



REPORT

To: **Infrastructure Committee**

16 October 2007

From: **Cleansing Service Manager
Environment & Building Services
Infrastructure Services Department**

PUBLIC CONVENIENCE PROVISION – COMMUNITY PROJECTS

1 Introduction

- 1.1 The Infrastructure Committee on 28 August 2007 considered a report on the Council's Capital Programme including public toilets and the issue of grant aid for the provision of toilets as part of community development projects (Minute Reference 38/07). The purpose of this report is to provide an opportunity for Members to review how the capital programme for public toilets is applied.
- 1.2 The Infrastructure Committee on the 19 October 2004 approved a policy for the provision of grant aid for community projects subject to Community Services grant conditions (Minute Ref 56/04) and on 16 March 2004 a rolling programme of £100K per year to fund new toilets (Minute Ref 12/04).

2 Links to Council Priorities

- 2.1 This report meets the objectives of the Corporate Plan by contributing to the aims and objectives relating to the management of environmental projects.

3 Background and Proposals

- 3.1 The public toilets capital programme (100K) can be used to fund, additional public toilets in three ways:
 - Capital Programme for a new building
 - Grant for an Economic Development project
 - Grant for a Community organisation project
- 3.2 The distribution of grants for both Economic Development and Community organisations facilities have been subject to the grant conditions of Economic Development and Community Services, as appropriate, and as agreed by Infrastructure Committee on 19 October 2004.

- 3.3 The grant conditions for Community Services grant aid scheme include the following:
- for the feasibility and design stage, the community organisation is required to find 10% of the costs of the project.
 - for the construction stage, the community organisation is required to find 25% of the costs of the project.
- 3.4 It could be considered that these two conditions have prohibited community organisations from taking advantage of the Council's toilet grant aid scheme as groups find it difficult to raise their share of the funding.
- 3.5 Therefore it is proposed that for community projects, the Council grant aid 100% of the total costs of the project, including feasibility, design and construction stages of the project, subject to a maximum total grant of £45,000 as stated in the Committee report on 19 October 2004, paragraph 3.3.
- 3.6 It is also proposed that once the community building has been completed, the Council agrees a formal contract with the owners of the building so that the Council takes on responsibility for the revenue costs of the building. This arrangement is already in place for the toilet at Hermaness (with Scottish Natural Heritage) and Ollaberry Shop (with Ollaberry Shop Co-Operative). Minute Ref Environmental Services 6/96.
- 3.7 In terms of Section 26 of the Local Government and Planning (Scotland) Act 1982, local authorities have the discretionary power to "provide, equip and maintain" public conveniences.

4 On-going and Future Projects

- 4.1 With regard to new buildings, the priority listing for new toilets was agreed by Infrastructure Committee on 19 October 2004 and is shown in Appendix 1. The intention is to pursue new build at Scousburgh Sands and Sands of Sound.
- 4.2 Consultation is currently in progress with community groups requesting toilets in Walls, Unst and Northmaven, with a view that these projects would be pursued through a community grant, although they may require a new build by the Council if the community approach is not possible.
- 4.3 At the moment, there are no Economic Development projects pending. However, the provision of disposal facilities at sites outwith Lerwick for touring caravans is being considered.
- 4.4 Since Council approval was given in July 2007 for the budget for this financial year's capital programme for public toilets, discussions have taken place with a number of community groups regarding their needs. However, the process requires a long lead-in time before a toilet is finally built.

- 4.5 It is therefore intended that should this year's budget not be completely spent, then portable toilet units, (estimated £1,000/unit) similar to those used during the Inter Island Games, would be bought in order to provide temporary provision at those specific sites, subject to planning consent. This approach is considered to be appropriate given that next year's capital programme has not been approved yet.
- 4.6 It should be noted as part of the capital programme review process the funding for public toilets is prioritized annual and is not guaranteed to be available for future years.

5 Financial Implications

- 5.1 Capital funding has already been approved for the rolling programme.
- 5.2 Revenue costs for a toilet are estimated at £4,000 per year. This includes £2,500 for cleaning and materials, £1,000 for services and £500 for maintenance. On the basis of 2 new toilets a year this would increase revenue costs by £8,000.
- 5.3 All revenue costs would be regarded as new growth and would have to be taken into account when setting Council budgets for future years. Given that the Council's current budget strategy is to reduce its reliance on reserves to fund revenue expenditure, increase growth in this area may be at the expense of another activity.
- 5.4 Members should be advised that the ongoing revenue costs need to be considered carefully before decisions to undertake the capital works are made. The level of priority awarded to a project may not be enough to guarantee ongoing funding, when considered against many other high priority projects, all of which are competing for new funding from a limited resource.

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. However, variation to existing policy in this case to grant aid scheme, requires approval of the Council.

7 Conclusion

- 7.1 In order to make it easier for community organisations to take advantage of the Council's policy of grant aid for public toilets it is proposed that the changes to the grant conditions be implemented as set out in Section 3.

8 Recommendation

I recommend that the Infrastructure Committee recommend that the Council: -

- 8.1 approve the changes to the Grant Aid Scheme as station in Section 3; and
- 8.2 Gives delegated authority to the Executive Director or his nominee to approve capital spend for new building or grant funding, in line with the proposals contained in this report.

Report Number: ES-22-07-F

Appendix 1

Community Council	Suggested Location	Priority listing
Dunrossness	Scousburgh Sands, Spiggie	1
Lerwick	Sands of Sound	2
Northmaven	North Roe & Lochend Hall	2
Northmaven	Eshaness	2
Burra & Trondra	Duncansclett, Papil	5
Dunrossness	Levenwick Beach	5
Unst	Baltasound Pier (possibility of using extension to Hotel)	5
Aithsting & Sandsting	Aith	8
Sandness & Walls	Showfield, bus layby	8
Sandwick	Sandwick Central/Park	8
Northmaven	Sullom Hall	11
Yell	New Burravoe Fishing Pier	11
Whiteness, Weisdale and Tingwall	To the North of Shetland Jewellery, Weisdale	11
Delting	Public Hall area, Mossbank	14
Delting	Public Hall, Muckle Roe	14
Fetlar	Loch of Funzie	14
Unst	Brookpoint	14
Bressay	Squarefield Playground	18
Bressay	Car Park at Noss Sound	18
Nesting & Lunnasting	Junction near Catfirth Shop	20
Whalsay	Kirkness, Brough	20



Shetland Islands Council

Head of Service: Stephen Cooper
Executive Director: Graham Spall

Environment & Building Services
Infrastructure Services Department
Grantfield
Lerwick
Shetland, ZE1 0NT

TRADING STANDARDS SERVICE

ADVICE AND EDUCATION POLICY

Telephone: 01595 744887
Fax: 01595 744804
trading.standards@shetland.gov.uk
www.shetland.gov.uk/tradingstandards

Introduction

The Trading Standards Service is committed to maintaining and developing a fair, safe and equitable trading environment.

Trading Standards Service objectives

- To educate, inform and advise businesses and consumers in Shetland on matters relating to trading standards and consumer protection.
- To carry out regular visits to trade premises, and to monitor trading practices for compliance with trading standards and consumer protection legislation.
- To investigate complaints concerning trading standards and consumer protection which are within our remit.
- To carry out the statutory duties assigned to the Service.
- To achieve consistent, balanced and fair enforcement of these statutory duties, and to co-operate as far as possible in helping businesses to comply with the law.
- To use plain language, and to be as open about our work as legislation allows.
- To ensure that any action we require a business to take is reasonable, proportionate to the risk(s) involved, and consistent with good practice.
- To ensure that we comply with legislation and Council policies governing human rights, equalities, data protection and the regulation of investigatory powers.

Advice and education policy

The Trading Standards Service's advice and education policy is as set out in this document. The Council, through its Trading Standards Service, will continue to use its statutory power to provide advice to businesses and consumers in the firm belief that it plays an important role in protecting and enhancing the economic and social well-being of all who live and work in, or visit, Shetland.

Trading Standards advice and education aims

The Trading Standards Service's principal advice and education aims, carried out by means of one-to-one contact with individual businesses and consumers and general educational initiatives amongst business and consumer groups, are as follows.

- Providing preventative advice to businesses, to assist in enabling them to comply with their legislative obligations.
- Providing specific advice and assistance to businesses, to assist in enabling them to respond appropriately and responsibly to complaints and requests for redress from individual consumers.
- Providing preventative advice to consumers, to assist in enabling them to protect themselves more effectively when purchasing goods and services.
- Providing specific advice and assistance to consumers, to assist in enabling them to exercise their legal rights more effectively and obtain satisfactory redress following the supply of faulty goods or substandard services.

By enabling businesses and consumers in these ways the Trading Standards Service aims to create more informed, successful businesses and more informed, confident consumers, with the objective of encouraging businesses operating in a competitive environment to work towards continuous improvement of their trading practices.

These activities also enable the Trading Standards Service to effectively target its criminal enforcement activities, and to detect situations where it may use the civil enforcement powers available to prevent businesses from persisting in a course of action which is detrimental to consumers in general.

Core values

The core values which underpin the Trading Standards Service's advice and education activities are as follows.

- ***Free service***

The services provided directly by the Trading Standards Service are free of charge to all users. However, any charges incurred (with the agreement of the parties to a dispute) by the Council for independent examination or testing services will be recovered from those parties.

- ***Independence and fairness***

The advice provided will be impartial and independent of the interest of any party to a dispute. It will be based upon an assessment of the rights and obligations of the consumer and business concerned. The Trading Standards Service aims to treat both consumers and businesses fairly and even-handedly, whilst recognising that differences in bargaining power may give one party to a dispute a disadvantage which may justify the Service acting as an advocate for that party's interests where it is appropriate to do so.

- ***Customer focus***

The Trading Standards Service aims to provide services which are customer–focussed and targeted at local needs as clearly expressed by local people. The effectiveness of this policy is monitored by the use of customer surveys, and by the investigation of any complaints, and is reviewed by management and elected members. We seek to consult with consumers and businesses to help us to identify local needs.

- ***Targeting deprivation***

One need which is very apparent is the need to target services towards alleviating the effects of deprivation and social exclusion. This impacts upon the need for consumer advice and education services in the following ways.

- Vulnerable consumers can be particularly targeted by rogue traders.
- The financial loss caused by substandard goods and services is a higher proportion of disposable income than for more affluent consumers.
- Shetland is, from time to time, visited by itinerant traders selling poorer quality goods and indulging in high-pressure sales tactics.
- These factors result in a need for free consumer advice services and a need for an interventionist approach by the adviser, in addition to rigorous enforcement activities.
- Second-hand goods or low cost goods, which are often attractive to those on low incomes, may present a higher safety risk.
- Literacy, communication and cost factors affect the ability of some consumers to access advice and education services.

- ***Enforcement***

The Trading Standards Service has a statutory duty to enforce a wide range of criminal laws in the field of trading standards consumer protection. The Council also is empowered to provide advice and education to businesses and consumers. Criminal and civil consumer law is, however, inextricably linked in the minds of most consumers, who do not necessarily understand that, for example, shoes misdescribed as leather, a car with a false mileage, or a shirt with a counterfeit logo all involve criminal offences which Trading Standards is under a duty to investigate, whereas shoes with a defective sole, a car which breaks down shortly after purchase, or a shirt which shrinks in the wash may involve civil liability only.

The provision of advice by the Trading Standards Service on all consumer law issues, both criminal and civil, is therefore vital for the following reasons.

- It deals with consumer problems in a holistic manner.
- By positively encouraging a flow of information from the general public who purchase a vast range of goods and services on a daily basis, the Trading Standards Service is able to target its enforcement activity much more effectively (by using the general public as its *eyes and ears*) than would be possible by direct monitoring alone.
- Consumers who are discouraged from approaching the service for civil consumer advice may not approach the service again, even when criminal laws have been breached.
- Consumers may not be aware that their problem includes a criminal element which can be investigated formally.

- ***Protecting vulnerable consumers***

In addition to vulnerability caused by deprivation and social exclusion, the Trading Standards Service also seeks to target its services towards the needs of consumers who are especially vulnerable for any other reasons, including (but not limited to) age, infirmity or illness, living alone, communication difficulties, poor understanding of legal rights, or technical aspects of goods or services.

- ***Accessibility and equal opportunities***

The Trading Standards Service endeavours to make its advice and education services as accessible as possible to as many people as possible, within the limits of available resources. In addition to maintaining traditional means of accessing our services we will give due consideration to the following matters.

- The needs of people who live outwith easy reach of our office.
- The need to provide information and advice, and to permit contact with the Service, outwith normal office hours.
- The use of new technologies to improve access, whilst bearing in mind the needs of those who are uncomfortable with using such technologies.
- The needs of particular client groups who, for whatever reasons, have tended not to make use of our services.
- The need to take the service into the community, and to particular client groups, rather than always expecting users to come to us.
- The need to provide access which is at low cost to the user.
- Home visits where there is a genuine need.
- The need to provide equal opportunities for all regardless of age, gender, infirmity, disability or ethnic origin.

- **Partnership working**

The Trading Standards Service is committed to working in partnership with other organisations to achieve a joined-up approach to service delivery.

The Service works alongside and in partnership with local community and voluntary sector providers of consumer advice and assistance, together with the Consumer Direct national telephone and web-based consumer advice service (which is managed by the Office of Fair Trading).

- **Quality and continuous improvement**

The Trading Standards Service employs expert, well-trained staff to provide accurate and relevant business and consumer advice and education in accordance with clear, objective standards of quality. In order to demonstrate this commitment, the Service has achieved external accreditation to the ISO 9001 quality standard for all its activities. The Trading Standards Service uses surveys of individuals and businesses with whom it has recently had contact to provide feedback and to enable us to continuously improve the quality of our services and activities. Training is provided to staff to enable them to keep pace with the constantly evolving nature of both trading activity and legal controls.

- **Specialist service**

The Trading Standards Service provides specialist and comprehensive business and consumer advice services which can advise and assist clients with respect to the full range of consumer issues as defined by the Office of Fair Trading. The Service also aims to be a source of expertise on consumer issues to local generalist advice agencies in the voluntary sector, and accepts referrals of cases from those agencies where the matter requires a degree of specialism which those agencies may not be able to provide. In addition, the Service also accepts referrals of cases from the Consumer Direct national telephone and web-based consumer advice service where a Shetland consumer requires advice, assistance and / or intervention beyond that which Consumer Direct is able to provide.

The Trading Standards Service refers cases to other advice providers in the following situations.

- Where, due to the location of the business concerned, the matter would be better handled by another Trading Standards service.
- Where there is a relevant national advice agency (such as *energywatch*) which specialises in handling complaints about the particular trade sector.
- Where the Shetland Islands Citizens Advice Bureau is best placed to assist the consumer in pursuing a civil claim.

- ***Empowerment***

The Trading Standards Service aims, where possible, to empower consumers to use the information and advice provided to attempt to resolve their problems themselves (with minimal intervention by the adviser). In the longer term this will help to foster the creation of more confident, informed consumers, which is one of the government's four national priorities for Trading Standards services. The Service recognises, however, that an interventionist approach is still necessary in some cases, the intervention required varying in degree depending on the needs of each individual consumer. This is especially relevant where consumers are unusually vulnerable, or where the consumer is simply unable to progress their complaint beyond a particular point without assistance. Advisers are attuned to the signals which prompt a degree of intervention.

Service planning

In line with the Council's corporate approach to performance monitoring, the Trading Standards Service produces an annual service plan which is used by officers and elected members as a tool to ensure best value and continuous improvement. Practical actions which are required in order to implement this policy are contained within these annual plans.

Trading Standards advice and education activities

The Trading Standards Service's principal advice and education activities are as follows.

- ***Pre-shopping advice***

The Trading Standards Service provides preventative advice to consumers before they purchase goods or services to enable them to make more informed choices. For reasons of confidentiality and due to the difficulty of providing information which cannot be misinterpreted, advisers are unable to divulge the number or nature of complaints received against specific businesses, or to recommend particular traders. However, the Service can and does advise consumers of the practical steps they can take to help protect themselves from exploitation.

- ***Specific advice to individual consumers and businesses***

In addition to answering general queries on trading standards and consumer protection law, the Service provides advice to consumers who believe, rightly or wrongly, that they have purchased substandard goods or services in order that, where appropriate, the consumer may complain more effectively to the business concerned. Advisers can explain to the consumer their legal rights, and the remedies which are available in law, as well as the practical steps which they can take to resolve their problem themselves.

Similarly, the Service also provides advice to businesses which are in dispute with consumers, in order to assist them to respond appropriately and responsibly to complaints and requests for redress.

- ***Active assistance and intervention***

Where a consumer is unable to resolve a problem by themselves, an adviser can act informally as an independent mediator. This involves discussing the substance of the complaint in depth with all parties connected to the dispute in order to facilitate a settlement which is fair to everyone concerned and which avoids the need for formal legal action by the consumer. This negotiation may be conducted by letter, meetings with those concerned, or telephone calls (as appropriate to each case). The amount of assistance required will depend on the seriousness and complexity of the complaint and the attitudes of the parties involved, and cases may take from a few hours to many months to resolve.

Where relevant, consumers are made aware that advisers are experts in the field of consumer law but are unable to be experts in the vast range of technical fields which can give rise to contractual disputes. Where appropriate, such expert technical advice may be obtainable externally - but if a fee is chargeable the consumer's express permission will be sought before proceeding (as they will be liable for payment of that fee). Where both parties to a dispute agree, however, the Trading Standards Service may arrange for expert technical advice to be provided on a *loser pays* basis.

- ***Small claims support***

Where a negotiated settlement is not achievable, or an offer is made which is not acceptable to the consumer, the Service can advise the consumer how to obtain satisfactory redress by taking legal action against the trader in the Sheriff Court under the small claims rules. Where appropriate, the Citizens Advice Bureau can also assist the consumer to complete the court documentation and, provided the case has a reasonable chance of succeeding, the Bureau may also represent the consumer at the court hearing if the consumer feels unable to present the case without such assistance.

- ***Campaigning***

Where the Trading Standards Service perceives there to be a deficiency in the legal protection available to consumers, it may use the most appropriate means to champion the consumer interest and campaign for a change in the law.

- ***Specialist service***

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- ***Educational and promotional activities***

The Trading Standards Service believes that it is important to publicise its services, and trading standards and consumer protection advice and information in general, with the aim of creating more informed, confident consumers and informed, successful businesses. The Service provides a variety of advice and information designed to assist businesses to comply with their legislative obligations and to assist consumers to protect themselves more effectively when purchasing goods and services. Such advice and information is disseminated by means such as those listed below.

- Regular provision of topical information to the local media.
- Radio interviews.
- Articles in the press.
- Talks to schools and to community & business groups.
- Publication and distribution of leaflets produced in-house, as well as provision of leaflets produced by national consumer bodies and similar organisations and agencies.
- Displays and promotional events in public places.
- Poster campaigns.
- Provision of advice and information through the Council website.
- Participation in National Consumer Week.

- ***Complaints about breaches of criminal legislation***

As outlined under the *Enforcement* heading, the Trading Standards Service believes that advice on criminal trading standards and consumer protection law is an integral part of our overall advice provision. The investigation of criminal complaints will be carried out in accordance with our Enforcement Policy.

Complaints about the Trading Standards Service

Where any person or business has a complaint about the nature or standard of service provided by the Trading Standards Service, or in relation to actions covered by this policy, they can make a formal complaint. This can be done by either writing a letter or completing a Council complaint form, and sending it to the Chief Executive's Office, Shetland Islands Council, Town Hall, Hillhead, Lerwick, Shetland ZE1 0HB.

For a copy of this document on audio cassette, in large print or Braille, or if you require assistance in reading this, please contact the Council's Policy Unit.

Shetland Islands Council Policy Unit
Town Hall, Hillhead, Lerwick, Shetland ZE1 0HB

Tel: 01595 744537

Email: policy@shetland.gov.uk

This document is also available at www.shetland.gov.uk/tradingstandards

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我們會適當地為你安排傳譯人員或者提供你需要文字的文件。

ਕੀ ਤੁਹਾਨੂੰ ਕਿਸੇ ਇੰਟਰਪਰੀਟਰ (ਤੁਰਾਸੀਆ) ਦੀਆਂ ਸੇਵਾਵਾਂ ਦੀ ਲੋੜ ਹੈ?

ਜੇਕਰ ਤੁਹਾਨੂੰ ਲੋੜ ਹੈ ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ ਸਹਾਇਤਾ ਲਈ 01595 744537 'ਤੇ ਸੰਪਰਕ ਕਰੋ।

ਜਿਥੇ ਸੰਭਵ ਹੈ ਸਕਿਆ ਇੰਟਰਪਰੀਟਰ ਉਪਲਬਧ ਕਰਵਾਇਆ ਜਾਵੇਗਾ ਜਾਂ ਤੁਹਾਡੀ ਪਸੰਦ ਵਾਲੀ ਭਾਸ਼ਾ ਵਿਚ ਦਸਤਾਵੇਜ਼ ਭੇਜਿਆ ਜਾਵੇਗਾ।

আপনি কি একজন দোভাষীর সাহায্য চান ?

যদি আপনার প্রয়োজন থাকে তাহলে অনুগ্রহ করে যোগাযোগ করুন -01595 744537
যেখানে সম্ভব সেখানে একজন দোভাষীর ব্যবস্থা করা হবে অথবা আপনি যে ভাষাতে চা
দলীলটি অনুবাদ করে আপনাকে প্রদান করা হবে।

کیا آپ کو انٹرپرائٹر کی ضرورت ہے؟

اگر ایسا ہے تو پھر (انٹرپرائٹر کی) مدد حاصل کرنے کیلئے فون نمبر 01595 744537 پر بات کریں۔

جہاں ممکن ہو اوہاں انٹرپرائٹر کی سہولت فراہم کی جائے گی یا پھر (مطلوبہ) دستہ دیز کاتر جسما آپ کی

پسندیدہ زبان میں فراہم کیا جائے گا۔



REPORT

To: Infrastructure Committee

16 October 2007

**From: Head of Environment and Building Services
Infrastructure Services Department**

**Environmental Health Service and Trading Standards Service: Detailed Schemes of Delegation
Environmental Health Service: Amendment to Enforcement Policy
Trading Standards Service: Enforcement Policy
Trading Standards Service: Advice and Education Policy**

1 Introduction

1.1 This report seeks approval for:

- detailed schemes of delegation for the Environmental Health Service and for the Trading Standards Service;
- an amendment to the enforcement policy for the Environmental Health Service;
- the Trading Standards Service's enforcement policy; and
- the Trading Standards Service's advice and education policy.

2 Link to Council Priorities

2.1 This recommendations in this report support the Corporate Plan priorities of *Think and Act Collectively* (building on the corporate scheme of delegation), *Social Justice* (supporting consistent, balanced and fair enforcement, and helping to empower individual citizens), and *Excellence, including Best Value* (bringing the Council into line with Code of Practice requirements, and the accepted best practice, of Elected Members giving formal approval to policies governing front line service delivery).

3 Background

3.1 On 28 March 2007 the Council approved a new corporate scheme of delegation (minute reference 54/07).

- 3.2 This corporate scheme of delegation makes provision for supplementary documents which will specify detailed delegation arrangements for particular service areas.
- 3.3 Appendices A and B to this report propose detailed delegation arrangements for the Environmental Health Service and for the Trading Standards Service.
- 3.4 Environmental Health and Trading Standards Services are required (by, for example, the Official Feed and Food Controls Regulations Codes of Practice) to work within enforcement policies which have been formally approved by Elected Members.
- 3.5 Appendix C to this report contains the Environmental Health Service's enforcement policy, which has been amended in section 3.1 by the addition of a statement unambiguously clarifying that the policy will be applied in the Council's own premises where the Environmental Health Service has responsibility for enforcement of relevant legislation. Approval of this amendment will bring the policy fully into line with the Official Food Controls Regulations Code of Practice.
- 3.6 Appendix D to this report details and formalises the policy approach to enforcement which the Trading Standards Service has been following for some years. Approval of this enforcement policy for the Trading Standards Service will enable full compliance with the requirements of the Official Feed Controls Regulations Code of Practice.
- 3.7 Appendix E to this report details and formalises the policy approach to advice and education which the Trading Standards Service has been following for some years. Approval of this advice and education policy for the Trading Standards Service will bring the Service into line with the accepted best practice of Elected Members giving formal approval to policies governing front line service delivery.

4 Financial Implications

- 4.1 There are no financial implications arising from this report.

5 Policy and Delegated Authority

- 5.1 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 (Section 12.0 of the Council's Scheme of Delegation). However, the approval of new policy or variations to existing policy, and approval of the delegated powers set out in this report, require approval of the Council.

6 Conclusions

- 6.1 The Environmental Health and Trading Standards Services require detailed delegation arrangements to supplement the recently approved corporate scheme of delegation.
- 6.2 Formal approval by Elected Members of the amendment to the Environmental Health Service's enforcement policy will bring the policy fully into line with the Official Food Controls Regulations Code of Practice.
- 6.3 Formal approval by Elected Members of the Trading Standards Service's enforcement policy will enable full compliance with the requirements of the Official Feed Controls Regulations Code of Practice.
- 6.4 Formal approval by Elected Members of the Trading Standards Service's advice and education policy will bring the Service into line with the accepted best practice of Elected Members giving formal approval to policies governing front line service delivery.

7 Recommendation

I recommend that the Infrastructure Committee recommends that the Council:

- 7.1 approves the detailed delegation arrangements for the Environmental Health Service and the Trading Standards Service set out in Appendices A and B.
- 7.2 approves the Environmental Health Service's amended enforcement policy set out in Appendix C.
- 7.3 approves the Trading Standards Service's enforcement policy set out in Appendix D.
- 7.4 approves the Trading Standards Service's advice and education policy set out in Appendix E.

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Scheme of delegation for the Trading Standards Service

- 1 The Service Manager – Trading Standards and the Trading Standards Officer are authorised:
 - (1) to determine applications for, and to issue notifications of, the approval of feed business establishments under the Feed Hygiene Regulations 2005;
 - (2) to determine applications for, and to issue, licences and registration certificates under the Manufacture and Storage of Explosives Regulations 2005;
 - (3) to determine applications for, and to issue, licences under the Fireworks Act 2003 and the Fireworks Regulations 2004;
 - (4) to determine applications for, and to issue, licences under the Petroleum (Regulations) Acts 1928 and 1936; and
 - (5) to ensure, under the terms of section 94 (2) of the Civic Government (Scotland) Act 1982, that redundant petrol tanks are made safe, with additional powers to authorise work to be carried out on behalf of the Council with cost recovery from the occupier or owner of property.

- 2 The Service Manager – Trading Standards and the Trading Standards Officer shall be authorised (by virtue of a certificate of appointment and authority signed by the Chief Executive, the Executive Director – Infrastructure Services or the Head of Environment & Building Services) to exercise the powers (including the powers of entry, inspection, purchasing, sampling, testing, seizure, detention, suspension, withdrawal, recall, requirement to mark and requirement to warn where authorised by legislation) and to carry out the duties appropriate to their office under the Acts (and any regulations, orders or other instruments of a legislative character made or having effect thereunder) detailed below.
 - (1) Weights and Measures &c. Act 1976
 - (2) Weights and Measures Act 1985

- 3 The Service Manager – Trading Standards, the Trading Standards Officer and the Trading Standards Enforcement Officer shall be authorised (by virtue of a certificate of appointment and authority signed by the Chief Executive, the Executive Director – Infrastructure Services or the Head of Environment & Building Services) to exercise the powers (including the powers of entry, inspection, purchasing, sampling, testing, seizure, detention, suspension, withdrawal, recall, requirement to mark and requirement to warn where authorised by legislation) and to carry out the duties appropriate to their office under the Acts (and any regulations, orders or other instruments of a legislative character made or having effect thereunder) detailed below.

- (1) Agriculture Act 1970
- (2) Civic Government (Scotland) Act 1982
- (3) Consumer Credit Act 1974
- (4) Consumer Protection Act 1987
- (5) Copyright, Designs and Patents Act 1988
- (6) Development of Tourism Act 1969
- (7) Education Reform Act 1988
- (8) Energy Act 1976
- (9) Energy Conservation Act 1981
- (10) Estate Agents Act 1979
- (11) European Communities Act 1972, including (but not limited to):
 - (a) The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005; and
 - (b) The General Product Safety Regulations 2005.
- (12) Fair Trading Act 1973
- (13) Hallmarking Act 1973
- (14) Medicines Act 1968
- (15) Motor Cycle Noise Act 1987
- (16) Prices Acts 1974 and 1975

- (17) Property Misdescriptions Act 1991
- (18) Telecommunications Act 1984
- (19) Timeshare Act 1992
- (20) Trade Descriptions Act 1968
- (21) Trade Marks Act 1994
- (22) Video Recordings Act 1984
- (23) Tobacco Advertising and Promotion Act 2002
- (24) Section 8 (2) of the Customs and Excise Management Act 1979, in relation to the seizure or detention of tobacco products which are liable to forfeiture under the Customs and Excise Acts.
- (25) Sections 20, 21, 22 and 25 of the Health and Safety at Work etc. Act 1974
- (26) Any health and safety regulation
- (27) The provisions of the Petroleum (Regulation) Acts 1928 and 1936, the Explosives Act 1875, the Fireworks Act 2003, including (but not limited to):
 - (a) The Dangerous Substances and Explosive Atmospheres Regulations 2002;
 - (b) The Manufacture and Storage of Explosives Regulations 2005; and
 - (c) The Fireworks Regulations 2004.

Scheme of delegation for the Environmental Health Service

1 The Service Manager – Environmental Health

Animal Boarding Establishments Act 1963	To grant, but not refuse, applications, renewals or transfers of licences, registrations, approvals and other permissions sought (including variation thereof), where:-
Animal Health and Welfare (Scotland) Act 2006	(a) the application has attracted no relevant objection or relevant adverse representation;
Breeding of Dogs Act 1973 and 1991	(b) the application is one which the officer concerned considers should be granted, either without conditions or with conditions which are of a straightforward nature.
Caravan Sites and Control of Development Act 1960	
Civic Government (Scotland) Act 1982	
Dangerous Wild Animals Act 1976	
Deer (Scotland) Act 1959	
Performing Animals Act 1925	
Pet Animals Act 1951	
Riding Establishments Acts 1964/70	
Zoo Licensing Act 1981	
Food Safety Act 1990	

2	Service Manager- Environmental Health, Environmental Health Officers, Assistant Environmental Health Officers and Food Safety Officers shall be appointed by the Executive Director of Infrastructure Services as authorised officers
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Animal Boarding Establishments Act 1963	To undertake the Council's Functions including the inspection of premises, sampling, service of notices and issue of certificates in terms of the Acts listed, and any Regulations, Orders or other Statutory Instruments made or to be made thereunder if deemed competent following assessment by the Service Manager. Appointment as an authorised officer includes rights of entry into premises under the various Acts.
Animal Health Act 1981	
Animal Health and Welfare Act 1984	
Animal Health and Welfare (Scotland) Act 2006	
Anti Social Behaviour (Scotland) Act 2004	

Breeding of Dogs
Acts 1973 and
1991
Caravan Sites and
Control of
Development Act
1960
Civic Government
(Scotland) Act
1982
Clean Air Act
1993
Control of
Pollution Act 1974
Control of
Pollution
(Amendment) Act
1989
Dangerous Wild
Animals Act 1976
Diseases of
Animal Act 1975
Dog Fouling
(Scotland) Act
2003
Environmental
Protection Act
1990
Environment Act
1995
European
Communities Act
1972
Food Safety Act
1990
Health and Safety
at Work etc. Act
1974
Housing
(Scotland) Act
1987
National
Assistance Act
1948
Noise and
Statutory
Nuisance Act
1993
Performing
Animals Act 1925
Pet Animals Act
1951
Pharmacy and
Poisons Act 1933

Poisons Act 1972
 Prevention of
 Damage by Pests
 Act 1949
 Public Health
 (Scotland) Act
 1897 and 1945
 Refuse Disposal
 (Amenity) Act
 1978
 Rag Flock and
 other Filing
 Materials Act 1951
 Reservoir Act
 1975
 Riding
 Establishments
 Acts 1964 and
 1970
 Sewerage
 (Scotland) Act
 1968
 Shops Act 1950
 Slaughter of
 Animals
 (Scotland) Act
 1980
 Smoking, Health
 and Social Care
 (Scotland) Act
 2005
 Water (Scotland)
 Act 1980
 Young Persons
 (Employment) Act
 1938
 Zoo Licensing Act
 1981

3	The Service Manager Environmental Health is authorised
Housing (Scotland) Act 1987	to approve applications for grants, insofar as the applications relate to financial assistance in respect of the improvement adaptation or the repair of property;



Shetland Islands Council

Head of Service: Stephen Cooper
Executive Director: Graham Spall

Environment & Building Services
Infrastructure Services Department
Grantfield
Lerwick
Shetland, ZE1 0NT

TRADING STANDARDS SERVICE

ENFORCEMENT POLICY

Telephone: 01595 744887
Fax: 01595 744804
trading.standards@shetland.gov.uk
www.shetland.gov.uk/tradingstandards

Introduction

The Trading Standards Service is committed to maintaining and developing a fair, safe and equitable trading environment.

Trading Standards Service objectives

- To educate, inform and advise businesses and consumers in Shetland on matters relating to trading standards and consumer protection.
- To carry out regular visits to trade premises, and to monitor trading practices for compliance with trading standards and consumer protection legislation.
- To investigate complaints concerning trading standards and consumer protection which are within our remit.
- To carry out the statutory duties assigned to the Service.
- To achieve consistent, balanced and fair enforcement of these statutory duties, and to co-operate as far as possible in helping businesses to comply with the law.
- To use plain language, and to be as open about our work as legislation allows.
- To ensure that any action we require a business to take is reasonable, proportionate to the risk(s) involved, and consistent with good practice.
- To ensure that we comply with legislation and Council policies governing human rights, equalities, data protection and the regulation of investigatory powers.

Enforcement Policy

The Trading Standards Service's enforcement policy is as set out in this document, but officers will also take account of Codes of Practice and Guidance made under the Health and Safety at Work Act and the Official Feed and Food Controls Regulations.

This document takes into account the principles of the 1998 *Enforcement Concordat* and those set out in Sir Philip Hampton's 2005 report *Reducing administrative burdens: effective inspection and enforcement*.

Only officers of the Service who are authorised to do so will undertake enforcement actions.

The Trading Standards Service will ensure that its authorised officers are adequately trained to carry through its objectives in a proper manner.

All such officers are expected to adhere to this enforcement policy. The effectiveness of this policy is monitored by the use of customer surveys, and by the investigation of any complaints, and is reviewed by management and elected members.

The Trading Standards Service is fully committed to following relevant guidance issued by the Crown Office, the Department for Business, Enterprise and Regulatory Reform (BERR) [*formerly DTI*], the Scottish Executive, the Office of Fair Trading (OFT), the National Weights and Measures Laboratory (NWML), the Health and Safety Executive (HSE), the Food Standards Agency (FSA), and the Local Authorities Coordinators of Regulatory Services (LACORS), and to the LACORS *Home Authority Principle*.

Enforcement actions

The Trading Standards Service is committed to achieving consistent, balanced and fair enforcement of trading standards and consumer protection legislation.

In coming to enforcement decisions, officers will carefully consider all relevant facts and circumstances.

The possible enforcement actions which an authorised officer can employ are as follows.

Informal actions

- No action required
- Oral advice
- Advisory letter

Formal actions

- Written warning
- Statutory notice
- Apply to the Sheriff Court for an emergency prohibition order
- Exercise powers to enter premises and to inspect and seize goods, equipment and documents

- Formal warning letter
- Report to another enforcement agency
- Seek an undertaking under the Enterprise Act
- Prepare interdict action under the Enterprise Act
- Report to the Procurator Fiscal for consideration of prosecution

An officer may investigate a case in a formal manner, to keep options open, but then deal with it in a less formal manner as the full circumstances become evident.

Before carrying out formal enforcement action, an officer will normally consult a more senior member of staff.

It may not be practicable or appropriate to seek prior consultation where the officer is issuing a written warning or statutory notice, where the officer is exercising his or her powers to enter premises and / or to inspect and / or seize goods, equipment and documents, or in an emergency situation.

Where appropriate, the officer will also consult one or more of the following bodies.

- The Home Authority
- An appropriate liaison group
- The Local Authorities Coordinators of Regulatory Services (LACORS)
- The Office of Fair Trading (OFT)
- The Health and Safety Executive (HSE)
- The Food Standards Agency (FSA)
- The National Weights and Measures Laboratory (NWML)
- The Department for Business, Enterprise and Regulatory Reform (BERR) *[formerly DTI]*
- The Scottish Executive
- The Council's Legal and Administration Service
- The Procurator Fiscal / Crown Office

Informal action

Informal action will be appropriate in circumstances where:

- an act or omission is not serious;
- past history and risk assessment data do not warrant more formal action;
- the officer has sufficient confidence that the matter(s) will be corrected without the need for more formal action;
- the consequences of non-compliance do not pose significant risks to consumers, employees or other members of the public.

The officer should make a note on the Trading Standards Service's record for the business of any advice given orally.

An advisory letter should:

- contain all the information necessary to enable the recipient to understand what is required and why it is necessary;
- indicate the legislation contravened (if any) and, if necessary, give guidance on compliance with legal requirements and the timescale required; and
- clearly indicate any instance where such guidance is only a recommendation or an example of good practice, rather than a legal obligation.

Formal action

Formal action will be appropriate in circumstances where there is or has been a breach of legislation and there is a risk of injury or nuisance to consumers, employees or other members of the public.

Written warnings

An authorised officer will issue a written warning in situations where the risk resulting from the non-compliance is not sufficiently imminent or serious to warrant a higher level of formal action at that time.

A written warning should:

- contain all the information necessary to enable the recipient to understand what is required and why it is necessary;
- indicate the legislation contravened and, if necessary, give guidance on compliance with legal requirements and the timescale required; and
- clearly indicate any instance where such guidance is only a recommendation or an example of good practice, rather than a legal obligation.

Officers will follow up any written warning which requires compliance with legal requirements within a stated timescale, in order to ensure where practicable that appropriate and effective remedial action has been taken.

Statutory notices

Statutory notices are actions which are provided for in certain legislation, and include the following types of written instruction.

- Improvement and prohibition notices (under the Health and Safety at Work &c Act 1974)
- Suspension notices (under the Consumer Protection Act 1987)
- Suspension, withdrawal and recall notices, and requirement to mark and requirement to warn orders (under The General Product Safety Regulations 2005)
- Improvement and prohibition notices (under The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005) [an application to the Sheriff Court for an order confirming an emergency prohibition notice is required within three days]
- Instructions to have weighing or measuring equipment corrected (under the Weights and Measures Act 1985)

It will be appropriate to issue a statutory notice where:

- there are significant contraventions of legislation; or
- there is a lack of confidence that informal action is likely to be effective; or
- there is a history of non-compliance; or
- there are poor standards of management and poor awareness of legal requirements; or
- the consequences of non-compliance could be potentially serious for consumers, employees or other members of the public; or
- effective and immediate action is required to remedy an unsafe situation.

Statutory notices should not normally be used for minor technical breaches (apart from, in some instances, the statutory time notice under the Weights and Measures Act 1985).

A statutory notice can be issued only by an officer duly authorised to do so.

Officers will follow up any statutory notice which requires compliance with legal requirements within a stated timescale, in order to ensure where practicable that appropriate and effective remedial action has been taken.

Exercising of powers to enter premises and to inspect and seize goods, equipment and documents

Certain legislation provides authorised officers with powers to enter premises and to inspect and seize goods, equipment and documents.

Officers are carefully trained in the use of these powers, which will be exercised only where they are reasonable, appropriate and proportionate to the risk(s) involved.

Formal written warning

It will be appropriate to issue a formal written warning where:

- informal action (and / or a lower level of formal action, such as a written warning issued by an officer) has been tried without success; or
- past history and risk assessment data warrant this type of action; or
- there is a lack of confidence that the business will correct the matter(s) without this type of action; or
- the consequences of non-compliance pose a significant risk (or collective risk) to consumers, employees or other members of the public.

A formal written warning should:

- contain all the information necessary to enable the recipient to understand what is required and why it is necessary;
- indicate the legislation contravened and, if necessary, give guidance on compliance with legal requirements and the timescale required; and
- clearly indicate any instance where such guidance is only a recommendation or an example of good practice, rather than a legal obligation.

Officers will follow up any formal written warning which requires compliance with legal requirements within a stated timescale, in order to ensure where practicable that appropriate and effective remedial action has been taken.

Report to another enforcement agency

A case will be reported to another enforcement agency if that agency is more appropriately placed to take effective action.

Action against Shetland Islands Council

Any criminal investigation concerning the Council should be conducted in exactly the same manner as it would against any other alleged offender.

Enterprise Act remedies / Reports to the Procurator Fiscal for consideration of prosecution

Authorised officers will, as soon as practicable, discuss with more senior staff events which may result in action through the courts.

Decisions on civil court action and / or reports to the Procurator Fiscal for consideration of prosecution will be taken by the Service Manager – Trading Standards (or, in his / her absence, the Trading Standards Officer) in conjunction with the Head of Environment & Building Services and / or the Executive Director – Infrastructure Services.

Reports for action in the courts will be appropriate where:

- alleged breaches of the law are such that consumers, employees or other members of the public are put at risk (whether individually or collectively); or
- alleged breaches are flagrant or continuing; or
- alleged breaches involve failures by the alleged offender to correct an identified serious situation, having been given a reasonable opportunity to comply with legislative requirements; or
- there is a history of similar breaches; or
- alleged breaches involve a failure to resolve a complaint (or complaints) and the circumstances justify such action; or
- alleged breaches of the law pose a significant risk (or collective risk), and / or have the effect of being materially and economically detrimental, to consumers, employees or other members of the public.

In the case of Enterprise Act (Part 8) breaches, the Council's Legal and Administration Service will be consulted at an early stage, especially if court action is contemplated. Appropriate entries on the Consumer Regulations Website (CRW) should also be made, and appropriate notification given to the Office of Fair Trading (OFT).

All relevant information must be considered to enable a consistent, fair and objective decision to be made; this includes explanations given by the alleged offender, his or her attitude, and any mitigating circumstances.

The person making the decision to proceed with court action must be satisfied that there is relevant, admissible, substantial and reliable evidence of the alleged breach(es), and should take into account any statutory defence likely to be available to the alleged offender.

Once a decision to proceed with court action has been taken, a formal report will be prepared and submitted without undue delay to the Council's Legal and Administration Service or direct to the Crown Office; and time-bar dates must be fully taken into account.

Complaints about the Trading Standards Service

Where any person or business has a complaint about the nature or standard of service provided by the Trading Standards Service, or in relation to actions covered by this policy, they can make a formal complaint. This can be done by either writing a letter or completing a Council complaint form, and sending it to the Chief Executive's Office, Shetland Islands Council, Town Hall, Hillhead, Lerwick, Shetland ZE1 0HB.

For a copy of this document on audio cassette, in large print or Braille, or if you require assistance in reading this, please contact the Council's Policy Unit.

Shetland Islands Council Policy Unit
Town Hall, Hillhead, Lerwick, Shetland ZE1 0HB

Tel: 01595 744537

Email: policy@shetland.gov.uk

This document is also available at www.shetland.gov.uk/tradingstandards

Do you require the services of an interpreter?

If you do, please contact **01595 744537** for assistance.

We will provide an interpreter, or we can supply the document in your choice of language.

你是否需要傳譯服務？

如果需要，請致電 01595 744537 尋求幫助。

我們會適當地為你安排傳譯人員或者提供你需要文字的文件。

ਕੀ ਤੁਹਾਨੂੰ ਕਿਸੇ ਇੰਟਰਪਰੀਟਰ (ਤੁਰਾਸੀਆ) ਦੀਆਂ ਸੇਵਾਵਾਂ ਦੀ ਲੋੜ ਹੈ?

ਜੇਕਰ ਤੁਹਾਨੂੰ ਲੋੜ ਹੈ ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ ਸਹਾਇਤਾ ਲਈ 01595 744537 'ਤੇ ਸੰਪਰਕ ਕਰੋ।

ਜਿਥੇ ਸੰਭਵ ਹੈ ਸਕਿਆ ਇੰਟਰਪਰੀਟਰ ਉਪਲਬਧ ਕਰਵਾਇਆ ਜਾਵੇਗਾ ਜਾਂ ਤੁਹਾਡੀ ਪਸੰਦ ਵਾਲੀ ਭਾਸ਼ਾ ਵਿਚ ਦਸਤਾਵੇਜ਼ ਭੇਜਿਆ ਜਾਵੇਗਾ।

আপনি কি একজন দোভাষীর সাহায্য চান ?

যদি আপনার প্রয়োজন থাকে তাহলে অনুগ্রহ করে যোগাযোগ করুন -01595 744537
যেখানে সম্ভব সেখানে একজন দোভাষীর ব্যবস্থা করা হবে অথবা আপনি যে ভাষাতে চা
দলীলটি অনুবাদ করে আপনাকে প্রদান করা হবে।

کیا آپ کو انٹرپرائیٹر کی ضرورت ہے؟

اگر ایسا ہے تو پھر (انٹرپرائیٹر) مدد حاصل کرنے کیلئے فون نمبر 01595 744537 پر بات کریں۔

جہاں ممکن ہو وہاں انٹرپرائیٹر کی سہولت فراہم کی جائے گی یا پھر (مطلوبہ) دستہ دیز کاتر جیسا آپ کی

پسندیدہ زبان میں فراہم کیا جائے گا۔

SHETLAND ISLANDS COUNCIL



ENVIRONMENTAL HEALTH SERVICE

ENFORCEMENT POLICY

**Shetland Islands Council
Infrastructure Services Department
Grantfield
Lerwick
Shetland**

Document Title	Enforcement Policy		
Version	5	Date	October 2007

1.0 Enforcement Policy

The Shetland Islands Council has adopted the 'Enforcement Concordat' which sets out the Council's commitment to the principals of good enforcement

This policy applies to the Environmental Health Section of the Environment and Building Service of the Infrastructure Department. The section will review the enforcement policy and procedures on an annual basis, or more frequently if circumstances dictate. Reviews will take into account statutory requirements and feedback from service users.

The Environmental Health Service aims to enhance the quality of life in Shetland by protecting and improving the communities' health and environment.

Environmental Health's goals are:

- ◇ the enforcement of statutory controls which protect public health, safety and the environment;
- ◇ the development and delivery of services and initiatives which protect and improve health and the environment, and move Shetland towards sustainable development;
- ◇ the monitoring and analysis of environmental and physical factors which indicate the condition of public health, safety and the environment; and
- ◇ the continuous improvement of services within a policy framework influenced by national and local priorities.

Environmental Health will adhere to the enforcement concordat which reads as follows:

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2.0 ENFORCEMENT CONCORDAT

PRINCIPLES OF GOOD ENFORCEMENT: POLICY AND PROCEDURES

This document sets out what business, and others being regulated, can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.

The primary function of central and local government enforcement work is to protect the public, the environment, and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner, helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe trading environment. The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice, and safety.

We have therefore adopted the central and local government Concordat on Good Enforcement. Included in the term “enforcement” are advisory visits and assisting with compliance, as well as licensing and formal enforcement action. By adopting the concordat, we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them:-

2.1 PRINCIPLES OF GOOD ENFORCEMENT: POLICY

◇ Standards

In consultation with business and other relevant interested parties, including technical experts, where appropriate we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.

◇ Openness

We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting

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businesses, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

◇ **Helpfulness**

We believe that prevention is better than cure and that our role therefore involves actively working with businesses, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us, and we will encourage businesses to seek advice /information from us. Applications for approval of establishments, licences, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

◇ **Complaints about service**

We will provide well publicised, effective and timely complaints procedures, easily accessible to businesses, the public, employees, and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

◇ **Proportionality**

We will minimise the costs of compliance for businesses by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.

We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

◇ **Consistency**

We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinating Body on Food and Trading Standards (LACORS) and the Local Authority National Type Approval Confederation (LANTAC).

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2.2 PRINCIPLES OF GOOD ENFORCEMENT: PROCEDURES

Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection, or to prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing, in most cases within 5 working days and, in all cases within 10 working days.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

3.0 PROCEDURES

3.1 Scope

These procedures include circumstances when officers administer or enforce any legislation enforced by Environmental Health. This includes enforcement visits, investigation of alleged offences, advice to businesses on enforcement issues, investigation of criminal complaints and sampling. It does not include advice on civil rights and obligations. This Enforcement Policy will be applied in the Council's own premises where the Environmental Health Service has responsibility for enforcement of relevant legislation.

3.2 Background

Environmental Health is charged with administering a wide range of legislation under the following headings:-

3.3 Environmental Health

- ◇ Food Standards/Safety
- ◇ Private Sector Housing
- ◇ Health and Safety
- ◇ Animal Health and Welfare
- ◇ Environmental Protection
- ◇ Public Health

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3.4 Detailed Procedures

Officers will only be allocated to tasks they are competent to perform. All staff participate in the Council's Employee Personal Development and Review Programme. This will ensure that officers are properly equipped to carry out their enforcement functions.

All commercial premises which are subject to inspection by the Environmental Health Section will be risk assessed for the purpose of targeting inspection visits.

Environmental Health will concentrate its efforts on high risk premises and on issues which adversely affect the health, safety and wellbeing of the community. Action will be focused on businesses who are negligent or intentionally infringe the law.

For Food Safety the visit frequencies are in accordance with Food Law Code of Practice (Scotland), Annex 5 and are as follows:

<u>Category</u>	<u>Inspection Rating</u>	<u>Minimum Frequency of Inspection</u>
A	92 or higher	at least every 6 months
B	72 to 91	at least every 12 months
C	42 to 71	at least every 18 months
D	31 to 41	at least every 2 years
E	0 to 30	Alternative enforcement strategy

For Food Standards, the visit frequency shall be in accordance with Food Law Code of Practice, Annex 5 and are as follows:

<u>Category</u>	<u>Points Range</u>	<u>Minimum Inspection Frequency</u>
A	101 to 180	At least every 12 months
B	46 to 100	At least every 24 months
C	0 to 45	Alternative enforcement strategy

For Health & Safety the locally determined target inspection frequencies are as follows:-

A	=	6 Months
B1	=	12 Months.
B2-4	=	2 Years
C	=	5 years

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3.5 Report on Enforcement Activity

The Services will report annually on the statutory performance indicators as set by the Audit Commission for Scotland. Environmental Health will report annually on the statutory performance indicators as detailed below:-

- ◇ Food Safety – Hygiene Inspections
Approved Premises
- ◇ Noise Complaints

Reports on enforcement activity will also be included in quarterly reports to members as part of the service plan updates.

When officers give advice to business, either during an enforcement visit etc. or when the business has requested advice, the officer will distinguish legal requirements from best practice advice. All Food Hygiene inspections will be reported in writing.

All instructions on legal requirements will be put in writing. The instructions will be legible, written in plain English and avoid the use of abbreviations and jargon. The services will prepare advisory leaflets for business. These will be distributed as required. Information will be provided in other languages as required.

Environmental Health will carry out a programme of planned inspections with a view to securing compliance with legislation. All businesses are liable to be visited by an authorised officer to determine whether the law is being complied with. Businesses will not generally be given advance notice that a visit is to take place. The authorised officer will offer any assistance to help businesses comply with statutory requirements, in addition to carrying out appropriate enforcement work.

Authorised officers are given various powers of entry, inspection and seizure under a variety of statutes. Persons should not attempt to stop an authorised officer who is properly exercising any of these powers, as such action constitutes an offence. In general an authorised officer can:-

- ◇ Enter any premises at all reasonable hours
- ◇ Inspect any goods, food or articles
- ◇ Take samples of any goods, food, articles or substances
- ◇ Buy or take any goods or food
- ◇ Inspect any documents, where an offence is suspected
- ◇ Seize, remove and detain food, articles, substances, goods and document, when it is believed that an offence has been committed
- ◇ Direct that premises, or anything within premises, are left undisturbed
- ◇ Take photographs, measurements and recordings.

In the course of an inspection, businesses can expect:-

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- ◇ To be shown all due courtesy.
- ◇ To be informed of the purpose of the visit.
- ◇ To be shown identification.
- ◇ To be given advice.
- ◇ To receive feedback on compliance levels.
- ◇ To be given guidance on what the law is.
- ◇ To be given advice on any action required to remedy any points of non-compliance.
- ◇ To receive reasonable time to take remedial action.
- ◇ To be told of procedures for appealing against any enforcement action taken.

Enforcement action includes reports, letters, statutory notices, formal warnings, and reports to the Procurator Fiscal. Action taken will be proportionate to the scale of the identified problem and to other relevant factors, including:-

- ◇ Significant contraventions resulting in real or potential danger to the public or persons at work.
- ◇ Previous correspondence on the issue or where there is a history of similar offences related to risk to public health.
- ◇ Wilful breach of legislation or failure to comply in full or in part with requirements of statutory notice.

The first type of action is a report or letter which is issued by the officer during a visit or following a visit. The report/letter will detail the problem and give advice or instructions on remedial action. A time limit may be specified.

Failure to comply with the first type of action may result in a formal warning being issued. It will state that any further contraventions may lead to a report to the Procurator Fiscal. It will be kept on record and will be included in any subsequent report.

For more serious matters statutory notices will be issued in accordance with the legislation and Codes of Practice under which they are issued. Failure to comply with a Notice will lead to a report being submitted to the Procurator Fiscal.

All statutory Notices, reports, letters, and formal warnings will be followed up.

Reports will be made to the Procurator Fiscal only when it is in the public interest. All reports will be referred to the Service Manager prior to submission to the Procurator Fiscal. Reports will be submitted within three months of the date the offence came to light, unless external factors make this impossible.

The Crown Office document “Reports to the Procurator Fiscal – A Guide for Non-Police Reporting Agencies” will be followed.

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To ensure that food law enforcement is carried out in line with the relevant food safety legislation and Codes of Practice (as required by the Food Standards Agency Framework Agreement), this authority has developed procedures on Enforcement Decisions. These procedures are consistent with the principles contained in this policy.

Where a business, or other member of the public, makes a complaint or expresses dissatisfaction with the service, the officer receiving the complaint will notify the Service Manager as soon as possible. The complainant will be advised of the option of referring the matter to the Service Manager. On receipt of a complaint, the Service Manager will review all relevant facts and report the findings to the complainant. Complaints and expressions of dissatisfaction should be seen as opportunities to identify possible weaknesses in service delivery. This is the first step towards making improvements. This information will be used to examine possible action to improve service provision. Where the complaint comes within the definition in the Council's Complaints procedure, that procedure will be followed.

The section will adhere to the Home Authority Principle of the Local Authority Co-ordinating Body on Food and Trading Standards (LACORS). The Home Authority Principal is designed to encourage efficiency, promote uniformity, reduce duplication and assist enterprises to comply with the law. It seeks to ensure that:-

- ◇ Local authorities place special emphasis on the surveillance of goods and services originating in their areas.
- ◇ Enterprises are able to depend upon a specific home authority for preventative guidance and advice.
- ◇ Enforcing authorities liaise with the relevant home authority on issues which affect the policies of an enterprise.
- ◇ Machinery exists for monitoring and resolving disputes in appropriate cases.

The Home Authority Principle applies to all food safety and food standards issues, and commands the support of local and central government, industry, trade and professional enforcement bodies. We are willing to offer this type of assistance to any trader who wishes to utilise our services at any time, free of charge. We are dedicated to a policy of achieving and maintaining a consistent, fair and balanced approach to making all decisions which concern enforcement action, including issuing informal advice or warnings and formal action, including prosecution.

To maintain this consistency we shall consider, and follow where appropriate, any guidance contained within:-

- ◇ The LACORS Home Authority Principle

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- ◇ LACORS Circulars
- ◇ Any current or future statutory codes of practice

We support the use of guidance contained in any relevant statutory codes of practice and any guidance issued by LACORS, but reserve the right to challenge such guidance as described below:-

Where we are considering any formal enforcement action which we know to be inconsistent with that adopted by other authorities, then the matter will be considered by the Service Manager, who will decide what action to take. If they are in any doubt then they shall refer the matter to the relevant local liaison groups and Chief Officers Group. Those groups will attempt to reach a consensus view which The Council will accept as binding. If no consensus can be reached we will refer the matter to the Local Authorities Co-ordinating Body on Food and Trading Standards (LACORS) to consider the issue to ensure consistent enforcement.

When we are considering any formal enforcement action which we believe to be contrary to any advice issued by a trader's Home Authority or Originating Authority then we shall discuss the matter with the relevant authority or authorities before taking action.

The Environmental Health Section will adhere to the Lead Authority Partnership Scheme in relation to Health and Safety at Work enforcement.

The Lead Authority Partnership Scheme is a means of improving consistency in the way local authorities enforce health and safety in companies which have outlets in a number of local authority areas.

The Environmental Health Section, as enforcing authority, will liaise with the lead authority on company-wide issues and will consult with the lead authority before taking formal enforcement action.

3.6 Alternative Strategies

The Service will use Alternative Strategies to reduce the burden on businesses in line with the Better Regulation Agenda. These will include the use of questionnaires, guidance leaflets and premises specific or themed training programmes.

The Food Hygiene and Food Standards Officer Officer Guidance note on Alternative Strategies (attached as Appendix 1) will be applied.

Officers undertaking Health and Safety Inspections will identify the low risk premises in the programme, which can be addressed using an Alternative Strategy. Questionnaires sent will be specific to the issues arising in the premises and completed questionnaires will be responded to using leaflets and

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advisory letters. Where questionnaires are not returned or the completed questionnaires raises concerns an inspection will be carried out.

3.7 Review

This policy will be made widely available to trade bodies and others who may have an interest. It will be published on the Council's Internet pages. The policy will be reviewed in the light of any comments and feedback received.

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Appendix 1

Officer guidance note on alternative strategy for inspection of low risk premises

- ◇ All premises that fall within the category E can be considered for an alternative to a formal inspection using the alternative strategy. The Lead EHO (food) will determine in consultation with the rest of the Food Team, which premises due for inspection will be addressed through an alternative strategy.
- ◇ An alternative strategy questionnaire to be sent to all the premises identified as due for inspection but to be addressed by an alternative strategy. This questionnaire will also cover the food safety inspection and the food standards inspection.
- ◇ The alternative strategy questionnaire will be sent out 1 month before the inspection is due.
- ◇ To explain the purpose of the questionnaire it will be sent with a cover letter.
 - The questionnaire should be returned within 14 days. To account for postage delays the time before action is required will be extended to 21 days from date sent.
- ◇ The information will be recorded on Flare by admin.
- ◇ Returned forms with complete information will be assessed by food safety officers. If no further information is required the premises will be assessed using the risk assessment form for food safety and food standards. (Appendix 3) which should be attached to the back of the completed questionnaire.
- ◇ If information is not complete the food safety officer will make contact by telephone and validate the information and complete the form. This is recorded in the section at the end of the questionnaire.
- ◇ If the questionnaire is not returned the food safety officer will visit and inspect the premises. This is classed as a verification visit and is recorded in the section at the end of the questionnaire.
- ◇ 10% of premises inspected by the alternative strategy will be visited and the information verified. The ones to be visited will be decided by the food safety team leader.
- ◇ If on assessment the premises changes to a higher category A, B, C, or D then they no longer fit into the alternative strategy and will be inspected in accordance with the normal inspection programme. These premises require a full inspection.

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- ◇ The information on the registration form will be checked to see if it is up to date and a new form sent if required.
- ◇ The inspection will be recorded in the front of the file as Alternative Strategy.
- ◇ The questionnaire and risk assessment sheet will be stapled together and sent to admin who should update the file. The information on when the next inspections are due to be filled in at the end of the questionnaire.

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ACTION PLAN FOR SHETLAND ISLANDS COUNCIL

TO ADDRESS (NON CONFORMITY INCLUDING STANDARD PARAGRAPH)	BY (date)	IMPROVEMENTS PLANNED	COMMENTS
The format and content, and annual performance review of the Authority's Food Law Enforcement Service Plan do not meet the requirements of the Service Planning Guidance in Chapter 1 of the Framework Agreement. [The Standard – 3.1]	31 ST March 2008	Service Plan for 2008/9 will incorporate Framework Agreement requirements in addition to being based on Corporate Service Plan Template	
The performance review of the 2006-2007 food law enforcement service has not been reported to the appropriate Member-level forum. [The Standard – 3.2]	Completed	2006/7 review of performance not undertaken as end of year coincided with elections. Performance of service reported at Councillor Away day 12 th July 2007	
It is not evident from the records examined that the Authority has ensured that its Officers' HACCP competencies meet the requirements of the Code of Practice. [The Standard – 5.3]	Completed	One to One sessions with staff will be amended to include an assessment of HACCP competency. Assessment of Competency of all Food Safety Staff undertaken following audit (see attached certification)	
Some Officers who are only qualified and authorised to conduct food hygiene inspections were found to have been conducting food standards inspections [The Standard – 5.3]	March 2008	Officers will complete REHIS food standards course by March 2008	

The Authority is not carrying out all food hygiene and food standards inspections at a frequency that is not less than that determined under the inspection rating system set out in the Food Safety Act Code of Practice. [The Standard - 7.1]	March 2008	This is the first year that the department will have its full complement of competent staff, the reduction in shellfish sampling demands will enable greater ability to meet inspection frequencies	
In relation to businesses that are subject to Regulation (EC) No. 853/2004, the Authority is not able to demonstrate that the scope of inspections meets the requirements of the Code of Practice. [The Standard – 7.2]	Immediate	The inspection form is being reviewed within the food liaison group nationally, however in the meantime a memo (attached) has been issued to officers to ensure that details of the inspection is appropriately recorded	
The Authority's approach to food law official controls in its own premises has not been set out in the Enforcement Policy. [The Standard – 15.1]	October 2007	The enforcement policy will be amended to ensure that it is clear that enforcement of controls will be undertaken in its own premises and reported to the committee in October	
The Authority has not implemented a documented enforcement policy for feeding stuffs enforcement in accordance with the relevant Food Law Code of practice. [The Standard – 15.1]	October 2007	An enforcement policy which covers feedingstuffs enforcement will be submitted to the Infrastructure Committee for approval in October 2007	
In relation to the service of Hygiene Improvement Notices, the Authority was not complying with the requirements of the Food	Immediate	Memo issued to all EH staff as attached	

Law Code of Practice. [The Standard – 15.2]			
As a result of Officers not completing appropriate inspection record forms fully for food businesses that are subject to Regulation (EC) No. 853/2004 the Authority is not maintaining up to date, accurate records for some food premises in its area in accordance with the relevant legislation, the Code of Practice and centrally issued guidance [The Standard – 16.1]	Immediate	Memo issued to all food Safety Staff as attached	



REPORT

To: **Infrastructure Committee**

16 October 2007

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

FOOD STANDARDS AGENCY SCOTLAND AUDIT REPORT 2007

1 Introduction

- 1.1 This report notifies Infrastructure Committee of the publication of the Food Standards Agency Scotland (FSAS) Audit report on the delivery of the Council's Food Safety, Food Standards and Feeding Stuffs responsibilities which are undertaken by the Environmental Health and Trading Standards services. Members are invited to note the issues raised in the audit which are being addressed through an action plan developed in discussion with the FSAS.

2 Links to Corporate Priorities

- 2.1 The effective delivery of the Environmental Health and Trading Standards functions ensures delivery of a key Corporate Plan objective: Health Improvement.

3 Background

- 3.1 The Council was audited by the FSAS during June 2007, the findings of the audit have now been issued in a report on the Services. A full copy of the report has been placed in the Members Room and it will also be published on the FSAS website. The audit considers whether the services meet the standards set out in the Food Standards Agency Framework Agreement which was adopted by all Local Authorities. The Framework Agreement is intended to ensure consistency of Food Law enforcement across Scotland. The audit identified a number of non-compliances which need to be addressed. The attached action plan in Appendix 1 has been accepted by the FSAS as satisfactorily addressing the issues raised. The actions will be audited in a follow up audit in January 2008.
- 3.2 All non-conformities are insignificant in nature and will be addressed in this financial year. The Auditors have indicated that despite the non-conformances the standards of service delivery are excellent and the

general achievement of the Framework Agreement requirements was good in comparison with other Scottish Local Authorities audited.

4 Financial Implications

- 4.1 There have been no additional costs to Environmental Health, as the REHIS food standards courses had already been planned for.

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.

7 Recommendations

I recommend that the Infrastructure Committee;

- 7.1 note the content of the Audit report and the non-compliances identified and note the actions that are being implemented to address these.

Report Number: ES-23-07-F



REPORT

To: **Infrastructure Committee**

16 October 2007

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

FOOT AND MOUTH DISEASE AND BLUE TONGUE DISEASE – UPDATE

1 Introduction

- 1.1 The purpose of this report is to update the Infrastructure Committee about the ongoing outbreak of Foot and Mouth Disease and the more recent Blue Tongue Disease and its implications for Shetland.
- 1.2 Foot and Mouth Disease was confirmed on a single beef farm in Surrey on Friday 3rd August. Since then there have been a further 7 confirmed cases in Surrey, the latest being confirmed on 30 September 2007. In Scotland slaughter markets will resume on Monday 01 October 2007, but it is not known when livestock markets will resume.
- 1.3 The position is constantly changing. Members are being kept up-to-date on the latest information via e-mail. A verbal update will be given by the Environmental Health Services Manager to the Committee.

2 Links to Corporate Priorities

- 2.1 The delivery of the Animal Health and Welfare functions relates to corporate plan priorities: Sustainable Economic Development.

3 Financial Implications

- 3.1 The impact on the Environmental Health Service of the outbreak has so far been constrained to additional workloads on officers addressing public queries, increasing attendance at the Marts and Livestock Boats, attending industry meetings, communicating with the press and maintaining information flows to Executive Management and Members. All of these activities have been managed without additional costs to the Council. With the possibility of a Welfare Cull of light lambs there may be further calls on the service over the next ten weeks however every attempt will be made to manage these demands within the existing Service budget.

4 Policy and Delegated Authority

- 4.1 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 of the Council's Scheme of Delegation.

5 Recommendation

- 5.1 I recommend that the Infrastructure Committee:

- 5.1.1 Note the contents of this report and verbal update.

Report Number: ES-21-07-F



REPORT

To: Infrastructure Committee

16 October 2007

**From: Network and Design Manager
Roads
Infrastructure Services Department**

B9074 TRONDRA PHASE 2 REPORT ON OVERSPEND

1. Introduction

- 1.1 In this report I explain the issues which arose during construction to cause an overspend on the above project of £72k in 2006/07, and approximately £120,000 in 2007/08 (including the recharges which will be applied at the year end). I ask the Committee to note that the reasons for this were not foreseen, and could not be avoided. There was also no satisfactory means of containing these costs by making savings on other parts of the project.

2. Links to Council Priorities

- 2.1 With regard to the B9074 project, it is one of the objectives of the Council's Local Transport Strategy to improve the road network to secure gains in safety, environmental impact, economy, accessibility (social inclusion) and integration (with the plans of others).

3. Overspend

The unforeseen additional costs arose as follows:

- 3.1 The extent of soft, unacceptable material below the formation of the new road was greater than originally estimated. The soil survey, including trial pits, indicated that the quantities of such material were expected to be less than what actually then had to be excavated on site. Regrading the road to lower it into the excavation was not possible due to the proximity of tie-ins, accesses, drainage levels, etc. Therefore there was also an increase in the quantity of fill material required to build the road back up to formation level.
- 3.2 Some of the material excavated from cuttings, which it had been intended to use as fill, was not acceptable. It had to be disposed of and replaced with imported fill.

- 3.3 Additional works were required by British Telecom to complete the telecom diversions.
- 3.4 Details of some of the accommodation works had not been fully worked out before the tenders were issued. The final design of some of them required additional drainage, earthworks and rock armouring. Some additional accommodation works were agreed with landowners and tenants.
- 3.5 Additional temporary and permanent pedestrian routes were constructed and maintained, following reasonable requests from the public.
- 3.6 The detailed drainage design, only completed once excavation was under way, required some additional and larger pipes and headwalls, and extra ditching, due to site conditions.
- 3.7 An error in the original survey required a minor extension of the works northwards to provide a satisfactory tie-in to the existing road.
- 3.8 Site staff incurred additional time dealing with the above.

4. Statutory Requirements

- 4.1 Once we were committed to construction of the new road, this road had to meet standards of alignment, width, construction depth and strength, drainage, etc.
- 4.2 Contractually, we were also obliged to recompense the Contractor, to meet British Telecom's requirements, and to provide landowners with appropriate accommodation works.

5. Options to Meet Unforeseen Circumstances

- 5.1 The circumstances referred to in 3 above were all considered by the Council's site staff. In each of the cases mentioned, we accepted that the most effective and economic approach was to carry out the additional works. To do otherwise would have undermined the standards and quality of the completed works. This in turn could have led to reduced road safety, increased maintenance costs in the long run, and the possible need to re-do some of the works at a later date.

6. Financial Implications

- 6.1 The net result of the above is that an additional amount of £72k was spent on this project in 2006/07; and an additional amount of £120k has been spent in 2007/08.
- 6.2 The former sum was found from slippage of other Capital projects last year; and the latter sum will require to be found from slippage on other Capital projects originally scheduled to be carried out this year. At this time, there is no identified slippage on other projects

available. The effect of this will be that other capital projects will not be able to take place this 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 I reported as above to the Capital Programme Review Team in August, and was instructed to report to this Committee also.

8. Recommendations

- 8.1 I recommend that the Committee note that the Trondra Phase 2 project is now virtually complete and has overspent by a total of approximately £192k (in 2006/07 and 2007/2008, including recharges).
- 8.2 I also ask the Committee to note that I intend to review current estimates for future road improvement schemes, with regard to a number of the above issues, and with a view to improving the estimates where appropriate. I believe it will be necessary to order more extensive site investigations, and carry out more detailed design work at an earlier stage in the preparation of projects.

Report Number : RD-09-07-F



REPORT

To: Infrastructure Committee

16 October 2007

**From: Environmental Liaison Officer
Planning
Infrastructure Services Department**

MINUTES OF THE KIMO CO-ORDINATION GROUP

1 Introduction

1.1 As Shetlands Islands Council is a founder member of KIMO (Local Authorities international Environmental Organisation), in accordance with its constitution, the Council is allowed to appoint four substantive members to the organisation. In addition to this, three substitutes have also been appointed. As only two members regularly attend meetings, in June 2003, it was decided to establish a Member Officer Working Group to update the other appointed members of current activities.

2 Links to Council Priorities

2.1 The Council Corporate Plan identifies protecting our natural resources, developing suitable transport, managing waste effectively and reducing its impact on the environment and enhancing Shetland's biodiversity as key priorities.

2.2 KIMO is actively campaigning on these issues in relation to the marine environment, on behalf of its members, including the Shetland Islands Council.

3 Proposal

3.1 At the meeting of the KIMO Co-ordination Group on the 22nd June 2007 it was decided to forward the minutes to the Infrastructure Committee to inform members of the work of the Organisation.

4 Financial Implications

4.1 There are no financial implications associated with this report.

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 Recommendation

- 6.1 Members are asked to note the minutes of the group.

Report Number : PL-38-07-F



**Meeting of the KIMO Co- ordination Group
Friday 22nd June 2007 – Conference Room - Grantfield**

Minutes

Present:

Mr John Mouat - Councillor Iris Hawkins, Councillor Jim Henry, Councillor Rick Nickerson, Austin Taylor, Elissa Bishop

Apologies:

MSP Tavish Scott, MP Alastair Carmichael, Councillor Caroline Miller, Sally Spence.

	Action
<p>1. Welcome and Apologies</p> <p><u>The apologies were noted.</u></p> <p>2. Draft minutes from the meeting on 26th January 2007</p> <p>Matters Arising</p> <p>Mr John Mouat informed the group that Fingal County Council had now joined KIMO giving Ireland two members. Mr Mouat thought this was promising and that there was potential for developing an Irish Sea Network. He also added that since the last meeting he had now been appointed as KIMO International Secretariat and UK Co-ordinator. The committee congratulated him.</p> <p><u>The minutes were approved.</u></p> <p>3. Presentation of KIMO (PowerPoint) (Mr John Mouat – KIMO Secretariat)</p> <p>It was decided that the PowerPoint presentation would not be shown as it was mainly to introduce KIMO to the new members and they were not present.</p> <p>4. Review of KIMO activities (Mr John Mouat – KIMO Secretariat)</p> <p>Mr Mouat explained that as he had now taken up his role as KIMO Secretariat there was a vacancy in the role of Fishing for Litter (FFL) Co-ordinator. Mr Nickerson had been hired as a consultant to finish the FFL as it only had 8 months to run as well as providing continuity of service to KIMO.</p> <p>Mr Mouat stated that KIMO UK was in a chicken and egg situation where the number of members had not increased for many years and therefore it did not have the money to undertake additional activities which would increase membership. Mr Mouat explained that an alternative strategy was necessary to reinvigorate the network.</p> <p>At the same time the workload on the International Secretariat was growing and with Mr Nickerson only doing two days a week there would be a reduction in its capacity. This again would make it more difficult for the UK co-ordinator to devote more time to building up the network.</p>	

	Action
<p>However if the FFL Scotland project could be extended there may be the possibility to move that role and the UK Co-ordinators role to the UK Mainland with office space provided by another authority. This would allow the Mr Mouat to devote more time to International work and overcome the problem of travel costs for the UK Co-ordinator getting to and from Shetland allowing him/her to attend more events and promote the network.</p> <p>Mr Mouat explained that he would have to do a detailed analysis of the figures to see if this would be possible but thought that he should bring it to the group's attention.</p> <p>Cllr Hawkins and Mr Taylor were concerned what would happen if the Fishing For Litter Project was not extended. Mr Mouat explained that there were a lot of criteria would have to be fulfilled before the move could happen if at all and that initially he would only be seeking permission to investigate the possibility.</p> <p>Cllr Hawkins was also concerned that International Secretariat would not be as strong as it is now, in the future, if KIMO UK was moved to the UK mainland. Mr Mouat explained that KIMO International could not keep on expanding if the Secretariat did not also increase its capacity to match. Cllr Henry added that a clear explanation of the implications of this was required.</p> <p>Cllr Nickerson explained that Ireland and England had the biggest potential for growth of any of the networks and that moving the UK Co-ordinator to the mainland could help realise that potential.</p> <p>Mr Mouat gave an update of KIMO activities since the last meeting in January 2007. He had attended a Dounreay Particles Stakeholder Meeting in Edinburgh to discuss the weightings of the different options in the BEPO. The options selected after the weighting process were monitoring with retrieval which was in line with KIMO policy.</p> <p>The KIMO INT Board meeting had been held in Fanø, Demark and the Secretariat also met with the South East Denmark EU Office about possible co-operation on Interreg projects and the possibility of them being a lead partner. Eric Louis Melenec, the Project manager for the Maritime Safety Umbrella Organisation also attended the board meeting to give an update on the Interreg IV programme.</p>	

	Action
<p>A KIMO UK Meeting had been held and was attended by Lyndon Jarvis, a Fort Ports shareholder who is against the proposed ship-to-ship transfers. Cllr Henry expressed concerns on some of the proposed ship to ship legislation as it may affect transfers at Sullom Voe.</p> <p>Mr Mouat had also travelled to Devon to see the aftermath of the grounding of the containership the MSC Napoli at first hand. He was successful in gaining television, radio and newspaper coverage of KIMO's policy on compensation from non-toxic pollution including a front page article in Lloyds List.</p> <p>Cllr Henry brought up the 'Trawlermen' TV programme that was currently being shown on BBC 1 as it could be an angle for coverage of the Fishing for Litter project.</p> <p>Two papers were presented to the OSPAR Biodiversity Committee a background paper on Fishing for Litter activities in the OSPAR area and draft guide's lines of how to develop a FFL project. The final report on the OPSAR Marine Beach Litter Monitoring project, in which KIMO sat on the steering group, was also presented.</p> <p>Mr Mouat gave a presentation to the Committee of Periphery Maritime Regions (CPMR) seminar in Santander, Spain, on the Napoli and compensation for non-toxic pollution. Text on compensation issues was also included in the conference declaration which will feed into CPMR policy.</p> <p>KIMO was invited to give a presentation at a Conference in Stockholm organised by MILKAS and association of anti-nuclear NGO's. Mr Mouat attended and gave a presentation on the deficiencies in the ships and casks used to ship MOX fuel by sea in Europe. All travel costs were reimbursed by the conference organisers.</p> <p>Mr Mouat had attended another Fishing for Litter South West Project meeting to complete a finding application for Biffa (entrust) funding and explore other funding avenues. In order to qualify for the Biffa funding a Fishing For Litter South West Management Board had been established but the financial administration would still be carried out in Shetland. The Crown Estate had also awarded funding for the project however it was only £15,000 rather than the £30,000 that had originally been applied for.</p>	<p>FFL Co-ordinator</p>

	Action
<p>KIMO had again been asked to provide a presentation on marine litter and facilitate a workshop on NGO views at the ProSea facilitated BP Shipping Marine Awareness Courses. One course had been held in may and there will be another two later in the year.</p> <p>Mr Mouat attended a Clean Coast Scotland meeting and gave a presentation updating the members on progress in the Fishing for Litter project.</p> <p>Fishing for Litter was represented at Fishing 2007, again in conjunction with the Shetland stand which proved successful as 5 new boats were registered with the scheme. Richard Lochhead the new Fisheries Cabinet Secretary attended the stall and was invited to Shetland to discuss the future of the Fishing for Litter project.</p> <p>Mr Mouat had been asked to facilitate on of the workshops at MSUO Projects Fair in Antwerp, Belgium. The aim of the workshop was to develop projects for the Interreg IV funding program programme however too little time was given to the workshops so it was not as useful as it may have been.</p> <p>5. Update of Save the North Sea Project (SNS), Fishing for Litter Scotland Project (FFL) and Marine Awareness Courses Initiatives (Mr John Mouat – FFL Project Co-ordinator)</p> <p>Mr Mouat explained that after 2 years of waiting KIMO International had finally received the final payment for the Save the North Sea Project and all the partners including the SIC had been paid back. Unfortunately over the two years KIMO had lost out financially due to exchange rates.</p> <p>Mr Nickerson informed the group that the Fishing for Litter Scotland had now reached its target of signing 100 boats and the total amount of waste taken ashore had now passed 50 tonnes.</p> <p>6. Review on CPMR/North Sea Commission Activities (Sally Spence – SIC European Officer)</p> <p>Due to Sally being unable to attend the meeting, this has been postponed until the next meeting in October.</p>	
	Action

7. Future Consultation

The KIMO response to the consultation on the EU Marine Green Paper was being finalised by Mr Nickerson and his would be presented in person to John Richardson Head of Unit by Mr Mouat.

Mr Mouat also explained to the group that a letter had been received from the NDA inviting KIMO to participate in its National Stakeholder Group. Mr Mouat stated that KIMO would be joining the group but only to keep a watching brief.

8. Attendance at Future Meetings

The appointment of councillors for the KIMO UK and KIMO International positions was postponed until the Councils Environment Spokesperson was appointed on the 4th of July.

Mr Mouat would be attending the OSPAR Commission Meeting, in Ostend on the 26-29th June, as well as meeting John Richardson, Head of Unit for the EU Maritime Green Paper.

KIMO International Conference and AGM would be held on 4th, 5th & 6th October in Co. Wexford, Ireland. Mr Taylor suggested someone should ask Mr McDiarmid if he was planning to attend.

9. AOCB

Cllr Iris Hawkins asked the committee if the meeting was an approved duty and hence expenses could be claimed. Cllr Nickerson thought that it was but would check. It was also proposed by Cllr Nickerson that the minutes from the Co-ordination group should go to the Infrastructure Services Committee rather than the Planning Board. This was seconded by Cllr Hawkins.

10. Date and Time of Next Meeting

A date is to be confirmed for the end of August 2007. The meeting closed at 11:50 am.

UK Co-ordinator



REPORT

To: Infrastructure Committee

16 October 2007

**From: Environmental Liaison Officer
Planning
Infrastructure Services Department**

Minutes of the SIC Nuclear Policy Co-ordination Group

1 Introduction

1.1 Shetlands Islands Council has a long history of involvement in monitoring the nuclear industry as demonstrated by its membership of Nuclear Free Local Authorities and its strong nuclear policy as set out in its statement of principles (Minute Ref 29/04). In representing the Council, Members attend several different stakeholder groups on nuclear and radioactive waste management issues. In order to co-ordinate these efforts it was decided to establish an Officer Member Working Group to co-ordinate SIC Nuclear Policy in August 2002.

2 Links to Council Priorities

2.1 The Council Corporate Plan identifies protecting our natural resources, improving health, managing waste effectively and reducing its impact on the environment as key priorities.

3 Proposal

3.1 At the meeting of the SIC Nuclear Policy Co-ordination Group on the 22nd June 2007 it was decided to forward the minutes to the Infrastructure Committee to inform other members of the work of the Organisation.

4 Financial Implications

4.1 There are no financial implications associated with this report.

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 Recommendations

6.1 Members are asked to note the minutes of the group.

Report Number : PL-39-07-F



Minutes

Fifteenth Meeting of Nuclear Policy Co-ordination Group Friday 22nd June 2007 – Grantfield - Conference Room – 14:00

Present:

John Mouat (Chairman), Councillor Iris Hawkins, Councillor Jim Henry, Councillor Rick Nickerson, Austin Taylor, Chris Bunyan, Stewart Kemp, Alastair Hamilton, Elissa Bishop

Apologies:

Tavish Scott MSP, Alastair Carmichael MP

	Action
<p>1. Welcome and Apologies</p> <p>Mr Mouat welcomed everyone.</p> <p><u>The apologies were noted.</u></p> <p>2. Consider and approve draft minutes of previous meeting on 28th September 2006</p> <p>Mr Mouat explained to the committee that he had been appointed to the role of Environmental Liaison Officer; the committee congratulated him on this.</p> <p><u>The draft minutes were approved.</u></p> <p>(i) Matters Arising</p> <p>Mr Mouat asked Cllr Henry if he could report on the Scottish Waste Management Steering Group Meeting. Cllr Henry replied that the meeting was cancelled and is due to be rescheduled for the end of the summer.</p> <p>A discussion was held on the N-Base Briefing leaflets, and it was decided that Mr Nickerson would make up more of these and put them to Lystina House.</p> <p>Item 3: Introduction of SIC Nuclear Policy</p> <p>It was decided forgo this agenda item as all present had been on the Nuclear Co-ordination group in the last council.</p> <p>4. Reports (verbal)</p> <p>(a) Nuclear Free Local Authorities (NFLA)</p> <p>Mr Mouat thanked Mr Kemp, the NFLA Secretariat, for attending the meeting.</p>	<p>Cllr Nickerson</p>

	Action
<p>Mr Kemp introduced himself and informed the committee he was very pleased to be able to participate in the meeting. Mr Kemp then went onto do a PowerPoint presentation highlighting two up and coming consultations that NFLA would be responding to. Firstly the Governments consultation on the storage of radioactive waste following the publication of CoRWM's recommendations. The presentation highlighted the timescales involved in developing a deep geological repository for managing intermediate level waste and also raised concerns about possible coastal erosion at the low level repository at Drigg. According to the Environment Agency the Drigg site could be affected within as little as 300 years.</p> <p>Secondly Mr Kemp highlighted the government's consultation on the future of nuclear power and the UK Energy Review. NFLA refuted the claim that nuclear was required to fulfil future energy requirements and supported the Sustainable Development Commissions statement that nuclear energy was "A choice, not a necessity". He also highlighted the limited impact nuclear energy would have on reducing CO₂ and the problems surrounding security and the production of waste from a new generation of nuclear power stations.</p> <p>(b) Dounreay Stakeholder Group (DSG)</p> <p>Mr Nickerson attended the last meeting of the DSG, in his previous role as Environmental Liaison Officer, as no councillor was able to attend. He reported the main discussion point was concerning the particles issue. There was also discussion on the end of site BEPO and it was thought that option 5 would be chosen, however they were also looking at options 3 & 4. Mr Nickerson said that he would ideally prefer option 6 but realistically option 5 would be more achievable. Mr Bunyan also thought that option 5 was most achievable.</p> <p>Mr Mouat added that UKAEA had recently announced plans to move their offices to Dounreay if they were re-awarded the site management contract.</p>	

	Action
<p>(c) KIMO</p> <p>Mr Mouat explained that he had attended a Particles Stakeholder Workshop in Edinburgh. The workshop had applied weightings to the various options under the BEPO with the outcome that monitoring with retrieval both on Sandside beach and offshore were the preferred options, which was inline with KIMO and the SIC's preference.</p> <p>Mr Mouat had also be invited to Stockholm by MILKAS, a group of Swedish anti nuclear NGO's, to give a presentation on the Transport of MOX fuel by Sea at the Coping with Nuclear Waste Conference. The presentation had highlighted the deficiencies in the vessels and casks used and the possibility of a terrorist attack.</p> <p>(d) Northern European Nuclear Information Group (NENIG)</p> <p>Mr Bunyan opened this discussion expressing his concerns about three shipments of radioactive waste and fuel that were to be returned to Dounreay in the next year or so. The total quantity of the three shipments was 2.4 tones and this included Thorium being shipped back from a company in Lima, in Peru, which was sold it by UKAEA. 9 tonnes sodium from the Winthrift site is also being transported to Dounreay.</p> <p>Mr Bunyan highlighted a SEPA consultation, which was due on the 13th July, on the shipment of radioactive metal from the Naval Base at Rosyth to Sweden to be decontaminated. The plan was to ship 165 cubic meters of waste to Studsvik's facility in Sweden, decontaminate the metal, sell it on the open market and ship the residue back to Drigg for disposal. Mr Bunyan was concerned about the additional shipments this would generate and stated that the consultation lacked information on the number of shipments and just stated the overall activity of the metal to be transported. Cllr Nickerson thought that KIMO should be responding to this as well as the SIC and it was decided that Mr Bunyan would draft two responses to the consultation.</p>	<p>Mr Bunyan – Done</p>

	Action
<p>Mr Kemp stated that one of the options in the consultation was to ship the material to a proposed plant that Studvik hoped to build in Sellafield to decontaminate metal. Although this raised concerns about emissions from any proposed plant it would be preferable to shipping the waste to Sweden and back for treatment.</p> <p>On the particles issue Mr Bunyan informed the committee that for the first time divers were being sent down to have a look at the seabed diffuser to see if it was the source of the particles. UKAEA had also decreased the timeframe for the completion of the decommissioning of Dounreay to 2020.</p> <p>The Forsmark radioactive waste geological storage site had been closed down in Sweden due to the site exceeding permitted level of radioactivity. Mr Nickerson suggested Mr Mouat should ask the Swedish delegation for a report on this next week when he attended the OSPAR Commission.</p> <p>It was decided that Mr Bunyan and Mr Kemp to liaise with each other concerning all of the above.</p> <p>Mr Taylor left the meeting.</p> <p>(e) Community Waste Management European Concerted Action (COWAM)</p> <p>Mr Hamilton went through a presentation on explaining the Shetland Islands Council involvement in COWAM 1 and COWAM 2. Mr Hamilton suggested that the committee should see if financial support would be available for participating in COWAM in Practice (CIP) which would follow on from COWAM2. Mr Nickerson asked how COWAM 2's final report would be disseminated. Mr Hamilton replied the intention was to launch it at an event in Brussels. Cllr Hawkins suggested the committee needed to find out more about the event and Mr Hamilton agreed to explore what is happening.</p> <p>(f) Committee on Radioactive Waste Management (CoRWM)</p> <p>This topic was discussed already through various presentations already held in the meeting.</p>	<p>Mr Mouat</p>

	Action
<p>(g) Nuclear Decommissioning Authority (NDA)</p> <p>Mr Mouat stated that a letter had been received from the NDA asking if KIMO would participate in its National Stakeholder Process and he informed the group that KIMO should sign on as a watching brief and it would be advisable for the SIC to do the same. Mr Mouat was going to ask the NDA to send the SIC a letter concerning this matter. Mr Kemp advised the committee that the next meeting was being held on the 5th & 6th July 2007, but he would not be sending anyone to attend this.</p> <p>5. Representatives for Nuclear Related Organisations.</p> <p>NFLA – Cllr Hawkins and Cllr Nickerson were to attend these meetings. Cllr Hawkins would attend NFLA Scotland Forum and Cllr Nickerson would attend the National Steering Committee.</p> <p>DSG – Cllr Nickerson agreed to attend the DSG meetings.</p> <p>KIMO – Cllr Henry would attend the UK meetings in his role as environment spokesperson and the International role would be decided at the next KIMO Co-ordination meeting.</p> <p>COWAM – Cllr Hawkins was happy to carry on attending these meetings.</p> <p>NDA – Mr Mouat to investigate SIC membership of National Stakeholder Group.</p> <p>A discussion was held concerning the renewal of the Trident Nuclear Weapons system and it was decided Mr Bunyan was to liaise with Mr Mouat and develop a position paper for the SIC on this matter.</p> <p>Cllr Nickerson suggested Mr Mouat or himself remove Highlands and Islands Nuclear Group from the list of outside bodies as it had never met.</p> <p>6. Attendance at Future Meetings</p> <p>Nothing was added to this.</p>	<p>Done – Mr Nickerson Appointed as NFLA representative to NDA no action required</p>

	Action
<p>7. Future Consultations</p> <p>Mr Bunyan was to draft a response to the consultation on the shipments of radioactive scrap metal from Rosyth to Sweden for decontamination.</p> <p>8. AOCB</p> <p>The group decided that a copy of the Nuclear Co-ordination minutes should go to the SIC Infrastructure Services Committee for scrutiny. It was also agreed that a presentation on Nuclear Work and the Councils basic principles would be done at the next Environment Forum.</p> <p>Mr Hamilton asked for a copy of the N-Base leaflet was sent to him through email and he would forward this onto COWAM. Mr Kemp requested and is to receive a copy also.</p> <p>9. Date and Time of Next Meeting</p> <p>The proposed date is for the end of August 2007. Meeting closed at 16:15 pm</p>	