Actions and responses by the Council in relation to offences and securing legislative compliance will be proportionate to the protection of public health.

- 3.4 **Consistency**  
The Council will exercise its powers and duties in a fair and consistent manner so that enforcement actions are similar in similar scenarios.

- 3.5 **Transparency**  
The Council will clearly demonstrate the reasons for particular actions and seek to ensure that its approach to enforcement is clearly communicated,

- 3.6 **Targeting**  
The Council will direct its regulatory effort towards those activities that present the greatest risks to public health.

- 3.7 This Enforcement Strategy is concerned with ensuring compliance with and dealing with offences under the legislation listed in paragraphs 2.3 and 2.4 above and in particular the following matters:

- I. On-farm slaughter by farmer for his own consumption and/or by his immediate family
- II. On-farm slaughter by farmer for consumption at his bed and breakfast establishment
- III. On-farm slaughter for any of these purposes by an itinerant slaughter-man
- IV. Slaughter in unlicensed premises
- V. The sale of meat privately slaughtered in a slaughterhouse otherwise than to a licensed cutting plant for onward marketing or to a retail butcher for cutting and sale direct to the final consumer
- VI. The placing on the market for human consumption meat that has not been officially inspected and found to comply with the relevant regulations/food safety requirements.
- VII. The placing on the market for human consumption any SRM or any food containing SRM
- VIII. The use of SRM in the preparation of food for human consumption.

#### **4. AWARENESS RAISING**

- 4.1 The Council recognises the importance of awareness raising in relation to public health issues. It similarly recognises that compliance with legislative requirements is often best achieved by clearly communicating those requirements, the rationale behind them and the consequences of non-compliance.

- 4.2 For this reason the Council will at appropriate intervals in time undertake local publicity initiatives aimed towards the crofting community. Such initiatives are likely to make use of local news media as well as through direct communications with local crofter groups and representatives.
- 4.3 Locally-based itinerant slaughter-men will, on implementation of this strategy, be advised of legislative requirements insofar as they affect their slaughtering activities in unlicensed premises.
- 4.4 Local food businesses engaged in the supply, sale or use of meat or meat products will, on implementation of this strategy, be reminded of the legislative requirements insofar as they relate to those activities.
- 4.5 Officers engaged in the routine inspection of food businesses will during such visits remind food business proprietors of relevant legislative provisions.

## **5. DETECTING OFFENCES**

- 5.1 The Council aims to ensure that its efforts in detecting offences are proportionate to the risks presented to public health and that its approach balances costs and benefits. Set out below is its approach to detecting offences.

### **5.2 On-farm slaughter by farmer for his own consumption and/or by his immediate family**

- 5.2.1 It is not considered proportionate to allocate resources to the routine inspection of agricultural holdings for the purpose of detecting illegal slaughter.
- 5.2.2 Where however, substantive allegations from a third party, of such activity are received investigation will be undertaken to detect whether an offence has been committed.
- 5.2.3 Suspected offences might come to light as a result of checks undertaken of movement records etc. under animal health legislation. In such cases investigations will be undertaken to detect whether an offence has been committed.

### **5.3 On-farm slaughter by farmer for consumption at his bed and breakfast establishment**

- 5.3.1 Again, it is not considered proportionate to allocate specific resources to the routine inspection of agricultural holdings for the purpose of detecting illegal slaughter.
- 5.3.2 Where however, substantive allegations from a third party, of such activity are received investigation will be undertaken to detect whether an offence has been committed

- 5.3.3 Premises used for the provision of bed and breakfast accommodation are however periodically inspected for the purposes of checking compliance with other food safety legislation. During such inspections appropriate checks will be made to ensure that illicit privately killed meat is not been used.

**5.4 On-farm slaughter for any of these purposes by an itinerant slaughter-man**

- 5.4.1 Again, it is not considered proportionate to allocate specific resources to the routine inspection of agricultural holdings for the purpose of detecting illegal slaughter.
- 5.4.2 Where however, substantive allegations from a third party, of such activity are received investigation will be undertaken to detect whether an offence has been committed.

**5.5 Slaughter in unlicensed premises**

- 5.5.1 An investigation will be undertaken in relation to any substantive allegation from a third party that premises not licensed for the purpose are being used for the slaughtering of animals for human consumption.

**5.6 The sale of meat privately slaughtered in a slaughterhouse otherwise than to a licensed cutting plant for onward marketing or to a retail butcher for cutting and sale direct to the final consumer**

- 5.6.1 An investigation will be undertaken in relation to any substantive allegation that meat, privately slaughtered in a slaughterhouse has been or is being sold otherwise than to a licensed cutting plant for onward marketing or to a retail butcher for direct sale to the final consumer.

**5.6.2 During the routine inspection of catering and similar premises appropriate checks will be made to ensure that meat and meat products have been legitimately sourced.**

**5.7 The placing on the market for human consumption meat that has not been officially inspected and found to comply with the relevant regulations/food safety requirements.**

- 5.7.1 A primary objective of programmed food premises inspections is to check that food intended for human consumption is indeed fit for human consumption. When conducting such inspections of premises selling meat the necessary checks will be undertaken to ensure that meat has been legitimately sourced.

- 5.7.2 An investigation will be undertaken in response to a substantive allegation relating to the sale or offering for sale of meat that has not been subject to official inspection.

**5.8 The placing on the market for human consumption any SRM or any food containing SRM**

- 5.8.1 As stated above, programmed food premises inspections seek to check that food offered or exposed for sale is fit for human consumption. Whilst conducting such inspections of premises selling meat and meat products necessary checks will be carried out to ensure that SRM is not entering the food chain.

- 5.8.2 An investigation will be undertaken in response to a substantive allegation relating to the sale or offering for sale of SRM or food product that contains SRM.

**5.9 The use of SRM in the preparation of food for human consumption.**

- 5.9.1 Detecting the use of SRM in the preparation of food for human consumption is another of the checks performed as part of the routine food premises inspection process. In this instance it is appropriate that such checks be undertaken during the inspection of premises used for the manufacture of food and in catering establishments.

- 5.9.2 An investigation will be undertaken in response to a substantive allegation relating to the use of SRM in the preparation or manufacture of food for human consumption.

**6. ENFORCEMENT ACTIVITIES**

- 6.1 The purpose of detecting offences is two-fold:

- I. To ensure that risk to public health is eliminated or minimised, and
- II. To procure the necessary evidence to facilitate appropriate enforcement action.

- 6.2 All enforcement decisions and actions will be undertaken in accordance with the provisions of Shetland Islands Council's Food Law Enforcement Policy.

**6.3 In particular, to eliminate or minimise risk to public health authorised officers of the Council will use the powers contained in Section 9 of the Food Safety Act 1990 to detain, seize and subsequently condemn any meat or meat**

## **derived product that fails to meet food safety requirements.**

6.4 Enforcement options that exist in respect of offences committed under the relevant statutory provisions are as follows:

- I. To take no action
- II. To take informal action
- III. To report the matter to the Procurator Fiscal

6.5 In any case where there exists evidence of a breach of legislative provisions relating to unlawful slaughter, illicit supply of meat or preparation of meat-derived products failing to meet food safety requirements there will be a presumption against taking no action.

6.6 In determining whether to take informal action or whether to report to the Procurator Fiscal the authorised officer, in consultation with the Environmental Health Service Manager, will consider the following factors:

6.6.1 Seriousness of the alleged offence

- I. Risk of harm to the public
- II. Identifiable victims
- III. Disregard of public health for financial reward
- IV. Scale of illicit activity

6.6.2 Previous history of the 'offender'

- I. Offences following a history of similar offences
- II. Failure to respond positively to previous warnings

6.6.3 The likelihood of the 'offender' being able to establish a successful defence

6.6.4 The ability and willingness of important witnesses to provide evidence.

6.6.5 The willingness of the 'offender' to cooperate in preventing a recurrence of the offence.

6.6.6 The likely public benefit of a prosecution and the significance of the case.

6.6.7 Whether informal action would be more effective or appropriate than a prosecution.

6.6.8 Any explanation offered by the 'offender'.

6.7 As the facts will be specific to each individual case it is not appropriate to prescribe a particular enforcement option to be applied to a particular breach of a statutory provision. In general terms however reports to the Procurator Fiscal are likely to be warranted where:

- I. The alleged offence involves a blatant disregard for the law such that public health is or has been put at risk;

- II. The alleged offence involves a failure by the 'offender' to rectify a previously identified breach of statutory provisions ie where previous informal requests to comply have been unheeded; or
- III. There is a history of similar offences.

## **7. REVIEW**

- 7.1 In order to assess its effectiveness this Enforcement Strategy will be reviewed not later than one year from the date of its implementation.





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## **REPORT**

To: **Infrastructure Committee**

**14 October 2003**

From: **Head of Environmental Services**  
**Infrastructure Services Department**

### **POLICY AND PROCEDURES RELATING TO THE INVESTIGATION OF INFECTIOUS DISEASES**

#### **1. Introduction**

- 1.1 The purpose of this report is for Members to consider the adoption of a Policy and Procedure for the investigation of infectious diseases.

#### **2. Information**

- 2.1 Responsibility for the control of communicable/infectious disease in Scotland is shared by National Health Service Boards (NHSBs) and Local Authorities (LAs) and in exercising their respective functions NHSBs and LAs have a statutory duty to co-operate with one another.
- 2.2 The Food Standards Agency (FSA) has a key role in overseeing local authority investigation/handling of infectious disease issues, primarily because a significant proportion of notifiable diseases fall within the category of food poisoning/food borne illness.
- 2.3 The Service has been following an informal Policy and Procedure in partnership with NHS Shetland, Public Health Department.
- 2.4 One of the areas highlighted during the Food Standards Agency audit of 2003 was the need to review the arrangements, and to formalise a policy.
- 2.5 That review has now been undertaken and a Policy and Procedure document drafted which is reproduced as Appendix 1 of this report.
- 2.6 Part of the policy covering outbreaks of foodborne illness within Shetland has been jointly produced with the Public Health Department, NHS Shetland.
- 2.7 Members are being asked to consider the Policy and Procedure for approval.

Financial Implications

There are no immediate financial implications associated with the approval of the Policy and Procedures Relating To The Investigation Of Infectious Diseases.

Policy and Delegated Authority

The Infrastructure Committee has delegated authority to implement decisions relating to matters within its remit, (SIC Minute Refs: 19/03 and 70/03) for which overall objectives have been approved by Council, in addition to appropriate budget provision.

- 4.2 As this is a new Policy being proposed, a decision of the Council is required.

Conclusion

Members are being asked to consider the draft Policy and Procedures For The Investigation Of Infectious Diseases and make an appropriate recommendation to Council.

**6 Recommendation**

- 6.1 I recommend that the Infrastructure Committee recommend to Council the adoption of the Policy And Procedures For The Investigation Of Infectious Diseases as drafted and reproduced at Appendix 1 of this report.

Report Number : ES-29-03-F



# **Shetland Islands Council**

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## **REPORT**

**To: Employees JCC  
Infrastructure Committee  
Shetland Islands Council**

**13 October 2003  
14 October 2003  
29 October 2003**

**From: Head of Planning Services**

**Infrastructure Services Department**

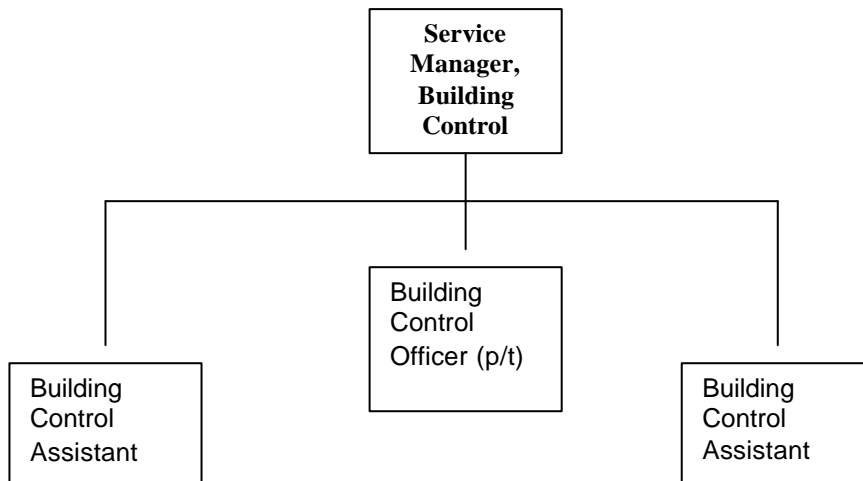
### **BUILDING CONTROL SERVICE**

#### **1. Introduction**

- 1.1 The Building Control Service is responsible for discharging the Council's obligations under the Building (Scotland) Acts. This includes not only processing applications made for Building Warrants under the Acts, but also a number of other functions, for example responding to Building Control aspects of solicitors' property enquiries, specialised licensing (such as theatre and cinema), responding to various consultations (for example on public entertainment licences) and dealing with dangerous buildings.
- 1.2 An efficient Building Control service is essential. Everyone undertaking building work in Shetland depends on the service to approve their plans and thereafter to ensure that the construction work undertaken complies with the regulations. The property enquiry function is also important, in that house buyers and sellers have a right to expect that their transactions will not be held up by undue delays on the part of the Council. The functions relating to dangerous buildings are clearly important to public safety.
- 1.3 This report addresses the difficulties being faced by the Building Control Service in coping with its workload and proposes a solution.

#### **2. Present Situation**

- 2.1 The present structure of the Building Control Service is as follows:



2.2 The qualified members of staff are the Service Manager and the Building Control Officer. The latter works part-time, 20 hours per week. The Building Control Assistants are unqualified. It should be noted that until three years ago, there was an additional qualified member of staff, but that post was deleted from the establishment.

2.3 The service is under pressure in the face of a gradually rising workload. In March 2003, the Building (Scotland) Act 2003 received Royal Assent and the implementation of the new legislation will make further demands on the service and particularly on the qualified members of staff who have to interpret the law. The changes are fundamental; the new provisions require officers to exercise a great deal more judgement where previously there was recourse to fixed specifications. This obviously means that the time of qualified, experienced officers will be at a premium. It is clear that the service cannot continue to be delivered satisfactorily if the number of qualified staff amounts to only 1.58 FTE and I can think of no other core, statutory Council service that operates on such a basis. The position has now been reached where:

- national performance indicators are not being met;
- significant overtime will have to be worked by the Service Manager to meet even the most basic statutory obligations;
- members of the public will have to be seen, for the most part, on an appointments-only basis;
- low priority will have to be given to parts of the service that are nonetheless important, including pre-application enquiries, general enquiries, planning and environmental health consultations and non-statutory site visits.

### 3 Proposal

- 3.1 We have explored various options, including some form of restructuring, but have come to the conclusion that the most straightforward solution, manageable within existing budgets and authorised staffing levels for the Planning Service as a whole, is to use the establishment and budgetary resources currently allocated to the post of Transport Policy Officer – which is vacant and will not be filled – to create a full time post. The postholder would report (like all the other staff in the Building Control Service) to the Service Manager.
- 3.2 Though it has no bearing on the conclusion of this report, it is perhaps worth mentioning that the part-time member of staff is absent on maternity leave for 12 months from October 2003 and another member of staff has had significant periods of illness. These factors merely complicate an already difficult situation and I am seriously concerned about the likely additional stress on remaining members of staff.

#### **4. Financial Implications**

- 4.1 Both the necessary hours and the required funding are available within the approved establishment, the post of Transport Officer in the Development Plans section being vacant. The grading of the post will be determined by the local grading procedure, but is likely to fall within the range AP5 to PO4.

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

- 5.1 The primary functions of the former Resources Committee are now undertaken by the Infrastructure Committee which has delegated authority to act on all matters for which authority was previously delegated to the former Resources Committee (Min Refs SIC19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision. This report concerns the transfer of existing resources from one part of the Planning Service to another and the Infrastructure Committee accordingly has authority to act in the matter following appropriate and formal consultation with the Employees JCC.

#### **6. Recommendations**

I recommend:

- 6.1 That the necessary hours and funding to enable the post of Building Control Officer to be created be found from within the approved establishment of the Planning Service, specifically from the vacant post of Transport Policy Officer which is not to be filled.
- 6.2 That the Head of Planning is authorised to undertake the necessary grading and recruitment procedures.





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**REPORT**

**To: Infrastructure Committee**

**14 October 2003**

**From: Head of Planning  
Infrastructure Services Department**

**SHETLAND DOORS OPEN DAYS 2003**

**1 Introduction**

- 1.1 The second Shetland Doors Open Days event, organised by the Council's Planning Service, was held over the weekend of the 20<sup>th</sup>-21<sup>st</sup> September 2003. During the two days some of Shetland's most interesting buildings opened their doors to visitors. This report gives details of the event for the information of Members.

**2 Background**

- 2.1 Doors Open Days is an annual event, coordinated nationally by the Scottish Civic Trust and forms Scotland's contribution to European Heritage Days, a joint initiative between the Council of Europe and the European Union. The Doors Open Days programme has been running in Scotland for 14 years, with events this year covering 28 local authority areas. Its aim is to increase people's understanding and enjoyment of their local architectural environment and encourage awareness of our rich built heritage.

**3 Shetland Doors Open Days 2003**

- 3.1 This year's Doors Open Days event in Shetland, the second we have promoted, was designed to be of interest to as wide a range of people as possible. As well as historic buildings the programme also included more contemporary structures that were felt to be of interest to the public. The participating properties were: Sand Lodge, Lunna House, the lighthouses at Bressay and Eshaness, the Council's Waste to Energy Plant, the Coastguard Station in Lerwick, the Aerogenerators at Burradale and Saxa Vord Radar Station.
- 3.2 Initial figures indicate that some 570 people participated in the event. This is comparable to the numbers attending last year's programme. Details of the numbers of visitors to each property are shown in Appendix A. Members should note that some properties, for example Lunna House, the Coastguard Station and the wind turbines, were

open on both days thereby allowing more people to visit. For other properties, such as Sand Lodge, the number of visitor places was necessarily limited and demand greatly outweighed supply.

- 3.3 The feedback received from both visitors and property owners has been very positive, with most feeling that the event was worthwhile. Some owners have already indicated a willingness to participate in a similar event in the future.
- 3.4 The event also got widespread coverage in the local media, being the subject of feature articles in both *The Shetland Times* and the *Shetland Post*, and featuring on *BBC Radio Shetland*.

#### **4 Financial Implications**

- 4.1 There are no additional financial implications arising from this report. Costs for the event were met from existing budgets.

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

- 5.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit (min. refs. SIC 19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.
- 5.2 However, this report is for information only and there are no Policy and Delegated Authority issues to be addressed.

#### **6 Conclusion**

- 6.1 This year's Doors Open Days event has proved very popular, attracting some 570 visitors. The feedback received from visitors and property owners has also been very positive. In view of this it is hoped to hold a similar event again next year.

#### **7 Recommendation**

- 7.1 I recommend that the Committee notes this report.

# Shetland Doors Open Day

Saturday 20<sup>th</sup> and Sunday 21<sup>st</sup> September 2003

<u>Property</u>	<u>No. of visitors</u>	
<b>Saxa Vord Radar Station</b>	<b>35</b>	
Lunna House	120	
Aerogenerators	150	
Coastguard Building.	75	
<b>Waste to Energy Plant</b>	<b>20</b>	
Bressay Lighthouse	60	
Eshaness Lighthouse	65	
<b>Sand Lodge</b>	<b>45</b>	
<b>TOTAL</b>		<b>570</b>





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## **REPORT**

**To: Infrastructure Committee**

**14 October 2003**

**From: Burial Grounds Service Manager  
Environmental Services  
Infrastructure Services Department**

### **MANAGEMENT RULES BURIAL GROUNDS**

#### **1. Introduction**

- 1.1 The management rules for burial grounds were approved by the Shetland Islands Council on 16 February 2000 a copy of the Rules is attached as Appendix 1.
- 1.2 Following approval of the rules the design and operation of the burial grounds was subject to public consultation in relation to headstones and footstones and it was considered inappropriate to advertise such rules during the consultation process.
- 1.3 The purpose of this report is to advise that i now intend to advertise the rules as given in Appendix 1.

#### **2. Background**

- 2.1 A copy of the original report explaining the need for management rules to be introduced is attached as Appendix 2.
- 2.2 The main areas covered by the rules are
  - Exclusive Right of Burial
  - Notice of Burial
  - Burials
  - Burial of Cremated remains
  - Monuments
  - General Conditions
- 2.3 Following advertising the proposed management rules as required by Section 112 of the Civic Government (Scotland) Act 1982 a report on any objections received will be submitted to the Infrastructure Committee and objectors given the opportunity to be heard before the Committee confirms the execution of the rules.

### **3. Financial Implications**

- 3.1 The main costs associated with the implementation of management rules is that of providing signs to display the rules at each burial ground. This has an estimated cost of £5,000 and will be met from the burial grounds service budget.

### **4. Policy and Delegated Authority**

- 4.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit (Min Refs SIC 19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to the appropriate budget provision. However this report is for information only and there are no policy and delegated authority issues to be addressed.

### **5. Conclusion**

- 5.1 The Management Rules as previously approved by the Council (Min. Ref SIC 15/00) will be advertised in accordance with Section 112 of the Civic Government (Scotland) Act 1982 and a report on any objections received will be submitted to Infrastructure Committee.

### **6. Recommendations**

- 6.1 This report is for information only.

Report Number : ES-27-03-F

Our Ref: JG/Emc

## **MANAGEMENT RULES**

**Relating To**

**Cemeteries and Burial Grounds**

**SHETLAND ISLANDS COUNCIL**

**CIVIC GOVERNMENT (SCOTLAND) Act 1982**

**RULES FOR THE MANAGEMENT OF ALL CEMETERIES  
AND BURIAL GROUNDS**

By virtue and in terms of the powers conferred on them by Section 112 of the Civic Government (Scotland) Act 1982, Shetland Islands Council constituted under Section 2 of the Local Government etc. (Scotland) Act 1994 hereby make the following rules for the management of all cemeteries and burial grounds under the control of the Council:-

**1. INTERPRETATION OF TERMS**

In the construction of these rules the following expressions shall have the meanings hereby assigned to them, that is to say,

- (i) "The Council" means the Shetland Islands Council as constituted under Section 2 of the Local Government (Scotland) Act 1974, Town Hall, Lerwick, Shetland.
- (ii) "The Certificate" means the Certificate of Right of Burial granted by the Council, or its predecessors in title as proprietors of the cemetery.
- (iii) "The Owner" means the person to whom the Certificate is granted and his/her heirs.
- (iv) "The Lair" means the piece of ground in which the exclusive right of burial is granted by the Certificate.
- (v) "Appropriate Officer" means the **Director Infrastructure services or any other person(s) appointed by the Director, being the Officer** authorised by the Council to act as Appropriate Officer of Cemeteries and Burial Grounds.

**2. EXCLUSIVE RIGHT OF BURIAL**

- (a) The exclusive right of burial in a lair will, subject to these rules, be secured to the purchaser and his or her successors. The Appropriate Officer shall furnish the purchaser with a lair certificate describing the lair. A lair holder duly registered in the books of the Council shall have exclusive right of permitting the lair to be opened and the production of the certificate will be held as sufficient authority. One person only shall be registered as the holder of a lair or lairs, except in the case of Trustees. No lair holder shall be entitled to transfer any or all of their lairs without the sanction of the Council. The Appropriate Officer may on application and after due enquiry, issue a duplicate certificate in the name of the registered lair holder as indicated in the Council's books on such terms and conditions as seem appropriate.

- (b) On the death of the lair holder, notwithstanding the place of his domicile at his or her death, the right of succession to the lair will be governed by the Law of Scotland. The lair is capable of bequest, subject to the proviso that if more than one beneficiary is entitled to claim in terms of the Will, the Executors appointed thereunder or in the absence of any Executors, the beneficiaries shall nominate one of their number as the lair holder.

In the event that the lair holder dies intestate the lair forms part of the estate of the lair holder and falls to be distributed in accordance with the terms of the Succession (Scotland) Act 1964, as amended and all relevant regulations made thereunder.

The transfer shall be made by an appropriate entry in the Council's books. A memorandum of the transfer may be endorsed upon the lair certificate. The entry in the Council's books shall be conclusive as to the ownership of the right of burial.

- (c) The owner shall not be entitled to sell the right granted by the certificate except to the Council.
- (d) No heir of the owner or transferee shall have any right or interest in the lair or liberty to use same until evidence of title is exhibited to the Council and all purchase and burial dues have been paid.
- (e) The person instructing the burial is personally liable for all burial dues and fees.

### **3. NOTICE OF BURIAL**

- (a) Notice of an interment, whether of coffin or of cremated remains, must be given to the Appropriate Officer on the approved form to allow not less than one clear working day between the receipt of the notification following the production of satisfactory evidence of title to the lair and the burial. If the applicant wishes to choose a new lair, the clear working day will commence from the time of choosing the lair. The necessary order for digging the grave, for which a charge will be made, as determined from time to time by the Council, will then be issued on confirmation of the funeral arrangements and on receipt of an interment instruction form. No interment shall take place outwith normal working hours unless in the case of urgency and then only with the consent of the Appropriate Officer.
- (b) All burials must be authorised by the Appropriate Officer prior to funeral arrangements being publicly announced.
- (c) Arrangements for burials can be made through the undertaker or with the appropriate officer of the Council.

- (d) If the Certificate of Right of Burial cannot be produced, the Appropriate Officer will require that an indemnity form be completed by the member of the family or Executor arranging the burial.
- (e) Application for the interment of cremated remains must be made to the Appropriate Officer and the same information supplied as in the case of the burial of a coffin.
- (f) If the Certificate of Right of Burial cannot be produced the Appropriate Officer may at his or her sole discretion, allow the burial to take place on such terms and conditions as may seem appropriate, including the provision of indemnities and/or caution by the person instructing the burial and no liability shall be incurred by the Council, its Officers, or employees whatsoever.

#### **4. BURIALS**

- (a) The Council shall have the sole authority to declare a lair to be full. No further burials shall be permitted in any such lair so declared to be full.
- (b) The digging of graves and the infilling of graves shall be effected by the employees of the Council and contractors appointed by them only.
- (c) Memorial wreaths shall be removed at such times as the Council in its discretion consider appropriate. This will generally be two weeks after they have been laid.
- (d) No burials will be permitted where the body has not been placed in a coffin.
- (e) No animals or pets will be permitted to be buried in any cemetery or burial ground in the Council's ownership.

#### **5. BURIALS OF CREMATED REMAINS**

- (a) Cremated remains shall not be scattered in any part of a cemetery or burial ground without prior consent of the Appropriate Officer, and shall be carried out in the presence of the burial ground employees.
- (b) No cremation caskets to be interred in a lair without there being at least 3' of soil between the surface of the ground and the casket.

#### **6. MONUMENTS**

- (a) A lair holder shall be entitled to have a monument erected. Such monument shall not protrude in any way over the part of the lair to be opened for burial or outwith the confines of the lair and to be erected in accordance with the Code of Working Practice of the National

Association of Memorial Masons. No erection of or inscription on any monument shall be permitted until approval of the Appropriate Officer to whom a specific written statement with a drawing of what is proposed is submitted. Kerbs, copes, corner stones etc. shall not be permitted. Monuments may be erected only at such times as are permitted by the Appropriate Officer. The lair holder is liable for the risks of any damage by or to any monument or memorial on the lair.

- (b) The lair holder shall keep headstones or monuments in a neat, safe and proper condition of which the Appropriate Officer shall be the sole judge. Failing attention to this requirement within fourteen days after written notice to the lair holder at their last known address the Council shall be entitled, at the lair holder's expense either to repair the memorials or to cause to have them moved and until the cost of such repairs or removal is paid the right to use the lair shall be withheld.
- (c) No trees or shrubs shall be planted on a lair without prior written approval of the appropriate officer. Any tree or bush planted without permission if considered unsuitable may be removed on the authority of the appropriate officer. The Council will not be responsible for the maintenance of any plants, trees or shrubs planted on a lair.
- (d) Lair holders will be permitted to place one vase or suitable container for flowers in the head ground to the grave. Such container to be of stone or metal and any container constructed of a material considered to be unsuitable may be removed immediately by the Cemetery staff. Glass containers will be tolerated but the council will not accept any responsibility for damage caused in the course of carrying out their duties.
- (e) The Council does not accept any liability for loss or damage to memorial wreaths, flowers, vases or similar receptacles as may be permitted in terms of para.6(d) above.

## **7. GENERAL**

- (a) The Council will keep registers in which will be entered every burial specifying the lair, the depth of grave, the date of burial, the name and age of the person buried and all other necessary information. Such registers being available for public inspection during normal working hours and without any payment being made therefor.
- (b) The burial grounds shall be opened to the public daily, during such hours and subject to such restrictions as the Council may apply from time to time.
- (c) Visitors should confine themselves to paths where provided and should not interfere with headstones, monuments, ornaments, floral tributes or plant material belonging to others.

- (d) Visitors must not pull flowers, or in any way damage shrubs or trees, and the Appropriate Officer or other person in charge for the time being, shall be entitled to remove any person inebriated or who may conduct him or herself improperly or who may cause damage and to prevent any person entering except during permitted hours.
- (e) **With the exception of guide dogs for the blind under the control of their owners no person shall permit any dog belonging to them or in their charge to enter or remain in any Cemetery or Burial ground unless it be led on a leash and restricted to recognised paths or to foul any Cemetery or Burial Ground or to damage or destroy any grass, flower, plant, tree or shrub in any Cemetery or Burial Ground.**
- (f) **Other than with the express permission of the Authorised Officer the public use of radios, compact disc or cassette players and other such sound emitting equipment is forbidden unless used with a personal headset.**
- (g) Apart from vehicles necessary for the performance of a trade associated with the cemetery management, only disabled persons are permitted vehicular access, all other vehicles should be parked outwith the burial ground or, where applicable, confined to designated parking areas within the burial ground/cemetery.
- (h) The patrons are advised that herbicides will be applied to unplanted open ground around the headstones to control seasonal weed growth. In order to ensure survival of any new plant material, the top 250mm of soil should be replaced around the head of the stone prior to planting or containers should be used to accommodate the plant material.
- (i) The Council reserves the right from time to time to repair subsidence in lairs without any prior notification to the lair-holder.
- (j) The Council shall be at liberty from time to time to alter these rules and enforce such others as they may consider appropriate for the proper or better management of the cemeteries/burial grounds.
- (k) The Council shall be at liberty, from time to time, to vary the charges made for burials and allied services.
- (l) These Management Rules supersede any Rules or Regulations however described previously issued by the Council and its predecessors entitle as proprietors of the cemeteries under its control.
- (m) These Management Rules shall be cited as the Shetland Islands Council (Cemeteries and Burial Grounds) Management Rules 1999.

- (n) These Management Rules shall come into force on the date of their execution and shall remain in force thereafter unless revoked or amended.

**8. RIGHT OF APPEAL**

**Any person wishing to appeal against a decision taken in terms of these Management Rules must do so in writing to the Director of Infrastructure Services within 14 days of that decision.**

**9. RULES NOT TO AFFECT EMPLOYEES IN THE PERFORMANCE OF THEIR DUTIES**

Any act necessary to the proper execution of his/her duty in the premises by any officer of the Council or by any person employed by the Council shall not be deemed an offence against these rules.

**NOTES**

Copies of these rules can be inspected free at the Council's Infrastructure Services department, Grantfield, Lerwick. ZE1 ONT.

Any person contravening any of these Management Rules shall be subject to the penalties imposed by sections 116, 117 and 118 of the Civic Government (Scotland) Act 1982 **exigible from time to time in terms of the relevant sections of the aforementioned Act.**

**Sealed with the Common Seal of the said Shetland Islands Council and subscribed for them and on their behalf by ..... at ..... on the ..... day of ..... nineteen hundred and ninety nine.**

.....  
**Divisional Manager – Legal and Administrative services.**





# Shetland Islands Council

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## REPORT

**To: Public Protection and Health Forum  
Resources Committee**

**02 September 1999  
15 September 1999**

**From: Principal Officer - General Services  
Operations Division  
Environment and Transportation Department**

### MANAGEMENT RULES BURIAL GROUNDS

#### 1 Introduction

- 1.1 At present the Council's procedures in terms of the operation of burial grounds follows informal internal procedures developed to meet the requirements of the service and expectations of the public.
- 1.2 The public's expectations and custom and practice varies from community to community and from one individual to the next, as many have differing needs in remembering loved ones.
- 1.3 This difference in opinion or custom and practice can lead to difficulties in the management of burial grounds as there is no written standard as to when people can expect wreaths to be removed, there is no direct control over how and where memorials can be erected, and perhaps most importantly there is no clear record as to the right of burial or systems in place to indemnify the Council where they have been requested to open a lair.
- 1.4 One way of resolving this problem and setting clear guidelines as to the service provision for burial grounds is to introduce management rules for burial grounds.
- 1.5 It is proposed that these rules for burial grounds will clarify the Council's position and ensure appropriate procedures are followed in the application of the exclusive right of burial, Notice of burial, burials, burials of cremated remains, erection and maintenance of monuments and the general behaviour of people within the burial grounds.
- 1.6 Such rules are commonplace throughout Scotland as a means to set clear guidelines in the operation of burial grounds and although such rules have not existed in Shetland for some time, there were similar

rules for the different parish burial grounds in Shetland in the early part of this century.

## 2 **Management Rules**

- 2.1 I have attached the proposed rules to be applied to all burial grounds in Shetland in Appendix 1 and will explain the purpose of each section of the rules in the paragraphs below.

### 2.2 **Exclusive Right of Burial**

- 2.2.1 When someone purchases or reserves a lair for burial, they do not actually purchase the land or lair, but purchase the exclusive right of burial in that lair.

- 2.2.2 In the majority of yards in Shetland no fee was paid for the reservations of a lair and records were held by individual burial ground officers who knew local families and would often set aside lairs without any direct request.

- 2.2.2 With the introduction of fees and the changing nature of most communities this informal approach is no longer appropriate and exposes the Council to criticism over the administration of burial ground records.

- 2.2.4 Since the introduction of fees we have maintained records of those purchasing each lair.

- 2.2.5 Given the nature of burials in family plots in the majority of yards records show who has been buried where and reserved ground is normally associated with the spouse or immediate family of the deceased person.

However we have recently had a family dispute over entitlement to bury a relative in a lair which led to the Council being reported to the Commissioner for Local Authority Administration in Scotland. The Ombudsman concluded that the Council acted correctly in the matter but the situation did cause distress to relatives as the family disputed the right to open a grave, and the right of burial that had not been clearly recorded at the time of death of the mother.

- 2.2.6 In order to prevent such disputes causing delays at the time of funerals and to ensure the Council is indemnified if requested to open a grave by a relative I proposed to introduce the rules given in section 2 of Appendix 1.

- 2.2.7 This allows us to issue a formal certificate (Appendix 2) for the right of burial in each lair and sets out the rights of succession or transferral of a lair to other relatives, in this way we should be able to clearly identify who has the right of burial in a lair.

- 2.2.8 Section 3 sets out the procedure for giving notice of a funeral and where a right of burial cannot be proved, for the completion of an indemnity form (Appendix 3) by a family member or executor which will indemnify the Council against any claim that might arise out of opening the lair and so avoid the Council being drawn into family disputes.
- 2.2.9 We have over the last three years been reviewing burial ground records and placing them on computer. This is essential if we are to maintain an accurate and reliable record system for burials and reserved lairs. This work is likely to be completed by May 2000 with an ongoing requirement to maintain the database after that date. As records are completed we are also placing burial records on the Department's web page to allow access to the public.
- 2.2.10 Sections 4 and 5 set out the provisions for burial and burial of cremated remains. The removal of wreaths is an issue which has given rise to a number of complaints as each individual has their own standard of how long these should be left.

In Lerwick wreaths are removed after two weeks and is an accepted practice. In rural yards we tend to remove wreaths after 1 month, beyond this they tend to disintegrate and litter the yard. We would propose to continue in this way, but hope that having the time periods clarified in the management rules will prevent complaints from the public.

## 2.3 **Monuments**

- 2.3.1 At present the Council is not notified of all memorials that are erected in burial grounds and as such some are placed in the wrong place or wrong alignment causing problems in digging future lairs or erecting further memorials. Approaching relatives to remove or realign memorials can cause families distress and it would be better to ensure that memorials are placed correctly first time round.
- 2.3.2 The rules given in sections 6 will ensure that all memorials are notified to us prior to erection which will allow us to specify how and where they will be erected. This will also allow us to keep records of responsible relatives to ensure future repairs are carried out by them and not by the Council.

During the course of a year our contractors or ourselves have to replace glass bowls in the course of our duties, grasscutting or gravedigging. This is often due to the fragility of the glass bowls rather than carelessness on our part and it is therefore proposed that we will not in future accept responsibility for the replacement of such ornaments.

## **2.4 General**

- 2.4.1 Section 6 sets out the general behaviour that is to be expected of persons visiting a burial ground.

## **3 Legal Aspects**

- 3.1 Section 112 of the Civic Government (Scotland) Act 1982 allows the Local Authority to make management rules to regulate the use of and the conduct of persons while on or in any land or premises owned, occupied or managed by the Authority.
- 3.2 At least one month before making management rules a local authority must advertise their intention to do so, and make copies available to the public together with an address to which objections can be sent.
- 3.3 Any person may object in writing and the local authority must take into consideration any objections received and give the objectors an opportunity to be heard.
- 3.3 The management rules would come into force for a period of 10 years after which they would be reviewed.
- 3.5 The management rules must be displayed at the entrance to the land or premises to which they apply
- 3.6 Copies of the management rules would be held by burial ground officers and Council offices for public inspection.

## **4 Financial Implications**

- 4.1 The main cost associated with the implementation of management rules is that of providing signs to display the rules at each burial ground. These signs will contain the management rules and contain information for each burial ground and would have an estimated cost of £5000. This can be met from the burial grounds maintenance budget.
- 4.2 Failure to provide a system of indemnity for the Council in opening reserved lairs and control of monuments could lead to unnecessary costs being incurred to rectify mistakes by others.

## **5 Policy and Delegated Authority**

- 5.1 The primary functions of the Environmental Services Committee are now undertaken by the Resources Committee which has full delegated authority to act on all matters for which authority was previously delegated to the Environmental Services Committee. This delegated authority extends to decisions relating to the management of burial grounds.

- 5.2 The Public Protection and Health Forum has no authority to make decisions but can make recommendations on the matter to the Resources Committee.

## **6 Proposal**

- 6.1 It is proposed that the Committee endorse the management rules given in Appendix 1 with or without amendment as the Committee deems appropriate.
- 6.2 That approval be given to advertising the proposed management rules as required by Section 112 of the Civic Government (Scotland) Act 1982.
- 6.3 As part of the consultation process all Community Councils will be given an opportunity to comment on the proposals.
- 6.4 Following advertisement and consultation a report on any objections received will be submitted to the Resources Committee and objectors given the opportunity to be heard before the Committee confirms the execution of the rules.

## **7 Conclusions**

- 7.1 There is a need to establish a more formal system for recording and maintaining records of rights of burial and a system to indemnify the Council where a certificate of right of burial cannot be produced.
- 7.2 There is a need to formalise the erection of monuments in graveyards to ensure they are constructed properly and placed accurately and to maintain records of the owners of such memorials.
- 7.3 The management rules given in Appendix 1 will help establish a standard code of conduct in relation to all burial grounds and burials throughout Shetland.

## **8 Recommendations**

- 8.1 I recommend that the Public Protection and Health Forum consider and endorse the proposed management rules with or without amendment.
- 8.2 I recommend that the Resources Committee:
  - (a) endorse the management rules as given in Appendix 1 subject to any amendments the Committee wishes to make; and

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- (b) approve the advertisement of the management rules as required by Section 112 of the Civic Government (Scotland) Act 1982.

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