



REPORT

To: Infrastructure Committee

19 June 2007

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

INTELLECTUAL PROPERTY CRIME ENFORCEMENT

1 Introduction

- 1.1 This report informs the Infrastructure Committee about new enforcement duties under the Copyright, Designs and Patents Act 1988 (CDPA 1988), and seeks approval for additional Scottish Executive funding to be allocated to the Trading Standards Service to enable these duties to be effectively discharged.
- 1.2 It also informs the Committee about proposals to establish a specialist regional intellectual property crime unit to discharge these new enforcement duties on behalf of a group of local authorities in the north of Scotland, and invites Members to approve the use of Shetland Islands Council's £ 3 000 additional annual grant funding as our share of the costs of this new unit.

2 Link to Council Priorities

- 2.1 This proposal supports the Corporate Plan priorities of *Social Justice* (it supports fair and equitable trading), and *Think and Act Collectively and Excellence, including Best Value* (it involves working in partnership with other local authority Trading Standards Services to meet new enforcement responsibilities in an efficient and cost-effective manner).

3 Background

- 3.1 *Intellectual Property* is used as a generic term for the rights granted to creators and owners of works that are the results of human intellectual creativity. It therefore covers rights such as patents, copyright, designs and trade marks.
- 3.2 *Intellectual Property Crime* is thus any breach of these rights, which may (for example) take the form of counterfeiting, the making of illicit recordings, or the distribution of unauthorised copies of trademarked articles.

- 3.3 Sections 107 A (copyright infringing articles) and 198 A (illicit recordings) of the Copyright, Designs and Patents Act 1988 have recently been brought into force. They make enforcement of copyright infringement a duty for local authorities. Robust enforcement has been called for by a number of trade and business organisations, and effective use of the new powers is expected to make a significant contribution to crime reduction and reducing economic detriment to consumers and businesses.
- 3.4 Shetland Islands Council will receive £3 000 of new money, in recognition of the fact that the increased enforcement responsibilities will fall on the Trading Standards Service. This additional funding will take the form of a redetermination of Revenue Support Grant for 2007-2008, and will then be baselined in the core local government finance settlement from 2008-2009.
- 3.5 As this additional funding is not being allocated as a specific grant to the Trading Standards Service, this report requests that the new money be allocated to the Trading Standards Service budget to enable the Council to discharge these new enforcement duties.
- 3.6 Neighbouring authorities have been awarded similarly modest new resources to help support their enforcement effort, so talks have taken place at officer level on how to make best use of the monies. One proposal that has emerged is for up to nine of the local authorities north of the central belt of Scotland to pool their monies to create a specialist regional unit that would work across local authority boundaries and would be dedicated solely to dealing with intellectual property crime.
- 3.7 The nine authorities which have been involved in the exploratory discussions have been awarded a total of £103 000 within the core local government settlement. This would be sufficient to staff the unit with between two to three officers. There is a proposal for the lead authority for the project to make a bid to the Scottish Executive for £25 000 additional start-up funding to help set up the unit. If, however, that start-up funding bid was unsuccessful, the project would still be able to go ahead (in a slightly reduced form) without needing to seek any increased funding from the partner authorities.
- 3.8 The specialist unit would work closely with other local authorities, with the Police, and with industry organisations and trade associations. Its activities would be embedded into existing enforcement and intelligence networks, and would be given direction through the use of the National Intelligence Model created by the National Centre for Policing Excellence.

3.9 Some of the perceived benefits of a shared collaboration approach to tackling intellectual property crime are:

- pooling resources would create a unit of critical mass that would be able to deliver outcomes beyond the capabilities of any one partner authority;
- it would allow cost sharing of common functions and reduce duplication of effort;
- estimates of the value of intellectual property crime vary widely, but officers anticipate that a special unit would be more effective in reducing the scale of it and returning millions of pounds to the North of Scotland economy; and
- it would demonstrate that local authorities can work together to provide efficient, coherent and more effective regulatory services.

3.10 Dundee City Council has expressed interest in becoming the lead authority for the partnership. They would manage it on a day to day basis. A management group would be established with officers representing each of the partner authorities. Minutes of Agreement or Memoranda of Understanding would be put in place with each partner authority, and the unit would produce annual reports on its operational activities and impact.

3.11 At present the other likely partners are considering whether they are willing to give support in principle to pooling the new monies to create a specialist intellectual property crime unit. No timetable has yet been drawn up for establishing the unit and governance arrangements, but it is unlikely that it would be up and running before October 2007.

3.12 These new enforcement responsibilities are an extra duty on the Trading Standards Service, and cannot be effectively discharged without these additional resources. Using this new funding to support the establishment and continued work of a specialist regional unit would, as outlined above, enable a more effective return on the investment of resources than could be achieved by any one partner authority alone.

4 Financial Implications

4.1 The Scottish Executive has allocated annually from 2007-2008 an additional £3,000 to this Council in recognition of the additional burden of enforcing new duties under the Copyright, Designs and Patents Act 1988 (CDPA 1988).

- 4.2 This additional funding will be included as a redetermination of Revenue Support Grant for 2007-2008, and will be included in the Local Government Finance (Scotland) Order 2008 and paid to Shetland Islands Council in March 2008. It will then be baselined in the core local government finance settlement from 2008-2009.
- 4.3 If this additional funding is not allocated to the Trading Standards Service budget, the Council will be unable to effectively discharge these new enforcement responsibilities.

6 Policy and Delegated Authority

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

7 Conclusions

- 7.1 The Council has been given new enforcement duties in the field of intellectual property, which fall to the Trading Standards Service to discharge.
- 7.2 The Scottish Executive has allocated annually from 2007-2008 an additional £ 3 000 to this Council in recognition of these new enforcement responsibilities.
- 7.3 Using this additional annual grant funding to support the establishment and continued work of a specialist regional intellectual property crime unit would enable Shetland Islands Council to discharge these new CDPA 1988 enforcement duties in a more effective manner than we could achieve on our own.

8 Recommendations

- 8.1 I recommend that the Infrastructure Committee approves the allocation of Shetland Islands Council's £ 3 000 additional annual grant funding to the Trading Standards Service budget, to enable the Council to discharge its new enforcement duties under the Copyright, Designs and Patents Act 1988 (CDPA 1988).
- 8.2 I recommend that the Infrastructure Committee approves the use of this money to support the establishment and continued work of a specialist regional intellectual property crime unit.

Our Ref: DCM / CDPA 1988

Report Number: ES-16-07-F



REPORT

To: Infrastructure Committee

19 June 2007

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

Housing Grants-Reserve Fund and Private Sector Housing Grant

1 Introduction

- 1.1 This report informs the Infrastructure Committee about the level of budget for Private Sector Housing Grant allocated by Communities Scotland and informs the Committee about the impact of the Capital Programme prioritisation process on the Reserve Fund Property Grants budget. The report recommends that alternative means of funding these grants be considered.

2 Links to Corporate Priorities

- 2.1 The effective delivery of the Private Sector Housing function ensures delivery of a key Corporate Plan objectives, Health Improvement, Equal Opportunities and Social Justice.

3 Background - Private Sector Housing Grant

- 3.1 The Council receives a Private Sector Housing Grant (PSHG) from the Communities Scotland, of £918,000. This is an increase of around £100,000 on the previous years grant budget. The budget is used to fund the One Stop Shop run by Hjaltland Housing Association, which provides a small works budget and grants to individuals. The current priority for this grant scheme is to assist the disabled, those on means tested income or in fuel poverty, communal works, works required by statutory notice and works for those in Below Tolerable Standard properties.
- 3.2 Whilst the budget has increased from last year the demand for grants is high and will exceed the budget provided. Grants will only be approved for priority cases as detailed in paragraph 3.1 unless the budget increases to enable some "Non-Priority" cases to be processed. There may be opportunities during 2007/08 to apply for additional funding and these will be pursued by the Service Manager Environmental Health to maximise the funding available. (Further reports will be made to Infrastructure Committee in relation to allocation of this budget.)

3.3 Communities Scotland is reviewing the allocation process for PSHG in 2008/09. Initial discussions indicate the new calculation will improve provision to remote rural areas.

3.4 The provisions of the Housing (Scotland) Act 2006 enable local authorities to review assistance to the private sector. The new "Scheme of Assistance" will enable authorities to explore the provision of low interest and no interest loans, equity release, as well as enable them to develop their own conditions on eligibility for grant, whereas these are currently set out in the grant legislation. The provisions break the links to mandatory grants except for adaptations to properties for the disabled. The Service Manager Environmental Health has convened a Private Sector Housing Group to consider these provisions and draft the new Scheme of Assistance which will be reported to a future meeting of the Infrastructure Committee for consideration, amendment and approval.

4 Reserve Fund Property Grants

4.1 The Council introduced an additional Reserve Fund Grant using powers under the Zetland County Council Act 1974 in May 2000. This was in recognition of increased national building costs and the local cost differential over mainland Scotland. The provision of the grant is on the basis that the maximum of the total grants should not exceed 50% of the cost of the works and a maximum Reserve Fund Property Grant of £2250. The grant is not means tested. The budget for the Reserve Fund was set at around £226,000 per annum. Due to lack of staff capacity to inspect premises, the fact that many of the applicants wish to apply for non-priority PSHG as well as the Reserve Fund and that applicants have 1 year to complete works and claim the grant, actual expenditure has been closer to £100,000 per annum.

4.2 The One Stop Shop has overcome some of the blockages, which had previously prevented grants being processed. There are around 411 people currently on the waiting list for Reserve Fund Property Grant, whilst some of these are interested in PSHG in combination with Reserve Fund, many wish to just apply for the Reserve Fund. The One Stop Shop could process the budget to assist around 100 households per annum to undertake repairs to their properties.

4.3 The Reserve Fund Property Grant sits within the Capital Programme and when the prioritisation points for the Capital Programme have been applied to the Reserve Fund budget for 2007/8 it has not received sufficient points to be allocated a budget when compared against other projects. This means that no Reserve Fund Grants will be approved in 2007/08.

4.4 It should be noted that there is a relatively long period required between committing the grant and grant funding. This is due to a necessary but protracted process involving initial application, assessments, getting quotes and a start date from an approved contractor. This requires

flexibility being built in to allow for commitment in one year and spend in the following year. This method of advanced commitment was approved by the Council in July 2000. (Min Ref 151/00). However, due to the introduction of the capital prioritisation scheme not placing this scheme on the priority list for capital in 2007/08 we have a commitment for spend of £80K for which there is currently no provision. This issue is being addressed by CPRT in the report to the Council on the 4 July 2007.

- 4.5 A number of members have queried the appropriateness of the Reserve Fund Property Grants remaining in the Capital Programme, as it appears to be dissimilar from other projects in the programme. It is delivering a service to the community rather than creating or improving a Council asset. The Conservation Grants budget, which similarly to the Reserve Fund Grants allocates grants to individuals, were removed from the Capital Programme and allocated a ring fenced grant budget.
- 4.6 If members wish to provide any Reserve Fund Property Grants for 2007/08 the budget will need to be reprioritise in the Capital Programme. As it did not receive sufficient priority points in 2007/8, it is unlikely to ever score highly against the rest of the programme in future annual prioritisation processes, so the grant scheme will effectively cease.

5 Financial Implications

- 5.1 The Council has not allocated any budget to the Reserve Fund Property Grants in 2007/08. If the Committee recommends that the scheme be reinstated then this fund would have to be reprioritised at the consequence of other project(s) dropping off the list to maintain the annual cap at £20 million.

6 Policy and Delegated Authority

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

7 Conclusions

- 7.1 The changes to PSHG will be reported to future Committee once the impact on allocations is known, and the Committee will also be consulted on the draft "Scheme of Assistance".
- 7.2 As the Reserve Fund Property Grant has not received sufficient priority points when compared against other projects in the Capital programme no budget provision has been made for 2007/08 which means that no grants will be approved in 2007/08. It is unlikely that it will receive prioritisation in future years when compared against other Capital Projects.
- 7.3 The allocation of these grants from the capital programme could be regarded as providing a service rather than Council owned asset.

- 7.4 If members wish to retain the grant scheme in this and future years, alternative provision for the scheme should be made. This could be achieved within Council policy by reprioritising this grant fund within the capital programme albeit at the consequence of other projects.

8 Recommendations

- 8.1 I recommend that the Infrastructure Committee;

8.1.1 Note the current provision for Private Sector Housing Grant from Communities Scotland and the intention to apply to Communities Scotland when opportunities to bid arise to increase Private Sector Housing Grant allocation to Shetland; and

8.1.2 recommend to the Council that the Reserve Fund Property Grants should be reconsidered for inclusion in the capital programme (This decision will be reflected in the CPRT report to Council on the 4 July 2007).

Report Number: ES-13-07-F



REPORT

To: Infrastructure Committee

19 June 2007

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

AIR QUALITY – UPDATE REPORT

1. Introduction

- 1.1 The purpose of this report is to advise Members of the progress made to date on the local air quality action plan, advise on the outcome of the latest Update and Screening Assessment (USA) which must be formally adopted, and to advise that notification has been received that the bid made to the Scottish Executive for part funding to install an air quality monitoring station to record real time and report pollution levels was successful.

2. Links to Corporate Priorities

- 2.1 The effective delivery of the Environmental Protection function ensures delivery of key Corporate Plan objectives: Health Improvement and Protecting the Environment.

3. Background

- 3.1 The Local Air Quality Management (LAQM) plan was submitted and agreed by Environmental Services committee on 17th February 1999 (Min Ref 07/99) and by full Council on 17th March 1999 (Min Ref 36/99)
- 3.2 The Councils latest Update and Screening Assessment (USA) was submitted to the Scottish Executive. The assessment concludes that all of the National Air Quality Objectives are met and that the Council need not undertake a detailed assessment of pollutants. The full report is in the Members' room. Once members have formally adopted the USA, it will be made publicly available on the Environmental Health web pages.
- 3.3 Whilst it is not essential that the Council carry out any ongoing monitoring of air quality, the Service Manager Environmental Health sought external funding in 2006 to purchase a monitoring station. This

will enable the service to provide real time data to measure air quality, as some of the areas of Shetland may be close to exceeding the air quality objectives. Unless monitoring is initiated the Council will not be able to evidence that the air quality guideline levels are not exceeded.

- 3.4 The bid was successful and the Scottish Executive have committed £30,000 to the project, a further £20,000 has been committed by partners (Scottish & Southern and Energy Recovery Plant) to ensure the purchase of the monitoring station can proceed. Meetings are taking place to conclude the procurement of the station. It is not anticipated that the value of the station will significantly exceed the Scottish Executive Grant, so it may not be necessary to use all committed funds. The commitment from partners was sought because the level of Scottish Executive grant was unknown when the bid was prepared.

4. Financial Implications

- 4.1 There would be an ongoing maintenance and servicing cost for the Monitoring Station, which will be met from the existing Environmental Health sampling budgets as it will become a Council asset.

5. Policy and delegated authority

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

6. Conclusions.

- 6.1 No additional work or resources are currently required on the update and screening assessment. Officers will finalise the contract to purchase a monitoring station and put the project to Tender shortly.

7. Recommendations.

- 7.1 I recommend that Committee:-

- 7.1.1 note the results of the update and screening assessment,
- 7.1.2 formerly adopt the update and screening assessment report as required by the LAQM Plan, and
- 7.1.3 note the success of the funding bid to the Scottish Executive for a permanent air quality monitoring station.

Report No: ES-15-07-F



REPORT

To: Infrastructure Committee

19 June 2007

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

Shetland Local Licensing Forum

1 Introduction

- 1.1 This report explains the duty to establish a Local Licensing Forum under the Licensing (Scotland) Act 2005 and seeks authorisation to appoint Forum Members.

2 Links to Corporate Priorities

- 2.1 The effective delivery of the Licensing function ensures delivery of key Corporate Plan objectives: Health Improvement and Community Safety.

3 Background

- 3.1 The Council has a duty under the Licensing (Scotland) 2005 Act to establish a Local Licensing Forum. The purpose of the Forum is to review how the Act is operating in the area, especially the exercise of the functions of the Shetland Islands Area Licensing Board and to make recommendations or give advice to the Board. The role of the Forum would not, however, extend to considering particular cases.
- 3.2 The Forum must be made up of a minimum of 5 and maximum of 20 members. Members of the Forum should include representatives of the following:- the Chief Constable Northern Constabulary, a representative from the NHS, personal and premises licence holders, the Licensing Standards Officer once appointed, representatives with interests in Education, Social Work and Young People as well as residents from the Forum's area.
- 3.3 It is proposed that invitation letters will be sent to the Chief Constable, NHS, Fire Authority, Education, Social Work and Young People Services with the request that a nominee(s) be appointed to the Forum. The Service Manager Environmental Health will also be a member of the Forum as manager of the Licensing Standards Officer and as the Officer responsible for delivering the services managing noise nuisance, litter, Anti Social Behaviour and health improvement.

- 3.4 The Shetland Licensed Trades Association will be approached for nominees to be appointed to the forum, emphasising that the appointees must represent the views of Shetland Personal and Premises Licence Holders rather than their own personal views at the Forum.
- 3.5 Adverts will be placed in the local Press seeking applicants who wish to sit on the Licensing Forum to represent the views of local residents from the area. On receipt of completed applications it is proposed that the Service Manager -Environmental Health will process the applications and if necessary interview the applicants to clarify the information supplied.
- 3.6 Once the shortlist has been produced, it will be presented to the Executive Director – Infrastructure Services or his nominated representative for approval of the Forum Membership. This report therefore seeks delegated authority for the Executive Director-Infrastructure Services or his nominated representative in consultation with the Chairperson and Vice-Chairperson of the Infrastructure Committee, to appoint the Members of the Licensing Forum.
- 3.7 The Scottish Executive has indicated it expects that Local Licensing Forums should be convened by the end of June and hold its initial meeting by the beginning of July 2007.
- 3.8 The Council also has a duty under the Licensing (Scotland) Act 2005 to appoint at least one licensing standards officer. This is a new duty but it is not clear to date whether additional funding will be made available from the Scottish Executive to fund the post or whether it will be funded through fee income. It is proposed that the Officer should sit in Environmental Health, in order to enable the postholder to operate at arms length from the Clerk to the Licensing Board. It is not intended to appoint to this post until funding has been made available. In the interim, the role will be undertaken by the Service Manager – Environmental Health on a reactive basis. The Service Manager – Environmental Health will also lobby through the Chief Officers group for funding to be made available to enable a licensing standards officer to be appointed.

4 Financial Implications

- 4.1 The Council has not allocated any budget to this function. It is a new duty but it is not yet clear whether there will be Scottish Executive Funding available to local authorities to support this function. It is anticipated however that convening and administering the Forum can be met from the existing Environmental Health budgets.

5 Policy and Delegated Authority

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

6 Conclusions

- 6.1 The Council has a duty to establish a Local Licensing Forum. It is proposed that the agencies that are identified in the legislation should be approached to nominate representatives to the forum. Similarly the Trade Association should be approached to nominate licence holders to represent trade views. Local residents will be able to apply to join the Forum, and the final membership be determined by the Executive Director - Infrastructure Services or his nominated representative in consultation with the Chairperson and the Vice-Chairperson of the Infrastructure Committee.

7 Recommendations

- 7.1 I recommend that the Infrastructure Committee
- 7.1.1 Note the duty to establish a Local Licensing forum; and
 - 7.1.2 Delegate authority to the Executive Director - Infrastructure Services or his nominee to appoint members to the Local Licensing Forum in consultation with the Chairperson and Vice-Chairperson of the Infrastructure Committee.

Report Number: ES-12-07-F



REPORT

To: Infrastructure Committee

19 June 2007

From: Executive Director Infrastructure Services

Lerwick to Bressay Link

1. Introduction

- 1.1. This report updates Members on the current status of the Lerwick to Bressay Link and makes recommendations on possible courses of action available to the Council.

2. Links to Council Priorities

- 2.1. The Council approved the construction of a bridge to Bressay (min ref 90/03).
- 2.2. The Shetland Transport Strategy aims and objectives include: -

FL1: *ZetTrans supports the principle of developing fixed links between Shetland Mainland, and the main offshore islands of Bressay, Yell, Unst and Whalsay.*

FL2: *ZetTrans and SIC are committed to undertaking a 'Bressay Link' STAG assessment examining future options for a link to Bressay, considering a range of options including the continued operation of a ferry service, and the development of fixed links in the form of a bridge or tunnel.*

FL3: *In the short-term, ZetTrans proposes to commission a study to confirm the robustness of business cases for fixed links between Yell and Unst (Bluemull Sound), Shetland Mainland and Yell (Yell Sound), Shetland Mainland to Whalsay and Shetland Mainland and Bressay, with particular emphasis on agreeing with regulatory bodies the appropriate standards and specifications that would apply.*

3. Background

- 3.1. Report No. IFSD-01-07-F to the Infrastructure Committee on 23rd January 2007 recommended "that a further report on options for the Bressay Link in the context of the Council's existing policy assuming implementation of the latest Port Authority dredging proposal, should be presented to a future meeting for consideration by the Infrastructure Committee and the Council."

- 3.2. In January 2007 the Council and the Port Authority met to discuss the Bressay Link and agreed to establish a joint group that would explore matters further.
- 3.3. The Council has received representation from Bressay Community Council asking that they be included in the group. I am advised that the Bressay Community Council has written in similar terms to the LPA and that LPA have agreed that this would be acceptable.

4. Proposal

- 4.1. It is proposed that the Council and ZetTrans carry out a STAG appraisal of the Bressay Link.
- 4.2. The output from a STAG appraisal would meet the requirements of the report to the Infrastructure Committee on 23rd January 2007 and the statutory commitments that the Council and ZetTrans will have in relation to the Shetland Transport Strategy.
- 4.3. To support the STAG appraisal it is proposed that the joint group that Shetland Islands Council and LPA agreed to establish be involved in the process as a means of ensuring complete transparency and objectivity. Importantly, it would also create an environment where detailed dialogue could take place and therefore provide the greatest opportunity for fuller understanding and consensus to be reached.
- 4.4. It is suggested that this group comprise Members and officers of the Council, the Lerwick Port Authority, ZetTrans and a representative of the Bressay Community Council.
- 4.5. A suggested composition of the group is: -
 - 2 Members from Shetland Islands Council – selecting Members who are also Members of ZetTrans would perhaps be an efficient way to maintain a link between the two bodies and a way of keeping numbers to a reasonable level.
 - 2 Officers from SIC – Executive Director of Infrastructure Services and the Head of Transport.
 - 2 Members of the LPA Board – to be nominated by LPA
 - 2 Officers of LPA - to be confirmed by LPA
 - 1 Representative from Bressay Community Council.
- 4.6. The group could engage with wider stakeholders as and when appropriate, probably on specific issues.
- 4.7. It is not proposed that the group have any decision making powers and all matters for decision will be referred back to the Infrastructure Committee via reports from the Executive Director - Infrastructure Services or his nominee.

5. Financial Implications

- 5.1. There are no costs associated with the proposal in section 4 that are not already included in the Council's Capital Programme.

6. Policy and Delegated Authority

- 6.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit "Section 12.0 of the Council's Scheme of Delegations" and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.
- 6.2 If approved, the Shetland Transport Strategy will be a statutory document and the Council, as a member of Zetland Transport Partnership, must perform its functions which relate to or which affect, or are affected by, transport consistently with the transport strategy.

7. Recommendations

I recommend that: -

- 7.1. The Infrastructure Committee approves the proposal to carry out a STAG appraisal of the Bressay Link.
- 7.2. Subject to approval of 7.1, the Infrastructure Committee approves:
- i) the proposal to establish a working group to engage in the STAG process as proposed in sections 4.3 and 4.4 of this report.
 - ii) the composition of the group as proposed in section 4.5 of this report.
- 7.3. Subject to approval of 7.2, the Infrastructure Committee appoints the SIC Members to the joint group.

Report No: IFSD-03-07-F

Appendix 1

1. Scottish Transport Appraisal Guidance (STAG)

1.1. It has been a requirement of the Scottish Executive since July 2001 that all projects for which it provides support or approval are appraised in accordance with STAG.

1.2. In addition, it is essential that decisions taken on major transport projects are considered and appraised objectively. The STAG process provides a framework to use for the objective consideration of options against government and local objectives.

1.3. In summary the STAG planning and appraisal process is:

- Analysis of present and future problems and opportunities
- Setting objectives
- Generation of options
- Initial sifting of options
- Broad appraisal
- Detailed appraisal
- Reporting
- Implementation
- Monitoring and evaluation

All these stages take place with participation by and consultation with all stakeholders.

1.4. All possible options which address the issues relating to transport between Lerwick and Bressay have to be considered. The more viable options have to be considered in greater detail. The headings under which final appraisal and decision takes place are as follows:

- Environment
- Safety (accidents & security)
- Economy (transport efficiency & economic development)
- Integration with the plans of other departments and organisations
- Accessibility and social inclusion
- Total cost to all national and local government bodies
- Risk and uncertainty



REPORT

To: Infrastructure Committee

19 June 2007

**From: Transport Development Manager
Transport
Infrastructure Services Department**

CONSULTATION PROCESS WITH EXTERNAL TRANSPORT OPERATORS

1. Introduction

- 1.1 The purpose of this report is to seek agreement from the Members of the Infrastructure Committee about the process for future consultation with external transport operators.

2. Links to Council Priorities

- 2.1 This report meets the objectives of the Corporate Plan by contributing to the aim of sustainability and easy to use systems for transporting freight and people.

3. Background

- 3.1 The principal method of consulting with external transport operators has been through the previous Environment and Transport Forum.
- 3.2 Zetland Transport Partnership is required by the Scottish Executive Minister for Transport to put in place Ferry Users' Consultation Arrangements and considered report STP-04-07-F (copy attached as Appendix 1) at its meeting on 11 January 2007. Minute 06/07 refers.
- 3.3 The Chair of the Infrastructure Committee has been approached by Loganair who wish to establish consultation arrangements on external air services.

4. Proposal.

- 4.1 It is proposed that arrangements are put in place to carry out consultation with all external transport operators in a standard way.
- 4.2 It is proposed that the Zetland Transport Partnership proposals for Ferry Users' Consultation Arrangements be extended to the operators of all of Shetland's major external transport links.

- 4.3 It is proposed that Zetland Transport Partnership carries out the consultation with the operators of all of Shetland's major external transport links through its Transportation Forum and that all Members on the Partnership be members of the Forum.
- 4.4 It is intended, initially, to organise consultation meetings with Northlink three monthly and with Loganair, six monthly.

5. Financial Implications

- 5.1 There are no direct financial implications from this proposal other than the cost of meetings, which can be met from established Zetland Transport Partnership budgets.

6. Policy and Delegated Authority

- 6.1 The Infrastructure Committee has delegated authority to implement decisions within its remit for which the overall objectives have been approved by the Council, in addition to appropriate budget provision, as described in Section 12 of the Council's Scheme of Delegation.

6. Recommendation

- 6.1 I recommend that the Infrastructure Committee agree to the proposals in sections 4.1 to 4.4.

Report Number: TR-06-07-F



REPORT

To: Infrastructure Committee

19 June 2007

From: Head of Roads
Infrastructure Services Department

ROADS ASSET MANAGEMENT – PROPOSED JOINT WORKING

1 Introduction

- 1.1 Last year I reported a proposal by SCOTS (Society of Chief Officers of Transport in Scotland) to submit a bid under the efficient government scheme to develop an Asset Management framework to be applied by all roads authorities in Scotland.
- 1.2 The Infrastructure Committee approved in principle for Shetland to take part in that joint bid, at its meeting on 13 June 2006 (min ref 30/06).
- 1.3 SCOTS submitted a bid to the Scottish Executive last year, but the scheme was heavily oversubscribed and the bid was unsuccessful.
- 1.4 In this report I provide information on a scaled down proposal by SCOTS, and seek Committee approval for Shetland to again join with other Scottish authorities to develop a revised joint framework.

2 Links to Council Priorities

- 2.1 This proposal meets the Corporate Plan priority to think and act collectively by joining with other Scottish Authorities to develop good practice.

3 Background

- 3.1 In 2004 Audit Scotland published a report “Maintaining Scotland’s Roads” in which it looked at the condition of Scotland’s roads and at how they were maintained and managed.
- 3.2 Among the recommendations of that Audit Scotland report, they identified a need for Councils to:
 - 3.2.1 Improve information about the assets they manage, including roads, bridges and street lighting.
 - 3.2.2 Use asset management systems linked to GIS and financial systems to improve the management of road maintenance.
 - 3.2.3 Calculate the size of the structural maintenance backlog using a common accepted methodology

- 3.2.4 Consider whether their road maintenance service could be improved by entering into consortia arrangements with other Councils to achieve economies of scale in road maintenance.
- 3.3 SCOTS submitted a bid to an efficient government scheme that was available last year, to develop an Asset Management framework that could be applied by all roads authorities in Scotland. As noted earlier, that bid was unsuccessful.
- 3.4 Although unsuccessful, the bid process helped develop joint working between Scottish authorities which SCOTS wishes to build on and use as the basis of a less ambitious asset management framework.

4 Proposal

- 4.1 In response to the Audit Scotland comments, SCOTS is proposing a project with the following aims:
 - 4.1.1 To provide a single asset management protocol for use by all Roads Authorities in Scotland.
 - 4.1.2 To set a minimum standard for the collection of inventory items to be applied by each authority.
 - 4.1.3 To share specialist advice and support, and provide training for local authority staff.
 - 4.1.4 To create a common framework for the development of transport asset management plans for all Roads Authorities in Scotland.
 - 4.1.5 To deliver the aspirations of a better road network as set down by the Scottish Parliament.
- 4.2 Three options were considered by SCOTS. These were:
 - 4.2.1 Form a partnership with Transport Scotland. However, that was considered not to be a good fit with the needs of local authorities, and the complexity of the Transport Scotland approach would make that proposal very costly.
 - 4.2.2 The County Surveyors Society Wales (CSSW) is ahead of SCOTS in developing an asset management framework. Wales also has a mix of authorities similar to Scotland in size and type. A partnership or sharing of experience with CSSW is therefore seen as something that would be of mutual benefit.
 - 4.2.3 A third option is for SCOTS to develop a new framework of its own. However, that is likely to duplicate work already done by CSSW, and take longer to develop.
- 4.3 After discussion at the SCOTS AGM on the 26 April 2007, it was agreed that option 2, joint working with CSSW, should be pursued. Glasgow City Council was appointed as lead authority for the project, and it is hoped that all 32 Councils will take part.
- 4.4 The contribution by each Council will depend to some extent on how the project develops, but is estimated to be £10,000 to £15,000 for this financial year, reducing in future years.

- 4.5 The contribution above relates to the development of the joint aspects of the project. We will still have to do our own data collection and assessment, as we need to do in any case.

5 Financial Implications

- 5.1 The estimated cost of the contribution to SCOTS could be met from existing roads revenue budgets GRY 6711 and GRY 6701. Data collection is routinely undertaken already and is included in existing budgets.

6 Policy and Delegated Authority

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

7 Conclusion

- 7.1 A full record of assets held, their condition and value is necessary to properly manage and maintain that asset. In Shetland, our road network probably has the highest replacement value of any Council asset. While we have a lot of information about our road network and the assets associated with them, it is not complete.
- 7.2 We need to further develop a framework for the recording and management of our road network in order to manage it properly and to meet the recommendations of Audit Scotland.
- 7.3 An opportunity now exists for Shetland to join with other authorities in Scotland to develop an Asset Management Framework. Developing a framework jointly will provide significant economies compared to each individual authority developing their own framework.
- 7.4 I believe there will be significant benefit in Shetland being part of this project, and that the cost is reasonable for the benefits we will gain.

8 Recommendations

- 8.1 I recommend that the Infrastructure Committee:
- 8.1.1 Notes the contents of this report, in particular the effort by SCOTS to develop an Asset Management Framework for use throughout Scotland,
- 8.1.2 Approves that Shetland should join this project.

Report Number RD-05-07-F
IJH/SMG



REPORT

To: Infrastructure Committee

19 June 2007

From: Head of Roads
Infrastructure Services Department

ROADS MAINTENANCE AND MINOR IMPROVEMENT WORKS REVIEW OF CONTRACTS AND TRADING ARRANGEMENTS

1 Introduction

- 1.1 Most roads maintenance works are carried out by the Roads Trading Organisation (formerly the Roads Direct Labour Organisation) within the Maintenance Section of the Roads Service. Streetlighting maintenance is done by the Council's Building Services, and all other works are done by external contractors.
- 1.2 Following the introduction of the Local Government in Scotland Act 2003 most contracts and in-house contractual arrangements were retendered or extended. The Council is required to secure best value and, in particular, to continuously review and consider how it procures the works associated with these contracts and arrangements in order to secure efficiency, economy, effectiveness and continuous improvement.
- 1.3 In this report I address the following:
 - 1.3.1 a review of all of the contracts and arrangements for Roads Maintenance;
 - 1.3.2 the retendering of packages of works where appropriate, including the need to issue tenders a second time for the road markings contract;
 - 1.3.3 the updating and improvement of the in-house arrangements: and
 - 1.3.4 the extension of existing contracts and arrangements where this is appropriate.
- 1.4 I also address the continuing use of these contracts and arrangements to carry out many of the improvement works done under the Roads and Transport Capital Rolling Programmes.

2 Links to Council Priorities

- 2.1 One of the objectives of the Council's Local Transport Strategy is the maintenance and improvement of the asset of the road network in order to support gains in safety, the environment, the economy, accessibility and integration.

3 External Contracts

3.1 Grass Cutting

Rural roadside verges are cut as part of the General Road Maintenance arrangements: see 4.2 below. Amenity grass areas, including those adjacent to the public road network, are included in Council-wide contracts now procured by the Environment Service.

3.2 Guard-rails & Cattle Grids

A contract for the maintenance, repair and replacement of guardrails, railings, and cattle grids was tendered in 2006 and then awarded to Garriock Brothers Ltd. Its duration is for three years, with an option to extend to five.

3.3 Traffic Signs

A similar contract for signs was tendered in 2006 and then awarded to Garriock Brothers Ltd, again for a duration of three years, with an option to extend to five.

3.4 Road Markings and Cats Eyes

The contract for this work is currently being re-tendered with an intended start date in time for the seasonal works required this summer.

Although tenders were recently returned they exceeded the approved budget by a significant amount. It was decided that the recently upgraded specification should be revised and that the tenderers involved be requested to submit new tenders. As the original tenders were not accepted this matter requires to be reported to the appropriate Committee under Council Standing Order H10 (d).

The specification in the new tenders has been upgraded (in line with new BSEN standards) from that in the current contract in order to obtain much more durable road markings (thereby saving costs in the long run), and also to obtain much brighter markings (which should improve road safety). An even brighter specification for certain main roads has had to be deleted meantime, although in the long run savings arising from greater durability should enable us to provide some of this. I did not consider it appropriate either to renew fewer lines per year, or to seek to increase an already high budget.

3.5 Streetlighting (Electricity)

The Council participates in a North of Scotland purchasing group, whereby ten authorities jointly tender the supply of electricity. The present provider is Scottish Power, following tendering of the contract in 2006. I propose that we remain within the purchasing group.

3.6 Structures

Most substantial repair and replacement works to bridges, sea walls, etc. are tendered as separate individual schemes, and I propose that we continue with this procedure in accordance with Standing Orders.

3.7 Surveys

3.7.1 Site surveys are carried out for individual improvements either in-house or by specialists, dependant on the current workload of the Council's Land Surveyor.

3.7.2 The Road Condition Survey is carried out by WDM on a nationwide basis, having been tendered and organised by the Society of Chief Officers of Transportation in Scotland (SCOTS). I recommend that we must continue to participate in this. These surveys are not only used by ourselves when deciding whether or not to patch, surface dress, resurface or reconstruct various lengths of road, they are also used to produce a national Performance Indicator, and nationwide standardisation is essential.

3.7.3 Surveys to establish and update the Roads Inventory are now being done by Council staff, rather than the private contractors who were used a few years ago. This is due to the not entirely satisfactory quality of the previous work when it was put into use for Asset Management purposes.

3.8 Winter Service (Forecasting, etc.)

Various elements of forecasting ice, snow, drifting, etc. by time and location throughout Shetland are provided to us by the Met Office and Vaisala. The Met Office contract for this, which over a period of five years can substantially exceed £50,000, is not due for renewal until 2009. It should be noted that in 2004 Council approved (Infrastructure Committee, Min Ref 26/04) that they be re-engaged, subject to the satisfactory conclusion of renegotiation of their arrangements and costs. This was done shortly afterwards. The situation with regard to Vaisala is similar.

3.9 Winter Service (Salt)

This contract was retendered under Standing Orders and EU regulations in 2004 and it is for a duration of five years. There is a break option at the end of three years, but I do not propose to take this

option, as the existing arrangements are satisfactory, and I believe that best value is being obtained.

3.10 Maintenance and Winter Service in Fetlar and the Small Isles

The Fetlar contract was due to be retendered under Standing Orders this Autumn, although I am now considering other options for this service. In Fair Isle and Foula I do not propose to alter the present, very small-scale, arrangements. In Skerries and Papa Stour, works are done directly by Council employees.

4 In-house Trading Arrangements

4.1 These continue where either the Council is permitted to retain certain kinds of works in-house, or was the successful tenderer for tendered works.

4.2 The categories of works done at present by the Roads Trading Organisation include the following:

- Winter Service
- Surface Dressing
- Resurfacing, and
- General Roads Maintenance (that is, grass cutting (rural verges), drainage maintenance, road sweeping, patching, localised reconstruction, resurfacing, surface dressing and slurry sealing, footway maintenance, verging, streetlighting replacement, minor improvements, and repairs to structures).

4.3 The Roads Best Value Service Review, approved by the Resources Committee (Min. Ref. 28/02), assessed that the current mix of in-house and external provision was good value for money. The previous arrangements were extended until the new legislation was implemented. However, now that the Local Government in Scotland Act 2003 is in force, I am required to carry out an annual review of these arrangements.

4.4 This year's review has been carried out under the following three headings:

- Performance monitoring
- Updating of measurement arrangements
- Continuous improvement

4.5 Performance monitoring. The Roads Programme Manager carries out an annual audit of a random sample of the individual works ordered. At present, this is mainly a check on quantities claimed; but it is intended that we will shortly also check notification, workmanship, etc. In addition, the Roads Training Supervisor carries out random checks of safety procedures at the various sites where work is being carried out.

Since the introduction of the moratorium on CCT in the late 1990's and the introduction of best value, the Roads Maintenance Manager has

participated in a performance monitoring network coordinated through APSE (The Association of Public Service Excellence). Their performance network programme is quality assured and is routinely audited both internally and independently by external agencies such as the Accounts Commission.

The APSE Performance Network processes benchmarks, and monitors and compares, on an annual basis, each participating local authority's performance on a range of performance indicators. Shetland is included in a group of 24 mainly rural authorities from Aberdeenshire to the Vale of Glamorgan. There are twenty indicators for performance in roads maintenance, seventeen in respect of winter maintenance and eighteen for street lighting services. A summary of these is shown in Appendix 1.

The comparison of year on year as well as inter-authority performance provides a good guide to quality and efficiency of the services that we deliver. The results of these reviews help us to target areas for future improvement as part of our service-planning regime. This helps to ensure that our service delivery is both competitive and continually improving.

4.6 Updating Measurement Arrangements. The annual review this year has involved a substantial redrafting of the original bill of quantities in the arrangement awarded to the Roads DLO in 1997. Continuing to use a bill of quantities ensures that we can benchmark our costs from year to year and against other authorities. The updating included the following:

- Bill items added, removed, amalgamated, separated, or otherwise amended.
- Inclusion of agreed variations to certain rates to cover aggregate tax, inflation, and several other matters.
- Discussion on how we should incorporate efficiency improvements from year to year.

4.7 Continuous Improvement.

We introduced service planning three years ago and this is now firmly established within the Roads Service. As part of this process we have to identify targets for improvement for the coming year. We monitor our actual performance levels against these indicators throughout the year and provide quarterly updates on our actual performance against the challenging targets that we have set. As part of this process we consult with all staff and provide an opportunity for them to become actively engaged in our improvement programme. We have also undertaken staff appraisals for the majority of office based staff and we are in the process of rolling this out to the roads workforce. This will provide bottom-up as well as top-down assessments of our operation. This is a transparent process that publicises our proposals and then reports on our actual achievements both during and at the end of each year.

In the year 2006 – 2007 we have managed to bring all sections of the Roads service under one roof at Gremista. This creates a one-stop

shop for Councillors and members of the public enquiring about any roads related issue.

We recognise that training is at the heart of any attempt to improve standards. Road maintenance can be a very dangerous activity if proper safeguards are not followed. We have provided health and safety training to the vast majority (over 90%) of our workforce who are now certificated to the Construction Skills Certificate Scheme (CSCS) standard. We have also ensured that everyone needing to operate plant, including sit-on rollers, receives training and have an assessment to ensure that they are competent to operate in a safe manner. We have also raised awareness of underground utilities and 90% of the workforce is qualified under the New Roads and Street Works Act (1991) to enable them to work safely in and around live services. We have also gained qualifications for six people to enable them to erect and maintain safety barriers in Shetland.

Our service planning processes have provided all staff with a clearer focus and understanding of their section's short-term aims. The increased level of training will help us to maintain and improve on our quality standards and hopefully minimise disruption to road users.

4.8 Streetlighting maintenance is carried out by Building Services. There is a process of regular updating of the arrangements for the provision of this. I propose that a more formal review now take place as in 4.4 above over the next year.

4.9 In order to carry out the above works, the Roads Trading Organisation and Building Services occasionally engage private contractors to carry out some elements of the work. This allows a flexible approach to individual tasks and helps to ensure that value for money is achieved. It is of course partially reviewed as part of the overall review of the in-house arrangements.

5 Capital Rolling Programmes

5.1 For practical reasons, the above contracts and in-house arrangements have always also been used to carry out a proportion of the improvements done under the Roads and Transport Capital Rolling Programmes. In 2004 the Infrastructure Committee (Min. Ref 26/04) authorised me to continue to order such works from the appropriate contractor or in-house provider as in Sections 3 or 4 above provided the following conditions apply, otherwise the works are put out to tender. The conditions are:

5.1.1 the nature of the works is very similar to those maintenance works for which the above contracts or in-house arrangements have been established, and

5.1.2 the works are estimated not to exceed £150,000 in value.

6 Financial Implications

- 6.1 There are no financial implications arising directly from this report. However, it does seek to ensure continued value for money in the procurement of roads maintenance and minor improvement works. The cost of these is approximately £6m per year.

7 Policy and Delegated Authority

- 7.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision, as described in the Council's scheme of delegation.

- 7.2 Since 2004, the Council has tendered under Standing Orders some of the external contracts; negotiated under delegated authority with the providers to extend the remaining contracts; and reviewed and extended the in-house arrangements (Infrastructure Committee, Min Ref 26/04).

- 7.3 In the Recommendations in this report, I request that Committee:

7.3.1 Note that for the provision of some works and services, retendering will continue in accordance with Standing Orders in Relation to Tenders and Contracts,

7.3.2 Note that in certain other cases negotiation, rather than tendering, takes place under Standing Order H13, (see 7.6 below)

7.3.3 Approve that works continue to be carried out by the Roads Trading Organisation or Building Services, subject to annual reviews which demonstrate that this continues to be Best Value (Recommendation 8.1.1), and

7.3.4 Approve that most individual maintenance and minor improvement works up to a value of £150,000 in each case be carried out under appropriate contracts or arrangements. (Recommendation 8.1.2 and 8.1.3, see 7.7 below)

- 7.4 Standing Order H13 states:

“Serial, Two Stage and negotiated Tenders and Extensions of Existing Contracts

(c) Where the appropriate Director considers that an existing contract should be extended and that a tender should be negotiated with the existing contractor, he shall before entering into negotiations, obtain the approval of the appropriate Committee both in respect of the extension and of the negotiation with the existing contractor”.

- 7.5 Standing Order H10. (d) states: If the appropriate Director recommends that none of the tenders submitted should be accepted, the matter shall be reported to the appropriate Committee. This applies to the decision taken with regard to retendering the road markings contract.
- 7.6 Standing Orders require that works contracts estimated to cost more than £50,000 should each be subject to a tendering process or otherwise be reported to Committee or Council. However, it is implicit in the establishment of standing (typically 3-5 year) contracts or in-house arrangements, with very large aggregate total values, that individual works done under these will also sometimes have a high value. In 2004 the Council approved that individual orders up to a value of £150,000 could be issued under these contracts and arrangements (Infrastructure Committee Min Ref 26/04). Although it is rare for roads maintenance or minor improvement works or purchases to exceed £150,000, it is quite common for some types of them such as resurfacing or shiploads of road salt to be in the £50,000 to £150,000 range, and works of this scale are often ordered under the contract or arrangement. It would be costly and place undue pressure on existing staffing resources to tender all such jobs separately.

8 Recommendations

- 8.1 I recommend that the Committee notes all of the above, especially the duty under the Local Government in Scotland Act 2003 to make arrangements which secure Best Value. I advise that the above procedures should provide the very best mix of in-house and external provision of works and services. Therefore, I recommend that the Committee recommends that the Council approves the following:
- 8.1.1 that the following existing in-house arrangements should be extended in accordance with Standing Order H13 for the time stated subject to satisfactory outcome of annual reviews.
- 8.1.1.1 General Roads Maintenance, Resurfacing, Surface Dressing, and Winter Service works issued to the Roads Maintenance Trading Organisation, for three years.
- 8.1.1.2 Streetlighting Maintenance, for three years. (Building Services)
- 8.1.2 that authority continue to be delegated to the Executive Director or his nominee to select and order individual maintenance works, up to a value of £150,000, from the appropriate contractor or in-house provider as outlined in 7.6 above.
- 8.1.3 that authority continues to be delegated to the Executive Director or his nominee to select and order individual minor improvement works, up to a value of £150,000, from the appropriate contractor or in-house provider as long as condition 5.1 above applies, and

- 8.1.4 that the Council continue to participate in national or other groups for the purchase of electricity for Streetlighting, and the carrying-out of the national road condition surveys, subject to the Executive Director or his nominee ensuring that these groups continue to provide a satisfactory service and value for money.
- 8.2 I also recommend that the Committee note that I have not accepted either tender submitted for road markings last month. Instead I have issued new tenders with several slight revisions as detailed in 3.4 above.

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